REPUBLIC OF KENYA

Approved SNA 2/4/26.

THE NATIONAL ASSEMBLY

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THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026

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THE NINTH REPORT OF THE PUBLIC INVESTMENTS COMMITTEE ON SOCIAL SERVICES, ADMINISTRATION AND AGRICULTURE ON THE CONSIDERATION OF THE AUDITOR GENERAL'S REPORTS ON THE FINANCIAL STATEMENTS OF SELECTED STATE CORPORATIONS

DIRECTORATE OF AUDIT, APPROPRIATIONS & GENERAL-PURPOSE COMMITTEES.

CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

THE NATIONAL ASSEMBLY
PAPERS LAID
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TABLED BY: Chairperson Hon. Emmanuel Wanyonyi
CLERK-AT-THE-TABLE: Halima Ahmed

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1.2 List of Abbreviations/Acronyms

PIC-SSAA - Public Investments Committee on Social Services Administration and Agriculture

Ag.	Acting
AG	Attorney General
CEO	Chief Executive Officer
CS	Cabinet Secretary
DCI	Directorate of Criminal Investigations
DG	Director General
EACC	Ethics and Anti-Corruption Commission
FY	Financial Year
GoK	Government of Kenya
IAS	International Accounting Standards
KEMSA	Kenya Medical Supplies Authority
AFA	Agriculture and Food Authority
TBK	Tea Board of Kenya
NSSF	National Social Security Fund
NHIF	National Health Insurance Fund
KEPHIS	Kenya Plant Health Inspectorate Services

2.2 CHAIRPERSON'S FOREWORD

The Public Investments Committee on Social Services, Administration and Agriculture 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 efficiency and effectiveness in the use of public resources. The Committee is established pursuant to National Assembly Standing Order 206 B.

The Public Investment on Social Services, Administration and Agriculture, with regard to the agriculture, public administration, health, and social protection sectors; examines the reports and accounts of public investments, examine the reports of the Auditor-General on public investments; and in the context of the autonomy and efficiency of the public investments, examine whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent Commercial practices. This ensures implementation of *Article 229(8)* of the Constitution on reports laid before the House by the Auditor- General.

In examining the accounts of the Auditor General, the Committee invited accounting officers in each of the State Corporations under review adduce evidence before it.

There are more than four hundred (400) State Corporations undertaking different mandates in their respective sectors. Due to this large number, the previous Public Investments Committees had been unable to conclude examination of the accounts of the Auditor General of these State Corporations.

Considering the workload and the backlog, the National Assembly resolved to amend the standing orders by splitting the Public Investment Committee into three Committees, Public Investments Committee on Social Services, Administration and Agriculture (PIC-SSAA) being one of them.

The Committee (PIC-SSAA) with a view to clear the backlog in examining the reports of the Auditor General, embarked on the process of inviting the accounting officers for the State Corporations under its mandate to adduce evidence before it.

This report contains observations, findings and recommendations arising from examination of reports of the Auditor-General for Six (6) state corporations for different financial years. The report is structured as follows;

i) general observations to each of the cross-cutting queries;

ii) recommendations to each of the cross-cutting queries;

iii) audit queries identified by the Auditor General in his audit reports of each state corporations

iv) Management responses to each of the queries;

v) Committee Observations/ findings on each query; and

vi) Committee Recommendations to each query raised

In this report, the Committee makes policy recommendations and at the same time recommends specific actions against specific officers. It further recommends further investigations of certain matters by competent investigative agencies such as the EACC and the DCI.

The Committee appreciates the Offices of the Speaker and the Clerk of the National Assembly for the support accorded to it to fulfil its Constitutional mandate. The Committee further extends its appreciation to the Office of the Auditor- General for the services they offered to the Committee during the entire period.

I also extend my appreciation to my fellow Members of the Committee whose contributions and dedication to duty has enabled the Committee to examine the audit queries and produce this report.

On behalf of the Public Investments Committee on Social Services, Administration and Agriculture and pursuant to National Assembly Standing Order 199(6), it is my pleasant duty and honour to present the 9th Report of the Public Investments Committee on Social Services Administration and Agriculture on the examination of the Reports of the Auditor General on the Financial Statements of Six (6) State Corporations.

HON. EMMANUEL WANGWE CBS, MP — 02/04/2026

CHAIRPERSON – PUBLIC INVESTMENTS COMMITTEE ON SOCIAL SERVICES, ADMINISTRATION AND AGRICULTURE

3.2 EXECUTIVE SUMMARY

The 9th Report of the Public Investments Committee on Social Services, Administration and Agriculture contains the Committee examination of Six (6) State Corporations.

In its examination and scrutiny of the audited financial statements of the various State Corporations, the Committee primary approach was to elicit background information as to why particular course of financial and/or management actions were or were not taken. This was done with the relevant laws in mind including, the Constitution, the Public Finance Management Act, 2012 and the attendant Regulations, the Public Audit Act, 2015, the State Corporations Act, and the Public Procurement & Asset Disposal Act, 2015.

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 while undertaking its mandate.

Part two of the report contains the Committee general observations / findings on cross cutting issues, and its recommendations.

Part three of the report contains reports of the specific State Corporations, Committee Observations, findings and finally, Committee Recommendations on the State Corporations.

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Public Investments Committee is established under the National Assembly Standing Order (S.O.) 206B and is responsible for the examination of the working of public investments based on their audited reports and accounts. It is mandated to –

i) examine the reports and accounts of public investments;
ii) examine the reports, if any, of the Auditor General on public investments; and
iii) Examine, in the context of the autonomy and efficiency of public investments, whether the affairs of the public investments are being managed in accordance with sound financial or business principles and prudent commercial practices.

2. The Committee, in considering the audited accounts of State Corporations, was guided by the Constitution of Kenya and the following statutes and regulations in carrying out its mandate;

i) The Public Finance Management Act, 2012;
ii) The Public Audit Act, 2015;
iii) The State Corporations Act, 1986;
iv) The Public Procurement and Assets Disposal Act, 2015;
v) The National Assembly Standing Orders; and
vi) The National Assembly (Powers and Privileges) Act, 2017.

1.2 Committee Membership

3. The Committee membership comprises –

S/No	Member's Name	Constituency	Party
1.	Hon. Emmanuel Wangwe, MP CBS– **Chairperson**	Navakholo	ODM
2.	Hon. Caleb Amisi Luyai, MP- **Vice Chairperson**	Saboti	ODM
3.	Hon. Ferdinand Kevin Wanyonyi, MP	Kwanza	FORD-K
4.	Hon. Martin Peters Owino, MP	Ndhiwa	ODM
5.	Hon. Amb. Benjamin Langat, MP	Ainamoi	UDA
6.	Hon. Nixon Nicholas Ngikor Ngikolong, MP	Turkana East	Jubilee
7.	Hon. (Dr.) Lilian Gogo, MP	Suna West	ODM
8.	Hon. Fatuma Jehow Abdi MP	Wajir	ODM
9.	Hon. Hassan Ahmed Maalim	Banissa	UDA
10.	Hon Elijah Njore Njoroge Kururia, MP	Gatundu North	Independent
11.	Hon. Caleb Mule Mutiso, MP	Machakos Town	MCCP
12.	Hon. Bishop Emeritus (Dr.) Jackson Kipkemoi Kosgei, MP	Nominated	UDA
13.	Hon. Joshua Kivinda Kimilu, MP	Kaiti	WDM
14.	Hon. Michael Wambugu Wainaina, MP	Othaya	UDA
15.	Hon. Paul Nabuin Ekwom, MP	Turkana North	ODM

1.3 Committee Secretariat

4. The following members of the Secretariat facilitated the Committee:

Mr. Aden Abdullahi

Principal Clerk Assistant I-Head of Secretariat

Ms. Purity Macharia
Clerk Assistant III

Ms. Mercy Kinyua
Legal Counsel II

Mr. Abdimalik Ahmed
Clerk Assistant III

Mr. Thomas Ogwel
Fiscal Analyst I

Ms. Esther Kariuki
Hansard Officer III

Mr. Wesley Abugah
Research Officer III

Mr. Cosmas Akhonya
Audio Officer

Ms. Maryan Gabow
Public Communication Officer III

Mr. Stanley Langat
Principal Sergeant-At-Arms

Mr Yakub Ahmed
Media Relations Officer II

1.4 Committee Proceedings

5. In its inquiry into whether the affairs of public investments are managed in accordance with sound business principles and prudent commercial practices, the Committee received both oral and written evidence from Chief Executive Officers of various State Corporations.

6. To produce this report, the Committee held twelve (12) sittings in which it examined the evidence adduced by the accounting officers of the Six (6) State Corporations.

7. The recommendations are found under various sections of the report on each of the State Corporations examined.

8. The recommendations on the issues raised by the Auditor General for the various State Corporations are found under appropriate sections of the report for each of the State Corporations covered.

9. These observations and recommendations, if considered and implemented, will enhance accountability, effectiveness, transparency, efficiency, prudent management, commercial viability and value for money in State Corporations and the public investments sector as a whole.

2.0 General Committee Observations and Recommendations

Lack of Possession and ownership documents on land and buildings

10. The Committee observed and noted with concern that, various state corporation namely; Kenya Medical Supplies Authority, Agriculture and Food Authority, National Social Security Fund, Social Health Authority and Kenya Plant Health Inspectorate Service have various parcels of land spread across the country. However ownership documents were missing for various parcels of lands and others had ownership disputes while others had either been grabbed or encroached into denying the institutions chances of utilizing the parcels of land.

Committee Recommendations

The Committee recommended that –

i) Within six months upon adoption of this report, the National Assembly Departmental Committee on Lands should conduct a comprehensive inquiry into the ownership of all parcels of land owned by Ministries, Departments and Agencies. The objective of the inquiry is to ensure that all public land vests in the respective government entities with legal title and possession. In this respect the Departmental Committee shall propose a Bill for enactment by the National Assembly that provides for;

   a) Vesting the custody of all public lands title deeds in the National Treasury.

b) Comprehensive lands register for all public lands that shall always be maintained at the National Treasury with regular updates when necessary.

c) Protective clauses under the Act and a national anti-corruption framework to enhance safeguards against encroachment on public land.

ii) The National Treasury through the National Assembly shall allocate adequate budget for the Departmental Committee on lands, the Ministry of Lands, Public Works, Housing and Urban Development and the National Land Commission to facilitate the inquiry, compensation and issuance of title deeds.

iii) Within three (3) months of adoption of this report, the Accounting Officers of all MDAs should develop and implement a Land Management and Security Framework designed to prevent future encroachments. This framework should include measures such as perimeter demarcation, structured monitoring mechanisms, and periodic reporting to the Board and oversight institutions.

iv) Within three (3) upon adoption of this report, the Accounting Officers for the respective State Corporations should liaise with the Principal Secretaries for the respective State Departments in the line Ministries and the National Land Commission to fast-track the process of acquiring title deeds to resolve ownership disputes and ensure legal actions are taken against private individuals who have illegally acquired public land.

v) Within three months upon the adoption of this report, the inspector general for the inspectorate of State corporations and the Attorney General should compile a report of all the public lands in respect of MDAs with ownership disputes and submit to the National Assembly to be used as a basis of initiating inquiries on ownership status of the public lands and repossession where applicable. Also put caveats on all the parcels of land owned by various MDAs.

Delay in availing documents to the Auditor-General

11. The Committee observed that –some accounting officers did not avail complete and reconciled financial and accounting records/documentation in time for audit review and verification during the audit exercise leading to unnecessary queries. This is contrary to the provisions of Article 226 of the Constitution and Section 68(2) of the PFM Act 2012 which requires that the financial and accounting records are presented within three (3) months after the close of the financial year. Section 62 of the public Audit Act of 2015 obligates accounting officers to provide required documents for audit failure to which they be sanctioned.

Committee Recommendations

The Committee recommended that –

i) Accounting officers should always comply with the provisions of Section 68(2) of the Public Finance Management Act of 2012 by submitting all the required information for audit within the stipulated timelines.

ii) The Accounting Officer who fails to provide required information for audit pursuant to 62(1) of the Public Audit Act, CAP 412B should be prosecuted for the offence pursuant to Section 62(2) of the Public Audit Act CAP 412B.

Delayed Accountability of Imprest

12. The Committee noted that some State Corporations were in breach of Section 71 of the Public Finance Management Act CAP 412A and the attendant regulations that require surrender of imprests within seven days upon conclusion of the assignment for which the said imprest was issued.

Committee Recommendations

The Committee recommended that –

i) The Accounting Officers should ensure that imprest advanced to officers is surrendered within the stipulated period of seven (7) days after return to the workstation in accordance with section 93 of the Public Finance Management (National Government) Regulations, 2015.

ii) Within six months of the adoption of this report, the Accounting Officers who will have failed to take necessary steps to ensure that all outstanding imprests within their jurisdictions are recovered from the due date should be surcharged the full amount due.

iii) The Accounting Officer should submit a status report with evidence of recovery to the Auditor-General for audit and reporting.

Long outstanding receivables

13. The Committee noted that some State Corporations experienced challenges in recovering their outstanding debts. This was also coupled with lack of collection or recovery mechanisms, lack of effective debt management policies, poor recording systems and co-ordination between the debtors and the recipient entities.

Committee Recommendations

The Committee recommended that –

i) The Accounting Officers should ensure that there are proper and robust debt collection mechanisms, effective debt management policies and proper systems for recording the debts.

ii) Within three months upon adoption of this report all the entities with outstanding receivables should initiate recoveries within the statutory provisions and identify any such debts that would be deemed irrecoverable, justification for the cause, prepare a report on the same, have it approved internally by the Board and forwarded to the National Treasury for approval of the write-offs. A copy of such reports should be submitted to the National Treasury and the Auditor-General for review.

Long outstanding payables.

14. The Committee noted that although the PFM Act CAP 412A provides that any pending bills from the first charge in the subsequent financial year budget, some State Corporations experienced challenges in paying their outstanding debts. This was occasioned by poor budgetary controls and a lack of proper documentation to support the payables.

Committee Recommendations
The Committee recommended that –

Within three months upon adoption of this report, all the entities with outstanding payables should prepare a report detailing how the payables arose, reasons for non-payment, measures taken to repay.

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

15. The Committee noted with concern that employees of various State Corporations received a net salary of less than one third of the basic salary contrary to the provisions of Section 19 (3) of the employment Act, 2007 which requires that deductions made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages.

Committee Recommendations

The Committee recommended that –

The Committee recommends that within three months upon adoption of this report, the Accounting Officers should submit to the National Assembly documented measures undertaken to strengthen payroll controls through automated payroll validation checks designed to flag any salary processing that violates the one-third rule prior to disbursement

EXAMINATION OF THE REPORT OF THE AUDITOR GENERAL ON THE AUDITED ACCOUNTS OF KENYA MEDICAL SUPPLIES AUTHORIT FOR THE FINANCIAL YEAR 2021/2022

Dr. Waqo Ejersa, the Chief Executive Officer, Kenya Medical Supplies Authority was accompanied by Mr. Waiganjo Karanja, Director Finance and Mr. Eliud Murithi, Director Commercial appeared before the Committee to adduce evidence on the Audited accounts of (KEMSA) for the financial year 2021/2022.

FINANCIAL YEAR 2021/2022

1.0 Misclassification

16. The Committee heard that, the following financial statements components were misclassified.

17. In the circumstances, the accuracy, completeness, presentation the following financial statements components were misclassified;

Management response

Classification in Financial Statements	Financial Statement Element	Correct Classification	Amount (Ksh)
Work in progress – Purchase of Motor vehicles	Statement of Financial Position	Property, Plant and Equipment - Motor Vehicles	36,912,165
Disclosure note – tax liability	Statement of Financial Position	Trade and other payables from exchange transactions – tax liability	1,265,576,505
Operating activities – credit notes	Statement of cash flows	Not included in the statement – no cash movement	108,439,677
Operating activities – damages, expiries and donations	Statement of cash flows	Not included in the statement – no cash outflow movement	1,056,356,865

The management informed the Committee that-

i. Property, Plant and Equipment – Motor Vehicles (Ksh. 36,912,165):

18. The management informed the Committee that, motor vehicles procured on 28 June 2021 were paid for, delivered, registered, and put into use in July 2021. Consequently, the assets were recognized as work in progress at the close of FY 2020/2021 and were subsequently capitalized in FY 2021/2022 through transfer from work in progress to motor vehicles under Property, Plant and Equipment. In the FY 2021/22 the vehicles were capitalized, and the amount of KES 36,912,165 was transferred from WIP to Motor vehicle cost by;

ii. Tax Liability (Ksh. 1,265,576,505)

19. The management informed the Committee that, at the time of audit, the Authority was engaged in discussions with the Kenya Revenue Authority and therefore disclosed the amount as a contingent liability for FY 2021/2022. Following reconciliation and confirmation of the assessment in November 2022, the obligation was recognized as a liability in FY 2022/2023 and structured for payment in instalments. By June 2024, Ksh. 950,000,000 had been settled, leaving a balance under review through Alternative Dispute Resolution. The matter is also before the Tax Appeals Tribunal, which granted additional time to facilitate an amicable resolution.

iii. Operating Activities – Credit Notes (Ksh. 108,439,677):

20. The management informed the Committee that, the authority prepared its cash flow statement using the indirect method, which required adjustments for non-cash transactions and accruals. Credit notes were therefore applied to adjust sales revenue to reflect the accurate collectible amounts from customers.

iv. Operating Activities – Damages, Expiries and Donations (Ksh. 1,056,356,865)

21. The management informed the Committee that it treated damages, expiries, and donations was non-cash adjustments under the indirect method to ensure revenue reported represented the correct realizable value from operations.

Committee Observations

The Committee observed that–

The Committee observed that –Kenya Medical Supplies Authority had various misclassifications affecting four (4) items in the financial statements contrary to section 81(3) of the Public Finance Management Act, CAP 412A. which requires them to prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.

Committee Recommendations

The Committee recommends that –

The Committee reprimands the then Accounting Officer for failure to comply with the guidelines outlined by the Public Sector Accounting Standards Board in accordance with section 81(3) of the PFM Act CAP 412A.

1.1 Unsupported finance income

22. The Committee heard that, the statement of financial performance and as disclosed in Note 11 to the financial statements reflects finance income of Kshs.518,452,886. However, the schedule presented for audit did not indicate the principal amounts, interest rates applied and details of negotiations with the various financial institutions to arrive at the interest rates.

23. In the circumstances, the accuracy and completeness of finance income amount of Kshs.518,452,886 could not be confirmed.

Management response

24. The Management informed the Committee that a detailed finance interest income schedule report for FY 2021/2022 has been provided indicating the principal amounts, interest rates applied and details of negotiations with the various financial institutions to arrive at the interest rates.

Committee Observations

The Committee observed that –

The authority failed to provide on time the supporting schedules for the finance income amounting to Kshs.518,452,886.to confirm the interest earned contrary to section 62 (1) (b)of Public Audit Act CAP 412B which states that a person shall not without justification, fail to provide information required under this Act.

Committee Recommendations

The Committee recommends that –

The Committee reprimands the then Accounting officer for breach of section 62 (1) (b) of Public Audit Act CAP 412B.

3.0 Inaccuracies of Land and Buildings

25. The Committee heard that, the statement of financial position reflects Property, Plant and Equipment balance of Kshs 8,440,170,153 as disclosed in Note 24 (a) to the financial statements. Included in the balance is land at Kshs. 1,786,967,270 and buildings at Kshs.1,248,058,816 whose analysis revealed the following unsatisfactory matters.

    i) The land balance is not supported by valuation reports while two parcels of land in Isiolo and Meru of unknown value have been omitted.

    ii) Warehouse buildings in Mombasa used for storage of medical commodities were omitted.

    iii) The land balance includes Kshs.284,538,002 for seven (7) parcels of land whose original title documents were not provided for audit.

    iv) Interviews with management revealed that a parcel of land in Kisumu municipality valued at Kshs.25,000,000 has been encroached by a private developer, acquired ownership rights but the matter is under investigation by Directorate of Criminal Investigation

    v) A parcel of land in Kakamega municipality measuring 0.9852 hectares valued at Kshs.7,500,000 was exchanged for a parcel of land valued at Kshs,3,000,000. However, details of the exchange were not provided for audit review and both parcels have been disclosed in the financial statements.

    vi) Physical verification in January, 2023 revealed that two parcels of land in Nyeri town measuring approximately 0.56 hectares were partially fenced exposing it to encroachment and undisclosed developer had erected a temporary fence on the unfenced portion of land. Although management indicated the matter is being pursued, there was no document on its progress.

    vii) The land balance includes four parcels of land in Mombasa, Kisumu, Kakamega and Garissa amounting to Kshs.1 15000,000 which have not been surveyed.

    viii) Included in the land balance is a parcel of land situated at Embakasi in Nairobi acquired in August, 2016 at a cost of Kshs.1,980,000,000 while the financial statements

reflect a balance of Kshs.1,232,429,268 resulting to unexplained reduction in land value of Kshs.747,570,732.

26. In the circumstances, the accuracy, valuation and fair statement of land and buildings balance of Kshs.3,035,026,086 as at 30 June, 2022 could not be confirmed.

Management response

27. The Management informed the Committee that the Authority takes note of auditor's observation and responds as follows;

28. At the time of the audit, the Authority had not completed the valuation of its various properties; this process has now been completed, and detailed updates are as follows:

    i) The land balance is not supported by valuation reports while two parcels of land in Isiolo and Meru of unknown value have been omitted.

    KEMSA conducted a land valuation exercise for all its properties in collaboration with the Ministry of Lands and Physical Planning, specifically the Directorate of Valuation. The report was submitted to KEMSA in 2023. Twelve (12) out of Thirteen (13) parcels of land have since been valued. However, as at the end of the FY 2021/22, the valuation report had not been adopted and the assets had been recognized at acquisition value. The valuation was adopted and recognized in Financial Year 2023/24.

    The parcels of land in Isiolo and Meru were allocated to KEMSA, however, their title deeds were still being processed at end of the FY 2021/22. Subsequently, upon receipt of the title deed in Financial 2023/24, there arose a necessity to value the land for recognition in the financial statements of the Authority. KEMSA engaged the Ministry of Lands, Public Works, Housing, and Urban Development through the Directorate of Surveying and Mapping and the Directorate of Land Valuations to conduct a fixation survey for beaconing the property, a requirement by the Directorate of Land Valuation for determining the land's value. The valuation was completed in December 2023.

    The two parcels of land have since been recognized in KEMSA's Financial statements for FY 2023/24.

    ii) Warehouse buildings in Mombasa used for storage of medical commodities were omitted.

    Mombasa Depot was recognized in KEMSA's Financial statement at a value of KES 76,000,000, which included both the land and building components. However, there was a necessity to value and carry out a separation of cost for the property.

    The current valuation conducted in 2023 provided a detailed separation, assigning a market value of KES 110,000,000 to the land and KES 30,000,000 to the buildings. This updated valuation has since been reflected in the financial statements for the year 2023/2024.

    iii) The land balance includes Kshs.284,538,002 for seven (7) parcels of land whose original title documents were not provided for audit.

Land parcels with title deeds:

i. Nyeri/municipality/block 3/337
ii. Kisumu municipality/block ii/128
iii. Kakamega/municipality/block iv/873
iv. Isiolo/ngaremara/2567
v. LR NO. 9042/176 (embakasi head office)
vi. LR NO. 209/7154/2 (commercial street).

iv) Interviews with management revealed that a parcel of land in Kisumu municipality valued at Kshs.25,000,000 has been encroached by a private developer, acquired ownership rights but the matter is under investigation by Directorate of Criminal Investigation. The matter is still under investigation with DCI

The Authority wish to confirm that the matter was resolved and KEMSA is both in possession of the land and the tittle to the property.

v) A parcel of land in Kakamega municipality measuring 0.9852 hectares valued at Kshs.7,500,000 was exchanged for a parcel of land valued at Kshs,3,000,000. However, details of the exchange were not provided for audit review and both parcels have been disclosed in the financial statements.

The Authority would like to clarify that the Kakamega green site land valued at Kshs.7,500,000 was not exchanged for a parcel of land valued at Kshs.3,000,000. The County Government of Kakamega allocated KEMSA a parcel of land referred to as Kakamega Green Site for the construction of a warehouse and consequently recognized the same in KEMSA's financial statements at a value of Kshs 7,500,000. However, the land was later re-allocated for other county developments, KEMSA has since de-recognized this parcel of land in its Financial Statements. The County government did allocate KEMSA a different parcel, which has since been registered under its name. The allocated land has a title deed and is awaiting valuation. It was disclosed as a contingent asset in FY 2023/2024 Financial Statement. The parcel of land valued at Kshs.3,000,000 is housing the KEMSA Kakamega depot which is situated within the premises of Kakamega PGH. Since KEMSA does not hold any allotment or ownership rights over the property. This has since been de-recognized and adjusted in the FY 2023/2024 Financial Statement.

vi) Physical verification in January, 2023 revealed that two parcels of land in Nyeri town measuring approximately 0.56 hectares were partially fenced exposing it to encroachment and undisclosed developer had erected a temporary fence on the unfenced portion of land. Although management indicated the matter is being pursued, there was no document on its progress.

The valuation carried out in FY 22/2023 confirmed that KEMSA owns only one parcel of land in Nyeri measuring 0.5536 hectares.

vii) The land balance includes four parcels of land in Mombasa, Kisumu, Kakamega and Garissa amounting to Kshs.11,5000,000 which have not been surveyed.

At the time of the audit, the Authority had not completed the valuation and survey of its various properties; however, this process has now been finalized. The parcels of land in Mombasa, Kisumu, Kakamega, and Garissa have been surveyed, and the conveyance of titles is in progress. By the end of the 2023/2024 financial year, conveyance for the Kisumu and Kakamega parcels was completed, and titles were issued and registered under KEMSA

viii) Included in the land balance is a parcel of land situated at Embakasi in Nairobi acquired in August, 2016 at a cost of Kshs.1,980,000,000 while the financial statements reflect a balance of Kshs.1,232,429,268 resulting to unexplained reduction in land value of Kshs.747,570,732.

The cost of land situated at Embakasi in Nairobi was acquired in August, 2016 at a cost of KES 2,297,720,087 made up of land at cost of KES.1,232,429,268 and building KES. 1,065,290,838.61. and not KES.1,980,000,000 as indicated. However, the initial invoice provided and paid by KEMSA was KES.1,980,000,000 which was VAT exclusive. KQ paid for VAT amounting to KES 317,720,087 and later invoiced KEMSA for reimbursement of the same. Hence there was no variance of Kshs.747,570,732.

Committee Observations and Recommendations

The Committee observed that –the issue of Inaccuracies of land and buildings was deliberated in its Third PIC-SSAA Report and upholds the observations and recommendations therein.

4.0 Unaccounted Scanners

29. The Committee heard that, the statement of financial position reflects property, plant and equipment balance of Kshs.8,440,170,153 as disclosed in Note 24 (a) to the financial statements. The balance includes office equipment balance of Kshs.43,549,295 out of which additions were Kshs11,613,558. Analysis revealed additions of Kshs.3,226,593 for only four (4) scanners that were delivered instead of eight (8) scanners procured and paid for at Kshs.8,208,800 resulting to unaccounted nor explained variance of Kshs. 4,962,207.

    In the circumstances, the accuracy and completeness of office equipment balance of Kshs. 43,549,295 could not be confirmed.

Management response

30. The management informed the Committee that in the FY 2021/22, the Authority procured 4 scanners and payment of KES 3,283,200 done to the supplier - Mega plus Africa Limited- using payment voucher APP-1047-21/22. The scanners were delivered in January 2022 and capitalized in the financial year 2021/22.

31. In the prior year, FY 2020/21, KEMSA had procured 6 scanners from the same supplier and payment of KES.4,924,800 done using payment voucher APP-2457-20/21. The scanners were delivered in 30th June 2021. The capitalization was done and posted in the FY 2020/2021 thus would not appear in the additions for FY 2021/22. All scanners were capitalized and posted in the asset register.

Committee Observations

The Committee observed that –according to the audit report 8 scanners were procured at a price of Kshs11,613,558 but only four (4) scanners that were delivered and Kshs.8,208,800 paid in the Financial Year 2021/2022. However, the management responded to a different procurement and therefore did not address the audit issue.

Committee Recommendations

The Committee recommends that –

Within three months upon adoption of this report, the Accounting Officer to prepare and submit to the National Assembly and the Auditor-General a comprehensive report detailing the status of the scanners, including evidence that the scanners were delivered as procured. The Auditor-General should review and report in the subsequent audit cycle.

5.0 Inaccuracies in Trade Creditors

32. The Committee heard that, the statement of financial position reflects trade and other payables from exchange transactions balance of Kshs.8,256,459,842 as disclosed in Note 26 to the financial statements. However, the amount excluded unpaid goods and services as at 30 June, 2022 amounting to Kshs.22,690,890.
33. In addition, Kshs.2,909,006,616 relates to supplies of medical commodities, distribution costs and other general operations from sixty-eight (68) suppliers but the respective invoices indicating the goods, works or services rendered were not provided for audit. Further, the amount includes Kshs.1,081,672,924 on procurement of medical commodities from thirty (30) suppliers whose invoices were in multiple currencies, but the supplier statements did not indicate the local and the foreign currency and the applicable exchange rates.
34. In the circumstances, the accuracy and fair statement of trade and other payables from exchange transactions balance of Kshs.8,256,459,842 as at 30 June, 2022 could not be confirmed.

Management response

35. The management informed the Committee that the amount of Kshs.22,690,890 relates to pre-delivery and partial delivery done and supplier had not submitted corresponding invoices for recognition as a liability. Further, the authority received all commodities post year end and has since been paid. On the Query of Kshs.1,081,672,924 on procurement of medical commodities from thirty (30) suppliers whose invoices were in multiple currencies, but the supplier statements did not indicate the local and the foreign currency and the applicable exchange rates. The Authority would like to clarify that the current ERP system does not support reporting in multiple currencies. This feature will be included in the upcoming SAP system, scheduled for implementation in FY 2024/2025.

Committee Observations

The Committee observed that –

The Committee observed that –trade creditors balance excluded unpaid goods and services amounting to Kshs.22,690,890. A balance of Kshs.2,909,006,616 relating to sixty-eight (68) suppliers whose details on the invoices did not indicate the goods, works or services rendered while on thirty (30) other suppliers the amount was designated in foreign currencies without the applicable exchange rates.

Committee Recommendations

The Committee recommends that –

i) The Committee reprimands the then Accounting Officer for misrepresentation of financial liabilities.
ii) Further, the Committee recommends that within three months upon adoption of this report, the Accounting Officer submits to the National Assembly and the auditor-General the evidence that the amount due was eventually recorded in the Authority books and enlist the measures taken to improve compatibility of the ERP to convert foreign currencies into local currency.

6.0 Inventory Variance

36. The Committee heard that, inventory balance of Kshs.8,233,257,797 covering 601 stock items reflected a reported variance after supporting schedules indicated Kshs.3,644,778,750, resulting in an unexplained difference of Kshs.4,588,479,047. A further discrepancy was noted in co-financing commodities valued at Kshs.1,405,592,596, where supporting schedules showed Kshs. 999,646,838, creating a variance of Kshs.405,945,758. Additionally, 500,712 units of 23 medical commodities were omitted from the inventory records with their values initially undetermined.

Management response

37. The management informed the Committee that the sampled analysis contained overstated and understated figures and did not consider key stock movements such as supplier returns, stock adjustments, supplier replacements, customer returns, damages, and expiries. After incorporating these transactions and reconciling opening balances, issues, and closing stock, the Authority determined that the actual outstanding variance was Kshs.163,507,302.43, significantly lower than the reported amount.

38. The remaining variance was attributed to errors in stock counts during the 2021/2022 annual stock take due to unit-of-measure mix-ups and retrospective recording of COVID-19 health products that had been physically received and issued earlier but captured in the system later after completion of procurement formalities.

39. For co-financing commodities, the Authority confirmed that discrepancies arose from understated receipts and issues and omission of key stock transactions in the sampled analysis. Once these were considered, no unreconciled variance remained.

40. The omitted 500,712 units were identified as donated commodities received from the Ministry of Health without supporting documentation at the time of receipt. The items have since been valued and incorporated into the inventory records, thereby addressing the omission.

Committee Observations

The Committee observed that–

i) The reported inventory balance did not correspond to the figures in the supporting schedules resulting in an unexplained difference of Kshs.4,588,479,047.

ii) There were discrepancies amounting to Kshs.405,945,758 for co-financing commodities as reported in the financial statement and the supporting schedules.

iii) Medical commodities with undetermined values relating to 500,712 units were omitted from the inventory records contrary to Regulation 140 of the PFM (National Government) Regulations, 2015 which states that Accounting Officer shall be responsible for the general management of government inventories held within their control.

Committee Recommendations

The Committee recommended that–

i) Within three months upon adoption of this report, the Accounting Officer should submit to the Auditor-General accountable documents and other inventory records to account for the unexplained difference of Kshs.4,588,479,047 and the Kshs.405,945,758 variance in respect of co-financing commodities. The Auditor-General should review and report in the subsequent audit cycle.

ii) The Accounting Officer should at times comply with Regulation 140 of the PFM (National Government) Regulations, 2015.

7.0 Improper Adjustment

41. The Committee heard that, the inventories balance was arrived at after adjusting Kshs.6,130,735 for untraced commodities in the warehouse, Kshs.12,756,385 for excess issues to undisclosed health facilities and Kshs. 29,951 849 for damaged stock which should have been expensed.

Management response

42. The management informed the Committee that, the Authority acknowledges the Auditor's observation regarding the untraced items and excess issues, which were not expensed in FY 2021/22 due to current warehouse management system not being fully integrated with the ERP.

43. However, the Authority confirms that the value of expired and damaged inventory was indeed expensed in FY 2021/22 under the cost of sales account. Moving forward, the Authority will

strengthen inventory management procedures to ensure all necessary adjustments are accurately recorded in the appropriate financial periods by rolling out a robust SAP system.

Committee Observations

The Committee observed that –there were anomalies reported in the inventories balance with respect to adjustments of Kshs.6,130,735 for untraced commodities, Kshs.12,756,385 relating to excess issues and Kshs. 29,951 849 for damaged stock not expensed.

Committee Recommendations

The Committee recommended that–

Within three months upon adoption of this report, the Accounting Officer should submit to the Auditor-General accountable documents and other inventory records to account for the adjustments of Kshs.6,130,735 for untraced commodities, Kshs.12,756,385 relating to excess issues and Kshs. 29,951 849 for damaged stock not expensed. The Auditor-General should review and report in the subsequent audit cycle.

8.0 Unreconciled Stock Issuance

44. The Committee heard that, the amount includes sixty-two (62) medical commodities whose available stock for issue was 11,727,738 units valued at Kshs.794,137,087 but the warehouse issue report indicated issuance of 11,820,490 units valued at Kshs.842,510,836 resulting to unexplained nor reconciled over issuance of 92,752 units valued at Kshs.48,373,749.

Management response

45. The management informed the Committee that the Authority conducted an analysis of data from sixty-two (62) sampled medical commodities and noted that some values were overstated or understated. Additionally, the sampled data did not account for supplier returns, stock adjustments, quality assurance samples, supplier replacements, and customer returns.

Committee Observations

The Committee observed that–

There was unexplained variance of medical commodities stocks valued at Kshs.48,373,749 which was an indication of weak internal controls on inventory management exposing the stocks of the authority to risks and losses.

Committee Recommendations

The Committee recommends that –

The Accounting Officer should at all times ensure that regular stock take exercise is conducted, and accurate stock amounts are incorporated in the financial statements. Further the Committee recommends that within three months upon adoption of this report, the Accounting Officer should submit to the National Assembly and the Auditor-General the reconciliation of the stock issuance worth Kshs.48,373,749.

9.0 Use of wrong valuation method

46. The Committee heard that, re-computation of inventories using the lower of cost and net realizable value revealed a balance of Kshs.4,309,172,340 resulting to unreconciled variance of Kshs.9,653,724,985.

47. In the circumstances, the accuracy, valuation and fair statement of inventories balance of Kshs.13,962,897,325 could not be confirmed.

Management response

48. The management informed the Committee that KEMSA holds inventory on behalf of third parties, primarily program items valued at Ksh 9.6 billion at the time of Audit. These items are not intended for sale and, therefore, do not have a sale price. As such, they are valued at cost rather than net realizable value, which aligns with the nature and purpose of these program inventories.

Committee Observations

The Committee observed that –

i) The use of wrong valuation method may have misrepresented the fair value of inventories balance contrary Regulation 140 of the PFM (National Government) Regulations, 2015 which states that Accounting Officer shall be responsible for the general management of government inventories under their control.

ii) The management claim that it holds inventory on behalf of third parties and are not intended for sale, therefore they are valued at cost rather than net realizable value was not supported by any documentary evidence.

Committee Recommendations

The Committee recommended that –

i) Within three months upon adoption of this report, the Accounting Officer should develop and implement an approved stock management policy for third-party inventories and submit the copy to the National Assembly and Auditor-General for review and reporting in the subsequent Audit Cycle.

ii) The Accounting Officer should at times comply with the provisions of Regulation 140 of the PFM (National Government) Regulations, 2015.

10.0 Unsupported sales revenue

49. The Committee heard that, Note 8 to the financial statements reflects sales revenue of Kshs.6,317,198,727 net of credit notes of Kshs.108,439,677 for goods returned due to either being damaged on transit, not ordered by the customers or had quality issues but they were not traced in the warehouse management systems. In addition, the damaged commodities and those with quality issues were not physically verified and were not traced in the goods returns ledger.

50. In addition, sales adjustments of Kshs.974,495,736 were done without evidence of credit notes/ entries explaining the reasons for adjustments and sales of Kshs,4,990,278 made ten (10) health facilities which were not invoiced.

51. In the circumstances, the accuracy and completeness of sales revenue amount of Kshs.6,317,198,727 for the year ended 30 June, 2022 could not be confirmed.

Management response

52. The management informed the Committee that, the amount of Ksh 108,439,677 includes credit notes totalling Ksh 101,987,937, which were returned by customers. Previously, the system maintained a separate report for returns inwards; however, it has since been reconfigured to include returns inwards in the issues report. Additionally, credit notes amounting to Ksh 6,451,739.85 were issued as value-only adjustments for various reasons. The health products and technologies (HPTs) valued at Ksh 4,990,278, supplied to 10 health facilities, were short-dated items with less than 6 months remaining until expiry and were issued as donations to these facilities. HPTs with a shelf life of 6 months or less are not sold to customers but are donated free of charge upon receipt of donation requests from the facilities.

Committee Observations

The Committee observed that–

i) Goods returned amounting to Kshs.108,439,677 for either being damaged on transit, not ordered by the customers or had quality issues were not included as sales revenue. Further these commodities were not physically verified nor traced in the goods returns ledger.

ii) The management claim that the system is not reconfigured to include returns inwards in the issue report indicates that the internal controls are weak and unable to differentiate between returns inwards and supplier deliveries.

iii) The then Accounting Officer was in breach of Regulation 140 of the PFM (National Government) Regulations, 2015 which states that "*Accounting Officer shall be responsible for the proper custody, care and use of government inventories under their control.*

iv) Sales adjustments amounting to Kshs.974,495,736 was done without evidence of credit notes/entries and sales of Kshs,4,990,278 made to ten (10) health facilities were not invoiced.

Committee Recommendations

The Committee recommended that –

i) The Committee reprimands the then Accounting Officer for contravening the provisions of Regulation 140 of the PFM (National Government) Regulations, 2015.
ii) Within three months upon adoption of this report, the Accounting Officer should submit to the National Assembly and Auditor-General the supporting documents relating to sales adjustments amounting to Kshs.974,495,736 and evidence of sales amounting to Kshs,4,990,278 made to ten (10) health facilities. The Auditor-General should review and report in the subsequent audit cycle.

11.0 Unconfirmed purchase of medical commodities

53. The Committee heard that, Note 8 to the financial statements reflects cost of sales of Kshs.7,667,817,778 out of which items worth Kshs.56,582,084 were sold at Kshs.68,351,228. However, these items were not in the opening inventory balance and although they were assigned purchase order numbers, there was no evidence of details of the suppliers and dates of supplies.

54. In the circumstances, the accuracy, validity and completeness of cost of sales amount of Kshs,56,582,084 for the year ended 30 June, 2022, could not be confirmed.

Management response

55. The management informed the Committee that all the items worth Kshs.56,582,084.00 were received in the warehouse before the issue process was commenced. details of receipt of the LPOs in question including the supplier, delivery dates, receiving warehouse and Goods Receipt Note (GRN No.) have been provided. Total value of receipts as per LPO was amounting to 761,701,046.83.

Committee Observations

The Committee observed that–

The Authority sold commodities worth Kshs.56,582,084 at Kshs.68,351 ,228. However, the source of the items could not be confirmed since they were not part of the inventory available for sale. There was no evidence to support the inventories either as purchases or opening inventory. Consequently, this implies possibility of unrecorded stocks which could be a manifestation of pilferage or theft. This is contrary to section 160. (1) of Public Procurement and Asset Disposal Act, CAP 412C which requires an accounting officer of a procuring entity to manage its inventory, assets and stores for the purpose of preventing wastage and loss, and continuing utilization of supplies.

Committee Recommendations

The Committee recommended that –

Within three months upon adoption of this report, the Accounting Officer should submit to the National Assembly and Auditor-General a comprehensive report showing the source of the commodities worth Kshs.56,582,084 at Kshs.68,351 ,228 including the procurement process and the accompanying documents. The report should further include the mechanisms put in place to ensure safeguard of the Authority's inventory.

12.0 Omitted Intensive Care Unit (ICU) Patient Ventilators

56. The Committee heard that, Note 8 to the financial statements reflects cost of sales of Kshs.7,667,817,778. However, the expenditure omits Kshs.57,400,000 for twenty-one (21) ventilators purchased from two (2) suppliers using funds from Ministry of Health. In addition, a donation five (5) Intensive Care Unit Patient (ICU) ventilators valued at Kshs.5,472,560 was not reflected under medical commodity fund. Further, these ventilators were issued to fifteen (15) counties but details of the specific health facilities that received them were not indicated in the issue report and installation reports were not provided for audit. In the circumstances, the accuracy and completeness of Kshs.62,872,560 expenditure on ventilators could not be confirmed.

Management response

57. The management informed the Committee that, the 21 ventilators purchased from two (2) suppliers using funds from Ministry of Health could not form part of KEMSA cost of sale of Kshs.7,667,817,778 since they are program items. Donation of five (5) Intensive Care Unit Patient (ICU) ventilators valued at Kshs.5,472,560 could not form part of medical commodity funds since they were issued out in March 2022 before closure of FY 2021 /2022.

Committee Observations

The Committee observed that–

The explanation by the management that the 21 ventilators purchased from two (2) suppliers using funds from Ministry of Health could not form part of KEMSA cost of sale since they were programme items was unsatisfactory and not supported by any documentary evidence.

Committee Recommendations

The Committee recommended that–

Within three months upon adoption of this report, the Accounting Officer should develop and implement an approved stock management policy for third-party inventories and submit the copy to the National Assembly and Auditor General for review and reporting in the subsequent Audit Cycle.

13.0 Undisclosed Liability

58. The Committee heard that, Note 26 to the financial statements reflects trade and other payables from exchange transactions balance of Kshs.8,256,459,842. However, an amount of

Kshs.29,370,267 received from unidentified customers was not disclosed as a liability. In addition, this balance was not supported by a schedule indicating the opening balance, receipts, amounts transferred from the unidentified/suspense account to the specific customer and closing balance.

59. In the circumstances, the accuracy and completeness of receivables from exchange transactions balance of Kshs.29,370,267 could not be confirmed.

Management response

60. The management informed the Committee that the unallocated amount of Kshs.29,370,267 has been disclosed as a liability in the financial statements. This amount relates to unknown customers. Some of these amounts are receipts from customers whose payment advice had not been provided.

61. The authority hereby confirms that after year end, some of the customers has since been identified and the receipts matched to the respective customer accounts. The reconciliation will be an ongoing exercise and the report to be updated continuously.

Committee Observations

The Committee observed that–

The authority failed to disclose the existing liability amounting to Kshs.29,370,267 from unidentified customers. Consequently, the reported balances on liabilities were understated.

Committee Recommendations

The Committee recommended that –

Within three months upon adoption of this report, the Accounting Officer should submit National Assembly and Auditor-General a report detailing evidence of disclosure of liability amounting to Kshs.29,370,267 from unidentified customers.

14.0 Un-approved exchange of parcels of land

62. The Committee heard that, the statement of financial position reflects property, plant and equipment balance of Kshs.8,440, 170,153 as disclosed in Note 24 (a) to the financial statements. The balance includes land balance of Kshs.1,786,967,270 out of which a parcel of land along commercial street Nairobi measuring 0.1329 with net book value of Kshs.151,538,002 was exchanged with a private company's land measuring approximately 0.7676 in the same location of undetermined value.

63. In addition, the lease of this parcel lapsed on 30 June, 2019 and there was no evidence of renewal. Further, there was no evidence of approval of the exchange transaction by the Cabinet Secretaries responsible for Health and the National Treasury. This was contrary to Section 13(1)(c) of the State Corporations Act, 2015 which states that the assets of a state corporation may be disposed of—by way of sale or otherwise with the approval of the Minister and the Treasury where such disposal has not been taken into account in the estimates.

64. In the circumstances, the valuation and ownership of parcel of land with net book value of Kshs.151,538,002 as at 30 June, 2022 could not be confirmed.

Management response

65. The management informed the Committee that the State corporations Act did not apply to Kenya Medical Supplies Agency (Formerly Central Medical Stores) which was a department at the Ministry of Medical Services.

66. The land exchange was formalized through a Memorandum of Understanding dated 27th July 2009 between the Ministry of Health and Unilever Kenya Ltd. The process had initially begun in 1987, with the land valued according to a valuation report dated 10th July 1987, which referenced the exchange of parcel of land between the Ministry of Health and East African Ltd (now Unilever Kenya). This was subject to a 'no objection' from the Treasury.

Committee Observations

The Committee observed that–

The authority exchanged a parcel of land along commercial street Nairobi measuring 0.1329 with net book value of Kshs.151,538,002 with a private company's land measuring approximately 0.7676 in the same location of undetermined value contrary to Section 13(1)(c) of the State Corporations Act, 2015 which states that the assets of a state corporation may be disposed of—by way of sale or otherwise with the approval of the Minister and the Treasury where such disposal has not been taken into account in the estimates.

Committee Recommendations

The Committee recommended that–

The Accounting Officer should at all times comply with the provisions of section 13(1)(c) of the State Corporations Act, 2015.

15.0 Unconfirmed Receivables from County Governments

67. The Committee heard that, Note 21 to the financial statements reflects receivables from exchange transactions of Kshs.5,642,303,360 out of which Kshs.2,819,806,723 relates to county governments. However, only three (3) counties with a balance of Kshs.193,792,617 responded to audit circularization resulting to unconfirmed balance of Kshs.2,626,0 14,106 by third parties. In addition, there was no evidence of half and end of the financial year circularization as required by Paragraph 2.14 of the Kenya Medical Supplies Authority Credit Policy 2014.

68. In the circumstances, the accuracy and completeness of receivables from exchange transactions balance of Kshs.2,626,014,106 could not be confirmed.

Management response

69. The management informed the Committee that the Kenya Medical Supplies Authority Credit Policy 2014, debt circularization was conducted in February 2022 for the half-year period. Additionally, in June and August 2022, formal letters were issued through the offices of the Controller of Budget and the National Treasury, requesting that they consider withholding disbursements to counties with long-outstanding debts and urge these counties to settle pending bills owed to KEMSA. In December 2023, debt circularization letters were also sent to all 47 counties with outstanding debts as part of the audit process. Although this correspondence was intended for audit confirmation, it should have been directed to the Office of the Auditor General to better align with audit standards for third-party confirmations.

70. In July 2024, debt circularization letters were sent to all the 47 counties with outstanding debts as part of the audit processes also sends monthly statements to each county to provide updated account balances and encourage timely reconciliation. These measures demonstrate our commitment to regular communication and proactive engagement with county governments to ensure accuracy and timely settlement of receivables.

Committee Observations and Recommendation

The Committee had deliberated on the issue of Receivables from Exchange Transactions in its Third PIC-SSAA Report which is similar to Unconfirmed receivables from County Governments, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

16.0 Long Outstanding Receivables

71. The Committee heard that, Note 21 to the financial statements reflects receivables from exchange transactions of Kshs. 5,642,303,360 out of which Kshs. 399,326,318 relates to ten (10) customers which have been outstanding for more than three hundred and sixty (360) days with no agreed payment plan. In addition, there was no provision for bad and doubtful debts contrary to Paragraph 2.16 of the Kenya Medical Supplies Authority Credit Policy 2014 which requires adequate provision for bad and doubtful debts for any outstanding debts above three hundred and thirty (330) days.

72. In the circumstances, the accuracy and recoverability of receivables from exchange transactions balance of Kshs.399,326,31 8 could not be confirmed.

Management response

73. The management informed the Committee that it has been actively pursuing the recovery of long-outstanding debts, with notable success. For example, Nairobi City County, which had an overdue balance exceeding 360 days, remitted Ksh 185 million on April 6, 2022. This demonstrates the effectiveness of our continuous follow-up efforts.

74. KEMSA has undertaken aggressive recovery actions, including regular physical follow-ups, meetings with customers, and issuing both debt confirmation and demand letters. As of July 28,

2023, out of the 10 customers with outstanding debts over 360 days, 9 counties have paid in full, 1 county has made a partial payment, and only 1 county remains with an unpaid balance. Given the substantial payments received from the counties in FY 2022/23 and FY 2023/24, the Authority has not classified this debt as doubtful. Additionally, KEMSA is in the process of revising its credit policy to better align with its customer base, primarily focusing on government-to-government transactions. This revision aims to address the unique nature of our receivables and improve credit management practices.

Committee Observations

The Committee observed that–

i) The recovery of long outstanding receivables amounting to Kshs. 399,326,318 relating to the ten (10) customers is doubtful since there was no agreed payment plan.
ii) The authority failed to make provision for bad and doubtful debts contrary to Paragraph 2.16 of the Kenya Medical Supplies Authority Credit Policy 2014 which requires adequate provision for bad and doubtful debts for any outstanding debt above three hundred and thirty (330) days

Committee Recommendations

The Committee recommended that –

i) Within three months upon adoption of this report, the Accounting Officer for the Authority to institute recovery measures including legal action against the ten (10) customers who have failed to pay the debts.
ii) Within three months upon adoption of this report, the Accounting Officer, Kenya Medical Supplies Authority should submit comprehensive progress report to the National Assembly and the Auditor-General detailing the steps that have been taken and the recoveries made.

17.0 Emphasis of matter

75. The Committee heard that, the statement of financial performance reflects a deficit of Kshs. 2,991,725,431 in comparison with surplus of Kshs. 401,701,539 for the comparative period leading to a decline in the revenue reserves from Kshs. 8,851,950,562 in 2020/2021 to Kshs 5,860,225,131 in the current period. If the trend continues into the foreseeable future the authority may not be able to meet its obligation as and when they fall due.

76. In circumstance the Authority sustainability of procurement warehousing and distribution of drugs and medical supplies is heavily dependent on continued support by the government donors and creditors

Management response

77. The management informed the Committee that The Board and management of KEMSA have adopted a turnaround strategy to address the financial limitation that the Authority is currently facing. The Board and Management have instituted robust credit controls, debt management, and

collection strategies and are very committed to regaining donor support to improve it cash flow through the provision of agency services. Equally, the Board and management is undertaking rigorous and robust resource mobilization strategies and pursuing the government to recapitalize the Authority.

Committee Observations

The Committee observed that–

The management cited that it had adopted a turnaround strategy to address the financial limitations by instituting robust credit controls, debt management and collection strategies. However, the long outstanding debts have been increasing.

Committee Recommendations

The Committee recommends that the Accounting Officer develops documented and approved strategies to diversify its revenue base to reduce over reliance on Government support and strengthen the debt collection mechanisms.

18.0 Failure to purchase Global Fund Commodities

78. The Committee heard that, during the year under review, Kshs.1,835,607,005 was budgeted to procure, warehouse and distribute program commodities under the co-financing requirements. However, review of records revealed that only commodities worth Kshs.1,366,506543 were procured resulting to underfunding of Kshs.469,100,462.

79. In the circumstances, management may have failed to procure, warehouse and distribute enough program commodities as intended by the donors.

Management response

80. The management informed the Committee that, the budget for these procurements was Ksh 1,835,607,005. Procurement process was initiated and contracts amounting to Ksh 1,807,745,718 were entered into with various suppliers. At the time of the audit review, commodities worth Ksh 1,366,506,543 had been delivered. This left a balance quantity worth Ksh 441,239,176 that was yet to be delivered at the time of audit review. However, the commodities have since been delivered realizing a saving of Ksh 43,800,071 from the procurement process.

Committee Observations

The Committee observed that–

Kemsa failed to honour co-financing requirements to procure, warehouse and distribute program commodities worth Kshs.469,100,462 because of underfunding on their part as intended by the donors.

Committee Recommendations

The Committee recommended that–

The Accounting Officer should always adhere to the Co-Funding agreement between the GOK and the Donors as per the memorandum of understanding, grant conditions or any other form of co-funding arrangements.

19.0 Unresolved Prior Year Matters.

81. The Committee heard that, in the audit report of the previous year, several issues were raised under the Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, 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.

Management response

82. Management acknowledges the Auditor's observations in delay in addressing the issues raised in the previous year's audit report. The Authority has taken steps to ensure that all outstanding matters are resolved. A comprehensive tracker has been prepared covering FY 2022/23, 2021/2022, 2020/21 and 2019/20 along with supporting documentation detailing the actions taken to address each audit query.

83. These actions will be reviewed and discussed with the Office of the Auditor General (OAG) team, and a mutual agreement has been reached to close the open audit items. Management is committed to ensuring full compliance with the Public Sector Accounting Standards Board templates and will continue to work closely with the OAG to resolve any remaining issues.

Committee Observations

The Committee observed that–

The accounting officer had several unresolved prior year matters which the management has not resolved or given any explanation contrary to section 31 (1) of the Public Audit Act, CAP. 412B which requires that state organ or a public entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit

Committee Recommendations

The Committee recommends that –

The Accounting officer should always comply with the provisions of section 31 (1) of the Public Audit Act, CAP. 412B.

20.0 Incomplete Construction of Capital Work in Progress

84. The Committee heard that, the statement of financial position reflects property, plant and equipment of Kshs. 8,440,170,153, including capital work in progress of Kshs. 5,177,536,340 relating to construction of a modern warehouse and office block by Kenya Medical Supplies Authority. Audit review identified several concerns affecting project accountability and value for money.

85. Interest amounting to Kshs.17,036,034 on delayed payments was included in project costs without supporting details such as certified amounts, delay periods, or computation basis. The contract, initially scheduled for completion within 182 weeks ending 25 September 2020, remained incomplete during physical verification in December 2022, approximately 27 months after the planned completion date.

86. Although the approved contract sum was Kshs. 3,079,998,860, payments totalling Kshs. 3,847,352,076 had been made, resulting in a 25% cost increase of Kshs. 767,353,216. Additional cost escalations arose from design and specification changes, including replacement of power float floor finishing with epoxy flooring, significant increases in the underground water tank cost beyond allowable variation limits, and a substantial escalation in the gatehouse provisional sum.

87. Further, despite a contract award for ventilation, smoke vents, and air conditioning works, inspection revealed that smoke vents had not been installed even though the inflammable warehouse was operational, raising safety concerns. The audit also noted that retention money of Kshs. 384,735,208 (10% of payments made) was not withheld as required.

88. Consequently, due to project delays, unsupported costs, excessive variations, incomplete works, and weak contract management, value for money for the Kshs. 5,177,536,340 project could not be confirmed.

Management response

89. Kenya Medical Supplies Authority acknowledged the audit observations and explained that interest on delayed payments arose from delays in obtaining a tax waiver for the Global Fund–supported component of the project, which was issued about one year after project commencement. This delay also contributed to the overall project completion lag, alongside unforeseen ground conditions such as a high-water table and flooding that increased substructure works and slowed construction progress.

90. Management clarified that the total payments reported included amounts paid to project management consultants under separate contracts. Consequently, payments to the main and sub-contractors represented an approximate 8% variation, not 25%, and were mainly attributed to priority operational enhancements required for warehouse functionality, including epoxy flooring and gatehouse construction. The Authority maintained that overall contract variations remained within the allowable threshold under procurement regulations.

91. The change to epoxy floor finishing was justified on operational and compliance grounds, as it provides durability, supports heavy warehouse traffic, and meets pharmaceutical storage standards. Cost increases in the underground water tank and gatehouse were explained as necessary adjustments from provisional estimates to final designs and expanded operational

requirements, including integration with existing warehouse facilities, security enhancements, and installation of supporting infrastructure.

92. Regarding ventilation and smoke vents, management indicated that the systems were to be imported, but the subcontractor failed to deliver despite repeated follow-ups, warnings, and issuance of a default notice. Steps were subsequently initiated to terminate the subcontract and reassign the works to avoid further delays.

93. On retention funds, management clarified that contract provisions limited retention to 5% of the contract sum and confirmed that retention had been withheld within this threshold and properly recognized in the project accounts.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Incomplete Construction of Capital Work in Progress in its Third PIC-SSAA Report observations and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

21.0 Missing invoices from suppliers

94. The Committee heard that, the statement of financial position and as disclosed in Note 26 to the financial statements reflects a balance of Kshs.8,256,459,842 in respect to trade and other payables from exchange transactions. The amount includes trade creditors - not invoiced receipts balance of Kshs.437,723,132 (2021 - Kshs.2,588,017507). However, for over eighteen (18) months after the procurement of Covid-19 items, no invoices were raised despite a payment of Kshs.1,465,017,506. This is contrary to Regulation 99(3) of the Public Finance Management (National Government) Regulations, 2015 states that every entry in the accounts shall be supported by a voucher or other approved document gazetted by the Cabinet Secretary containing the full details, clear narrations and particulars of the item or items to which it relates'.

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

Management response

96. The Management stated that Covid-19 procurement process was done retrospectively. Therefore, as at FY 2021/22 not all suppliers had been paid due to the ongoing EACC investigation and the ongoing procurement process. The Authority carried out re-negotiation with the suppliers who were unpaid at the time. The supplies valued at Kes. 437,723,132 related to these suppliers, who were paid after conclusion of the procurement process. Complete necessary action will be taken.

Committee Observations and Recommendations

The Committee had deliberated on the issues touching on Covid -19 matters (to which the issue of Missing invoices from suppliers relates) in its Eighth PIC-SSAA Report observed and made

recommendations. Consequently, the Committee upholds the observations and recommendations therein.

22.0 Irregular payment of full salaries

97. The Committee heard that Board of Directors issued a directive on 04 November, 2021 to three hundred and ninety-seven (397) employees to work from home and who continue to draw their full salaries and allowances which amounted to Kshs.365,823,891. This was contrary to Section l97(1)(i) of the Public Finance Management Act, 2012 provide a public officer employed by the national government, or a national government entity commits an offence of financial misconduct if, without lawful authority, the officer incurs wasteful expenditure on behalf of that government or entity.

98. In the circumstances, Management was in breach of the law and the value for money on Kshs. 365,823,891 paid to employees working from home could not be confirmed.

Management response

99. The management informed the Committee that, the payments of full salaries to 397 KEMSA employees was not irregular. The Justification is that on 4th November 2021, the KEMSA Board communicated to all its staff on the plan to conduct an organizational review of the Authority in order to strengthen its capacity to deliver on its statutory mandate and strategic plan.

100. In the letter, the staff had been directed to work from home with effect from 5th November, 2021 for a period of thirty (30) days except for staff tasked with providing essential services for business continuity. Specifically, on that day, the two (2) notices issued to staff were; General notice of intent to declare redundancy to all KEMSA Staff.

101. A letter specifying whether to work from office or home. while communicating the Boards resolutions, the Board chair stated that all the employees working from home will continue drawing full salaries, allowances and benefits until such a time the restructuring process is complete.

102. Upon issuance of the intended redundancy notice, KEMSA staff sought redress from the Employee and Labour Relations Court who issued orders barring the Authority from declaring its staff redundant and directed that the employer continues to pay all salaries, allowances and benefits due to staff pending hearing and determination of the case. During the period, KEMSA Board kept extending the notice period for staff to work from home while ensuring that the staff are paid all their full salaries, allowances and benefits as directed by the court.

103. It is worth noting that the Boards decision on 18th May 2023 directed that all the staff working from home to report back to work to ensure continuity and stability of the Authority. This therefore marked the closure of the court case and staff working from home.

Committee Observations

The Committee observed that–

i) The KEMSA Board of Directors directed its staff to work from home with a view to declaring redundancy while earning full salary that rejected by the labour relations Court. The duration ran from 04 November, 2021 to 18th May,2023. which was contrary to section C and section J.2 (1) of the Public Service Commission, Human Resource Policies and Procedures Manual, 2016 which requires public officers to work for forty (40) hours and defines government working hours from Monday to Friday (8:00 am to 5:00 pm)
ii) The cumulative salaries paid, and the contributions made by the staff while working from home could not be evaluated as proper charge to public funds in the absence of supervision and a measure of the efforts put in place.

Committee Recommendations

The Committee recommends that –

Within three months upon adoption of this report, the Inspector General of State Corporations to surcharge and recover from the then Accounting Officer and the then Board members, the monies so paid for the duration of approximately eighteen (18) months.

23.0 Un-Procedural extension of employee contracts

104. The Committee heard that the statement of financial performance reflects employee costs of Kshs.1,223,659,186 as disclosed in Note 14 to the financial statements. The amount includes Kshs.7,479,840 paid to fifty-six (56) employees whose contracts had lapsed and were being renewed after every month instead of after a minimum of three (3) months without explanations.

105. This was contrary Section 9(1)(a) of the Employment Act, 2007 which states that a contract of service is for a period or a number of working days which amount in the aggregate to the equivalent, of three months or more. In the circumstances, management was in breach of law.

Management response

106. The management informed the Committee that, as part of the continued restructuring process, the KEMSA Board made a decision to send thirty-one (31) senior management staff between grade SA2 to SA4 who are at the level of directors, managers and some assistant managers for a compulsory leave for a period of thirty (30) days. To ensure business continuity, a caretaker management team of twelve (12) was brought on board from the Ministry of Health to support on the restructuring process. It is worth noting that during the caretaker management tenure, KEMSA had running contracts for various staff majority of whom were ending between March and June 2022.

107. However, for the fifty-six (56) contractual staff whose contracts had ended, the caretaker management made a decision to have them renewed on a monthly basis as opposed to the one year, awaiting finalization of the restructuring process. Generally, the Authority engages contractual and casual staff on need basis in line with the existing Labour laws and the Authorities HR policy and Manual.

108. In July, 2022, the Board made a decision to renew contracts for all contractual staff including the referred fifty-six Staff for a period of one year as has been the case previously.

Committee Observations

The Committee observed that–

The Authority renewed the contract service for fifty-six (56) employees on a monthly basis instead of the minimum three (3) months requirement contrary to Section 9 (1) (a) of the Employment Act, 2007

Committee Recommendations

The Committee recommended that –

The Committee reprimands the then Accounting Officer for violating the provisions of section 9 (1) (a) of the Employment Act, 2007.

24.0 Irregular Procurement through call-off orders

109. The management informed the Committee that, Note 8 to the financial statements reflects cost of sales of Kshs.7,667,817,778 out of which Kshs.506,577959 relates to goods procured through call off orders which were received after the scheduled delivery dates. In addition, the call off orders include Kshs.349,246,671 whose framework contracts had expired at the time the call off orders were made. This was contrary to Section 114(4) of the Public Procurement and Asset Disposal Act, 2015 which states that; For the purposes of subsection (3)(a), "call-offs order" means an order made using a framework agreement with one or more contractors, suppliers or consultants for a defined quantity of works, goods, consultancy covering terms and conditions including price that users require to meet the immediate requirements. In the circumstances, Management was in breach of the law.

Management response

110. The management informed the Committee that, all call offs were done within contract validity period. However, the procurements were undertaken using Framework Contracts and not Framework Agreements as observed the two procurement procedures are different as provided for under section 2 "interpretations" of the PPADA 2015. Section 114 (4) of the PPADA cited by the audit team as having been breached applies to Framework agreements and not framework contracting.

Committee Observations

The Committee observed that –

i) The Committee observed that –goods procured through call off orders worth Kshs.506,577959 were received after the scheduled delivery dates.

ii) Kemsa made call off orders worth Kshs.349,246,671 whose framework contracts had expired contrary to Section 114(4) of the Public Procurement and Asset Disposal Act, 2015 which states that; For the purposes of subsection (3)(a), "call-offs order" means an order made using a framework agreement with one or more contractors, suppliers or consultants for a defined quantity of works, goods, consultancy covering terms and conditions including price that users require to meet the immediate requirements.

Committee Recommendations

The Committee recommended that –

The Committee reprimands the then Accounting Officer for failing to comply with the provisions of Section 114(4) of the Public Procurement and Asset Disposal Act, CAP 412C

25.0 Unlawful use of Direct Procurement - Non-Pharmaceuticals

111. The Committee heard that. Note 8 to the financial statements reflects cost of sales of Kshs.7,667,817,778 out of which Kshs.1,940,300,934 relates to non-pharmaceutical commodities out of Kshs.60,261,197 were direct procurements. However, the commodities did not meet the conditions set for direct procurement under section 103 of the Public Procurement and Asset Disposal Act, 2015 neither did the accounting officer report to the Public Procurement Regulatory Authority within fourteen days after the notification of the award contrary to Regulation 90(1)(b) of the Public Procurement and Asset Disposal Regulations, 2020.In the circumstances, Management was in breach of the law.

Management response

112. The management informed the Committee that prior to any procurement process, authority is sought from the accounting officer. In the case of direct procurements, justifications are supported by type of product and market dynamics in line with the PPADA 2015 and PPADR 2020.

Committee Observations and Recommendations

113. The Committee had deliberated on the issues touching on Covid -19 matters (to which the issue of Unlawful use of Direct Procurement - Non-Pharmaceuticals relate) in its Eighth PIC-SSAA Report observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

26.0 Over Procurements

114. The Committee heard that, Note 23 to the financial statements reflects inventory balance of Kshs.13,962,897,325. However, one hundred and fifty-seven (157) medical commodities amounting to Kshs.1 842,162,067 were procured against the approximate annual demand of Kshs.590,791,788 resulting to over procurement of Kshs.1,251,370,278. This was contrary to Regulation 140(1) of the Public Finance Management (National Government) Regulations, 2015

states that 'Accounting Officer shall be responsible for the proper custody, care and use of government inventories under their control.

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

Management response

116. The management informed the Committee that, the procurement was as a result of UHC piloting in four counties (Kisumu, Nyeri, Machakos and Isiolo) which was authorized by Ministry of Health (MOH). The quantification was done by County Governments however it exceeded the actual demand.

Committee Observations

The Committee observed that–

The Authority made over procurement of medical commodities worth Kshs.1,251,370,278 contrary to section 160 of the Public Procurement and Assets Disposal Act, CAP 412C which requires an Accounting Officer to manage its inventory, assets and stores for the purpose of preventing wastage and loss, and continuing utilization of supplies and to avoid unprofitable lock up of funds, stocks shall be kept to the minimum necessary for the efficient conduct of the procuring entities

Committee Recommendations

The Committee recommended that –

The Committee reprimands the then Accounting Officer and the then head of procurement

for violating Section 160 of the Public Procurement and Asset Disposal Act, CAP.412

27.0 Under-Performance of contracts

117. The Committee heard that, Note 9 to the financial statements reflects revenue earned from rendering of services to Global Fund of Kshs.512,669,708. A company was awarded to supply 215,000 packs of antiretroviral (ARV) medicines worth USD 3,165,660 or Kshs.347,399,528 but only 90,000 packs were delivered and certified by the inspection and acceptance committee to be the full quantity ordered. The variance of 125,000 packs of ARVs amounting to Kshs.201 976,470 remained undelivered as at 30 June 2022, fifteen (15) months after the contract was awarded. This was contrary to section 5.1-1(e) of the Global Fund Grant Regulations, 2014 which stipulates that; "Contracts shall be awarded only to contractors that possess the ability to successfully perform the contracts" Further, Section 140 of Public procurement and Disposal Act, 2015 stipulates that -the contractor shall be liable to liquidation damages for delayed performance."

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

Management response

119. The management acknowledged the audit observation and clarified that all deliveries under the contract for supply of adult ARV medicines (TLD 300/300/50mg) by Macleods Pharmaceuticals Limited were completed before 30 June 2022. The contract, valued at USD 3,165,660 for 215,000 packs, was fulfilled through phased deliveries made between May and July 2021 in accordance with the purchase orders and delivery schedule.

120. Management therefore confirmed that the contract was properly executed, and no breach of the law occurred.

Committee Observations

The Committee observed that–

The Company awarded the contract to supply 215,000 packs of antiretroviral (ARV) medicines worth Kshs.347,399,528 managed to deliver only 90,000 packs leaving 125,000 packs undelivered worth Kshs.201,976,470 thus the Authority could not achieve its intended mandate. This implied that the Company did not have the capacity to supply contrary to section 93 (4) (h) of the Public Procurement and Asset Disposal Act, CAP 412C.

Committee Recommendations

The Committee recommended that –

The Committee reprimands the erstwhile Accounting Officer for violating section 93 (4) (h) of the Public Procurement and Asset Disposal Act, CAP 412C.

28.0 Loss on Sale of Covid-19 Commodities

121. The Committee heard that, Note 8 to the financial statements reflects a gross loss of Kshs.1 ,350,61 7,051 out of which Kshs. 1,271,897,145 relates to loss on sale of Covid-19 commodities. This loss relates to sale of four (4) commodities at Kshs. 431,681,615 procured at a cost of Kshs.1,703,578,760. This was contrary to Section 72(1) of the Public Management Finance Act, 2012 which states that, 'The accounting officer for a national government entity shall— (a) be responsible for the management of the entity's assets and liabilities; and (b) manage those assets in away- which ensures that the national government entity achieves value for money in acquiring, using and disposing of those assets." In the circumstances, Management was in breach of the law.

Management response

122. The management informed the Committee that, the Authority received an approval to dispose Covid 19 Commodities vide letter REF: MOH/ADM/CONF/MED/18/10/TY/18 dated 26th August 2021, received on 3rd September, 2021.

i. Approved disposal by KEMSA of health commodities worth KShs. 5.45 billion at the prevailing market rates.

ii. Authorized the writing off of the resultant book loss of KShs. 2 billion arising from the proposed sale.

123. The approval was received one year later after the original request, hence there is possibility that the approval was based on original request in 20th August 2020. Taking into consideration the continued price reduction of the HPTs and impending expiries hence the Board approved for management to immediately proceed with the disposal Covid 19 commodities to the willing customers at the prevailing market price. See attached Impairment loss report.

Further to the above, Sale of some Covid-19 commodities below their cost price was approved by the Board as per internal memo from Ag. CEO dated 24th November 2021 and subsequent approval of the of the selling prices. Subsequently, with effect from 25th October 2021, orders received for these covid-19 commodities were sold at the approved prevailing market selling prices hence the loss incurred.

Committee Observations and Recommendations

The Committee had deliberated on the issues touching on Covid -19 matters (to which the issue of Loss on Sale of Covid-19 Commodities relate) in its Eighth PIC-SSAA Report observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

29.0 Irregular Extension of Contracts

124. The Committee heard that, Note 9 to the financial statements reflects rendering fees revenue of Kshs.787,689,106 in respect of procurement, warehousing and distribution of third-party commodities where the services of clearing and forwarding were procured at a price of USD 388,305 or Kshs.43,101,855 for a period of three (3) months ending 08 October, 2019 but renewed four (4) times up to 30 June, 2022. In addition, Note 13 to the financial statements reflects consulting fees of Kshs.37,910,274 out of which Kshs.19,941,120 was for consultancy services on board support and coordination services whose contracts were extended for more than three (3) months. This was contrary to Section 88 (3) of the Public Procurement and Asset Disposal Act, 2015 which requires contract extension be restricted to not more than thirty days (30) and may only be done once.

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

Management response

126. The management informed the Committee that, there was a competitive process that was undertaken for provision of clearing and forwarding services for USAID funded commodities (MCP). However, USAID did not provide consent to contract and recommended to engage DHL to facilitate clearing and forwarding services.

127. The contract for JKUAT Enterprises Limited for provision of board support services provided for extension or variation as the prevailing circumstances and in line with the law. The observation by the auditors on contract extension is provided for within the law as long as contract is within validity period (validity can only be done once).

Committee Observations

The Committee observed that–

The two contracts on provision of clearing and forwarding services for USAID funded commodities and the contract for consultancy service on board support and coordination services were irregularly extended on several occasions contrary to Section 88 (3) of the Public Procurement and Asset Disposal Act, 2015 which requires contract extension be restricted to not more than thirty days (30) and may only be done once.

Committee Recommendations

The Committee recommended that –

The Committee reprimands the then Accounting Officer and the head of procurement for violating Section 88 (3) of the Public Procurement and Asset Disposal Act, CAP.412

30.0 Award of tenders above the prevailing market price.

128. The Committee heard that, Note 9 to the financial statements reflects revenue earned from rendering of services amount of Kshs.787,689, 106 out of which Kshs.512,669,708 relates to fees earned to procure, warehouse and distribute Global Fund commodities. However, the Authority awarded tenders amounting to Kshs,1,360,073,270 at rate higher than the prevailing market price resulting to incurring an excess amount of Kshs.84,255,585. This was contrary to Section 5.1 1(f) of the Global Fund Grant Regulations, 2014 which stipulates that 'No more than a reasonable price (as determined, for example, by a comparison of price quotations and market prices) shall be paid to obtain goods and services."

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

Management response

130. The management informed the Committee that. prior to award of Global Fund tenders, market survey is carried out to determine that prices are within prevailing market rates. This is done by comparing prices obtained by GF pooled procurement mechanism (Wambo), other international institutions as well as previously realized tender prices. Further, prior award review is conducted by GF to determine competitiveness, alignment to budgets and grants approval for the procurement to progress.

Committee Observations

The Committee observed that–

The award of tenders amounting to Kshs,1,360,073,270 at rate higher than the prevailing market price was contrary to Section 5.1 (1) (f) of the Global Fund Grant Regulations, 2014 that 'No more than a reasonable price (as determined, for example, by a comparison of price quotations and market prices) shall be paid to obtain goods and services."

Committee Recommendations

The Committee recommended that –

The Accounting Officer should at all times adhere to the provisions of the Global Fund Grant Regulations, 2014 and other governing laws and regulations as applicable.

31.0 Unapproved fees for services rendered

131. The Committee heard that, Note 8 to the financial statements reflects total sales revenue of Kshs.6,317,198,727 being revenue from sale of various medical commodities. However, the prices of these commodities were only reviewed by a pricing committee and were not presented to the board for approval before implementation. This is contrary to Section 6 (2) (d) of the Kenya Medical Supplies Authority Act, 2013 states that 'Without prejudice to the generality of the foregoing, the Board shall have power to—levy fees for services rendered by the Authority as may be determined from time to time by the Board'.

In the circumstances, Management was in breach of law.

Management response

132. The management informed the Committee that, pricing Committee determines the pricing of commodities for sale in accordance with the approved Pricing Policy, which has been formally approved by the Board. The policy outlines the entire pricing procedure, with the final step being the submission of proposed prices by the Chair of the Pricing Committee to the CEO for approval. Once approved, the prices are uploaded into the Ordering Tool, Price List, and ERP system for customer use. The Pricing Committee has fully adhered to the procedures outlined in the Pricing Policy, as approved by the Board.

133. The Authority is in process of reviewing the pricing policy to align with KEMSA Act and business operation.

Committee Observations

The Committee observed that–

The Authority charged fees for services rendered without the Board approval before implementation contrary to Section 6 (2) (d) of the Kenya Medical Supplies Authority Act 2013 states that 'Without prejudice to the generality of the foregoing, the Board shall have power to—

levy fees for services rendered by the Authority as may be determined from time to time by the Board'.

Committee Recommendations

The Committee recommended that –

The Accounting Officer should at all times comply with provisions of the Kenya Medical Supplies Authority Act 2013 and other governing laws and regulations as applicable.

32.0 Extension of tender validity period

134. The Committee heard that, Note 8 to the financial statements reflects cost of sales balance of Kshs.7,667,619,015 out of which Kshs.2,660,997,894 relates to procurement of medical commodities on contracts extended for sixty-nine (69) suppliers. The Authority extended these contracts for more than thirty days and continued to trade with the suppliers without competitive bidding or giving notice of extension to each of the person who submitted the tender. This is contrary to Section 88 (2) and (3) which requires contract extension be not more than thirty days and a notice of extension be given to each of the persons who submitted the tender.

135. In the circumstances, Management was in breach of Law

Management response

136. The management informed the Committee that, contracts for medical commodities provided for extension or variation as per the prevailing circumstances and in line with the law. However, provisions of Section 88 (2) (3) of the Public Procurement and Asset Disposal Act, 2015 cited in the report as having been breached apply to extension of tender validity and not contract extension.

Committee Observations

The Committee observed that–

The extension of contracts for beyond the stipulated timelines was contrary to section 88 (2) and (3) of the Public Procurement and Asset Disposal Act, CAP 412C which requires an Accounting Officer to give notice of extension to each of the persons who submitted the tender and restricts extension to not more than thirty days which can only be done once.

Committee Recommendations

The Committee recommended that –

The Committee reprimands the then Accounting Officer for violating section 88 (2) and (3) of the Public Procurement and Asset Disposal Act, CAP 412C.

33.0 Irregular Use of Framework Contracting

137. The Committee heard that, management discussion and analysis under Section 8 to the financial statements reflects total procurement of Kshs.29,097,000,000 out of which Kshs.21,182,231,387 was procurement through framework contracting but there was no list of vendors undertaking these contracts and there was no evidence of mini competition among registered suppliers. In addition, after the first year of award, there was no evidence of conducting a value for money assessment to determine whether the terms designated in the framework agreement were still competitive.

138. Further, suppliers through restricted method of Kshs.749,364,646, open tender of Kshs.2,448,96,611 and direct procurement method of Kshs.1,307,117,628 were continuously engaged for two (2) years under framework agreements contrary Section 114(1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

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

Management response

140. The management informed the Committee that, it undertook procurement through open tender clearly indicating that the procurement would lead to two-year framework Contracts where additional quantities would be called off as and when required over the 2-year period.The procurements in question were not undertaken using framework agreements as observed by the audit team but were undertaken by way of framework contracting. There was therefore no contravention in as far as the use of framework contracting is concerned. Maintaining a list of vendors for purposes of mini competition applies to framework agreements and not framework contracting.

Committee Observations

The Committee observed that–

Kenya Medical Supplies Authority procured commodities worth Kshs.21,182,231,387 through framework contracting. However, the list of vendors undertaking the contracts and the evidence of mini competition among registered suppliers were not provided for audit verification.

The management failed to submit evidence of whether it conducted a value for money assessment to determine whether the terms designated in the framework agreement were still competitive contrary to section 114 (2) of the Public Procurement and Asset Disposal Act, CAP 412C.

Committee Recommendations

The Committee recommended that –

The Accounting Officer should at all times comply with the provisions of Public Procurement and Asset Disposal Act, CAP 412C and other governing laws and regulations as applicable.

34.0 Inclusion of VAT in Global fund commodities

141. The Committee heard that, Note 9 to the financial statements reflects revenue earned from rendering of services amounting to Kshs.787,689,106. Included in this balance is

Kshs.512,669,708 in respect to Global Fund out of which Kshs.11,861,000 was earned to procure Global Fund HIV commodities of USD2,132,400, or Kshs.232,717,555 and VAT amounting to Kshs.1,636,000 charged. This was contrary to article 3, Section 3.5 of the Global Fund grant regulations, 2014, which states that the host country for Global Fund should ensure that all the program commodities are exempted from tax.

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

Management response

143. The Committee heard that, invoices charged with VAT relates to revenue earned from procurement of Global Fund /GOK Counterpart Funding (CPF) commodities which are not exempted from tax. Under the MOU entered between The National Treasury (as the Principal Recipient of the Global Fund Grant) and KEMSA, the responsibilities of KEMSA were stipulated as to perform procurement and supply chain management services under the Global Fund to fight Aids, TB and Malaria funded Programs in Kenya.

144. Global Fund (donor funded) procured commodities and services are tax exempt, including Import Declaration Form (IDF) fees, Customs duties, Value Added Tax (VAT), and any other levies and charges. Global Fund / GOK counterpart funding (Kenya Government 20% co-funded) procured commodities are taxable. KEMSA's charges service fees at the agreed rate of 8% of the procured, warehoused and delivered value of commodities and related services. These fees are also taxable.

Committee Observations

The Committee observed that–

The Authority charged Global fund VAT amounting to Kshs.1,636,000 for the procurement of Global Fund HIV commodities contrary to section 3.5 of the Global Fund Grant Regulations, 2014 which states that the host country for Global Fund should ensure that all the program commodities are exempted from tax

Committee Recommendations

The Committee recommended that –

The Accounting Officer should at all times comply with the provisions of the Global Fund Grant Regulations, 2014 and other governing laws and regulations as applicable.

35.0 Stock out of Medical Commodities

145. The Committee heard that, Note 23 to the financial statements reflects inventory balance of Kshs.13,962,897,325. Inventory records indicated three hundred and sixty-four (364) commodities were stocked out for an average of two hundred and ninety (290) days while one hundred and seventy-nine (179) commodities were below the minimum required stock levels resulting to missed sales of Kshs.3,113,453,816. This was contrary to Regulation 140(1) of the Public Finance Management (National Government) Regulations, 2015 which states that 'Accounting Officer

shall be responsible for the proper custody, care and use of government inventories under their control'.

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

Management response

147. There was global supply chain disruption occasioned by Covid - 19 pandemic. Further KEMSA experienced financial constraints hence delayed payments to suppliers impacting deliveries.

Committee Observations

The Committee observed that–

The stock out of medical commodities for long periods was as a result weak inventory management and affected the planned activities and impacted negatively on the service delivery to the public and contrary to section 4 of the Kenya Medical Supplies Authority Act, 2013 which requires the Authority to support county governments to establish and maintain appropriate

supply chain systems for drugs and medical supplies.

Committee Recommendations

The Committee recommends that –

The Accounting Officer should at all times comply with the Kenya Medical Supplies Authority Act, 2013 and other governing laws and regulations as applicable.

36.0 Failure to procure essential medical commodities

148. The Committee heard that, Note 26 to the financial statements reflects payables from development partners of Kshs.4,798,798,971. Included in the amount is Kshs.1,270,815,146 for family planning, nutrition and tuberculosis commodities which had not been utilized for eighteen (18) months as at December, 2022 while an additional Kshs.1, 281 580,000 for Antiretroviral (ARVs), lab reagents, vaccines and blood bags remained unutilized for a period of six (6) Months. This is contrary to Regulation 214(b) of the Public Financial Management (National Government) Regulations, 2015 which requires activities of a corporation be effective in achieving national objectives and represent value for money for the expenditure of taxpayer'.

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

Management response

150. The management informed the Committee that, KEMSA received authorities and AIEs from Ministry of Health to initiate procurement. The AIEs remained unfunded as at the time of the audit review and therefore procurement could not be initiated as this would have contravened provisions of Section 53 (8) of the PPADA 2015.

Committee Observations

The Committee observed that–

The Authority failed to procure and utilize essential medical commodities contrary to section 4 (1) (a) of the Kenya Medical Supplies Authority Act, 2013 which mandates the Authority to procure, warehouse and distribute drugs and medical supplies for prescribed public health programmes, the national strategic stock reserve, prescribed essential health packages and national referral hospitals.

Committee Recommendations

The Committee recommended that

The Committee reprimands the then Accounting Officer for violating section 4 (1) (a) the Kenya Medical Supplies Authority Act, 2013.

37.0 Non-Adherence to Credits Limits

151. The Committee heard that, Note 21 to the financial statements reflects receivables from exchange transactions of Kshs.5,642,303,360 out of which Kshs.5,554,133,989 relates to trade debtors - receivables with County Governments accounting for Kshs.2,819,806,723 and other customers Kshs.2,734,327,266. However, the Authority continued to trade with these customers beyond the 30 to 45 days credit limits period contrary to Paragraph 2.7 of the Kenya Medical Supplies Authority Credit Policy 2014. In addition, the Authority did not maintain Floating Deposits Funds for credit customers in the KEMSA trading account where invoices will be drawn from as required by Paragraph 2.8 of the Kenya Medical Supplies Authority Credit Policy, 2014.

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

Management response

153. The management informed the Committee that, the Services were denied to customers with overdue balances. In order to extend Credit, the customers are required to do an undertaking on how to repay their debts. To further enforce the above, the LMIS ordering platform has since been structured such that County/customer accounts are automatically de-activated once the county debts exceed the set credit terms, and reactivated only after the outstanding debt has been settled or the customer providing a payment commitment for the outstanding debt which is approved by the CEO. The credit policy is also undergoing review to align it to the changing business environment and review of payment terms to a realistic timeline of 90 days from date of invoice. In the new SAP requirements, the credit limit timelines for both Hospitals and Counties have been provided for and will be implemented before the Go Live Date.

Committee Observations and Recommendation

The Committee had deliberated on the issue of Non-Adherence to Credits Limits under Receivables from exchange transactions in its Third PIC-SSAA Report observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

38.0 Unaccounted donations to KEMSA dispensary

154. The Committee heard that, Note 8 to the financial statements reflects cost of sales balance of Kshs.7,667,817,778. This balance includes donations of medical commodities of Kshs.221,991,558 to eighty-six (86) health facilities out of which Kshs.23,373,737 relates to donations made to KEMSA staff dispensary whose physical verification in the month of December, 2022 revealed that they did not exist. This is contrary to paragraph 17.6 of the KEMSA Standard Operating Procedures, 2018 which requires KEMSA to donate medical commodities upon request by the customer.

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

Management response

156. The Management informed the Committee that the dispensary operates as a virtual setup within the system, specifically designed to serve staff who have doctors' prescriptions. The decision to issue short-dated items to KNCO through KEMSA dispensary was made strategically to mitigate the risk of product expiration while avoiding unnecessary disposal costs. By prioritizing these items for dispatch, KEMSA ensured that valuable stock was put to use before it could potentially expire in the warehouse, thus minimizing financial loss.

157. KEMSA dispensary was also used to fulfill requests from KEMSA staff. These internal requests are processed upon approval by CEO ensuring that all distributions are properly authorized and aligned with KEMSA's operational protocols.

158. It is important to note that all issues processed through the KEMSA dispensary were meticulously documented ensuring full transparency, accountability, and traceability for every item issued, whether for external organizations or internal staff use. Currently, orders for external customers, including those for approved medical camps, are processed to the nearest county to the location where the medical camp is being held. Once the order is dispatched to the designated county, the county office then facilitates the final issuance and distribution of the goods to the medical camp.

Committee Observations

The Committee observed that–

The reported donations made to KEMSA staff dispensary amounting Kshs.23,373,737 could not be verified as of December, 2022 implying that there existence is doubt.

Committee Recommendations

The Committee recommended that

159. Within three months upon adoption of this report, the Accounting Officer should submit to the National Assembly and Auditor-General a status report on the unaccounted donations to KEMSA dispensary amounting to Kshs.23,373,737 The Auditor-General to review and report in the subsequent audit cycle.

39.0 Failure to maintain a master Vote Book

160. The Committee heard that, the statement of financial performance reflects total expenditure of Kshs,3,083,384,361 which was not supported by a vote book. This was contrary to Regulation 52(1)(d) of the Public Finance Management (National Government) Regulations, 2015, which states when the AIE is issued by the Ministry or State Department or Agency, the allocation shall be entered as a commitment in the Ministry's or State Department's or Agency's master vote book so as to ascertain at all times the availability of uncommitted funds.

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

Management response

162. The management informed the Committee that, KEMSA maintains a system-based budget management process rather than a manual vote book. The Authority operates automated ERP (Enterprise Resource Planning) system, which enhances budget monitoring and control throughout the financial year. At the start of each financial year, the approved budget is loaded into the ERP system, allowing all expenses to undergo a budget check before final approval by the accounting officer. This process ensures compliance with budget allocations and eliminates the risk of budget overruns or inappropriate budget utilization. Every transaction from requisition to LPO (Local Purchase Order) issuance is subjected to automated budget checks within the ERP, ensuring that expenditure aligns with available funds and approved budget limits. Given the robust budget monitoring and control capabilities of the ERP system, a separate manual vote book was not maintained.

163. This automated approach complies with Regulation 52(1)(d) of the Public Finance Management (National Government) Regulations, 2015, as it effectively monitors commitments against the approved budget, ensuring accurate and reliable financial performance tracking in line with regulatory expectations.

Committee Observations

The Committee observed that–

The expenditure of Kshs,3,083,384,361 was not supported by a vote book contrary to Regulation 52(1)(d) of the Public Finance Management (National Government) Regulations, 2015, which states that when the AIE is issued by the Ministry or State Department or Agency, the allocation shall be entered as a commitment in the Ministry's or State Department's or Agency's master vote book so as to ascertain at all times the availability of uncommitted funds

Committee Recommendations

The Committee recommended that –

The Accounting officer should at all times comply with the provisions of the Public Finance Management (National Government) Regulations, 2015 and other governing laws and regulations as applicable.

40.0 Failure to maintain an imprest register

164. The Committee heard that, Note 13 to the financial statements reflects a balance of Kshs.1,689,600,811 in respect to use of goods and services which includes an expenditure of Kshs.85,821,747 in relation to travel, accommodation, subsistence and other allowances.

165. However, an imprest registers to account for imprests issued and surrendered was not maintained. This was contrary to Regulation 93 (4) of the Public Finance Management (National Government) Regulations, 2015 which provides that before issuing temporary imprests under paragraph (2), the Accounting Officer shall ensure that— (c) the applicant has been recorded in the imprest register including the amount applied for.

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

Management response

167. The management informed the committee that, it acknowledges the Auditor's observation regarding the lack of an imprest register to account for issued and surrendered imprests, as highlighted in the audit report. In compliance with Regulation 93(4) of the Public Finance Management (National Government) Regulations, 2015, the Authority maintains a imprest register. This register captures all issued imprests, including the details of applicants and the amounts requested, ensuring full accountability and compliance with regulatory requirements.

Committee Observations

The Committee observed that–

The then Accounting Officer was in breach of Regulation 93 (4) (c) of the Public Finance Management (National Government) Regulations, 2015 for failing to maintain an imprest register for its expenditure.

Committee Recommendations

The Committee recommended that –

The Accounting Officer should at all times comply with the Public Finance Management (National Government) Regulations, 2015 and other governing laws and regulations as applicable.

41.0 Failure to open a retention bank account

168. The Committee heard that, Note 26 to the financial statements reflects trade and other payables from exchange balance of Kshs.8,256,459,842 which includes customer retention money of

Kshs.21,639,338. However, these funds were comingled in the Authority's other operational bank accounts without depositing them in a separate bank account exposing them to unintended use.

169. This was contrary to Regulation 43 (b) of the Public Finance Management (National Government) Regulations, 2015 which states that 'An accounting officer shall ensure that public funds entrusted to their care are properly safeguarded and are applied for purposes for only which they were intended and appropriated by the National Assembly. Further Regulation 33 (f) (ii) states that 'Appropriation shall be for a specific purpose or a specific programme or item of expenditure'.

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

Management response

171. The management informed the Committee that, it operates on a revolving fund hence its receivables due from Ministry of Health, Development Partners and Counties has taken longer to be settled. On this regard, the cash flow could not allow for depositing the retained amounts to a separate bank account. However, the Authority commits that the liability will be settled once they fall due.

172. The Authority's transactions and processes are highly automated, which facilitates efficiency and accuracy in our financial operations. When processing the supplier payment voucher, the retention funds are withheld creating a liability of the retained amount.

Committee Observations

The Committee observed that–

The then Accounting Officer failed to maintain a retention bank account and ensure public funds are only utilized for the purpose to which they were appropriated for contrary to Regulation 43 (b) of the Public Finance Management (National Government) Regulations, 2015.

Committee Recommendations

The Committee recommended that –

The Accounting Officer should at all times comply with the Public Finance Management (National Government) Regulations, 2015 and other governing laws and regulations as applicable.

42.0 Irregular issuance of medical commodities as donations

173. The Committee heard that, Note 8 to the financial statements reflects cost of sales balance of Kshs.7,667,817,778 out of which Kshs.221,991,558 was donated to eighty-six (86) health facilities. However, the expenditure includes donations Kshs.6,138,171 whose shelf life was more than six months. This was contrary to Paragraph 17.6 of the KEMSA Standard Operating Procedures 2018 requires donations to be for commodities with a remaining shelf life of less than six months.

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

Management response

175. The management informed the Committee that, KEMSA's customer service department generates donation orders within the Warehouse Management System (WMS) once customers confirm their ability to consume health products and technologies (HPTs) before their expiration. Once an order is generated, it is sent to the warehouse where a picking list is generated to facilitate the picking and packing process. The WMS is designed to allocate batches of HPTs with less than six months to expiry in case of donation orders. However, in some cases, the system has allocated batches with more than six months to expiry. This happens majorly when the ordered quantity exceeds the available stock of HPTs expiring in less than six months, causing the remaining balance to be fulfilled with batches that have longer expiration periods.

176. KEMSA is planning to acquire a new ERP system to address this issue. In the meantime, warehouse staff have been sensitized to carefully verify expiration dates when issuing short-dated stocks/donation orders. Additionally, KEMSA has drafted a donations policy, which is currently awaiting board approval, to provide guidance on the issuance of donated items.

177. In the new SAP we have given a recommendation of the automation of the short-dated HPT ordering such that they will be ordered by customers online and parameters of shelf life will be taken care off such that only HPTs with a shelf life of less than six months can be ordered as short shelf-life HPT.

Committee Observations

The Committee observed that–

The Authority made donations of medical commodities whose shelf life was more than six months was contrary to Paragraph 17.6 of the KEMSA Standard Operating Procedures 2018 which requires donations to be for commodities with a remaining shelf life of less than six months.

Committee Recommendations

The Committee recommended that –

The Accounting Officer should at all times comply with KEMSA Standard Operating Procedures 2018.

43.0 Delay in Deliveries of Medical Commodities

178. The Committee heard that, Note 23 to the financial statements reflects inventories balance of Kshs.13,962,897,325 out of which medical commodities of Kshs.10,918,542,217 were received beyond the scheduled delivery timelines. In addition, commodities amounting to Kshs.2,471,498,717 had not been received by 30 June, 2022 despite lapse of over six (6) months after ordering them. This was contrary to Regulation 53(1) Public Finance Management (National Government) Regulations, 2015 states that a local purchase order or local service order shall be

valid for a period of thirty days from the date of issue. (2) Any public officer who receives goods or services beyond the stipulated period specified in paragraph (1) commits an offence under the Act. In the circumstances, Management was in breach of the law.

Management response

179. The management informed the Committee that, stated the delays were occasioned by the nature of some products which are bulky and thus deliveries were staggered due to space constraints and also to avoid overstocking. Other delays were caused by the introduction of mandatory pre-shipment inspection of the products at the country of origin. This pre-shipment inspection was not in place at the time of signing some of the contracts.

180. There were delays as a result of AGPO supplier's limited capacity. Delays caused by the manufacturers at origin due to tight production schedules due to small batch sizes.

Committee Observations and Recommendation

The Committee had deliberated on the issue of Delay in Deliveries of Medical Commodities in its Eighth PIC-SSAA Report observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

44.0 Staff over establishment

181. The Committee heard that, review of human resource records revealed approved staff establishment of three hundred and forty-one (341) position, but the master staff register reflects nine hundred and sixty-two (962) employees as at 30 June, 2022 resulting to unapproved staffing of six hundred and twenty-one (621)

182. In the circumstances, the effectiveness of controls on human resource management could not be confirmed.

Management response

183. The management informed the Committee that, the Authority's approved staff establishment is 341. As indicated in the observation above, the staff establishment of 341 was approved by the Board of Directors in its 37th meeting held on the 8th May 2014.

Despite the massive changes within the organization due to adoption of the new business model which was implemented to support the devolved healthcare system, the management has adhered to the approved establishment by limiting the recruitment of new staff to be within the approved establishment of 341.

184. The following factors have contributed towards the increase in the number of staff:

i. Implementation of the new business model to support the devolved county health facilities which necessitated that KEMSA comes up with a new business architecture and organizational structure that supports devolved healthcare system.

ii. Implementation of the Government's Big Four Agenda – specifically the Universal Health Coverage (UHC), where KEMSA was a key implementing partner. UHC demands that all Kenyans have access to quality and affordable medical health care.

185. The above two factors necessitated the engagement of short-term staff on contract basis to enable KEMSA effectively respond to the county demands/workload, appropriate UHC implementation, while at the same time offering supply chain services to KEMSA's various strategic partners; who have variable and unpredictable workload.

186. The above reasons necessitated the engagement of short-term contract staff, who however do not form part of the approved staff in the establishment since they are required for specific period of time. The 407 employees fall in this category.

187. This initial decision to start engaging staff on contractual basis was arrived at by the KEMSA Board during its 35th meeting held on 15th October 2013 – where it granted the approval for engagement of short-term contractual employees due to the increased and unpredictable workload.

188. In order to address the staff establishment issue, the Board has taken the following measures:

i. Conduct a staff review and rationalization exercise. Arising from the rationalization exercise, a total of 170 employment contracts which lapsed on 30th June 2023 were not renewed. This decision was arrived at by the Board during its 97th Special Board meeting held on 5th June, 2023. Currently, the Authority has a total 562 employees, being a reduction from the previous 748 staff.

ii. Review of KEMSA's Human Resource Instruments. The Board initiated a review of KEMSA's Human Resource Instruments which include the Organization Structure, Staff Establishment, Career Progression Guidelines and the Human Resource Policies and Procedures Manual. Completion of this process will be within the FY 2024-25.

Committee Observations and Recommendation

The Committee had deliberated on the issue of Staff over establishment in its Third PIC-SSAA Report observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

45.0 Lack of Fuel Register

189. The Committee heard that, the statement of financial performance reflects use of goods and services expenditure of Kshs.1,689,600,811 as disclosed in Note 13 to the financial statements. The amount includes fuel and oil balance of Kshs.29,488,949. However, a fuel register was not maintained, and no reconciliation was performed on the supplier fuel statements. In addition, two vehicles fuelled at Ksh.985,428 were not in the asset register and their logbooks not provided for audit.

190. In the circumstances, the effectiveness of internal controls on fuels and oils could not be confirmed.

Management response

191. The management informed the Committee that, based on the consumption report, KDA 600P (land cruiser with capacity of 120ltrs) formerly KCM 056Y was attached to distribution team until in January, 2022. The vehicle was moved to the pool under supervision by admin team to support in transporting Police officers. The approximated distance covered per day was between 100 to 250km (Commercial –Embakasi –Astra-Embakasi Commercial –Uhuru Camp –Shaurimoyo) depending on the residence of the driver on duty.

192. KDA 622P formerly KCM 055Y is attached to Commercial Services Director, whose duty is field based and as per the fuel report consumption and work ticket. His itinerary includes various field activities in and out of Nairobi. NOCK had given us rights of access to the fuel system where we could daily tally the amounts consumed by KEMSA vehicles. We could also generate the monthly consumption reports where the manual receipts were used for surrendering the total fuel receipts consumed accompanied by the work ticket per vehicle. KEMSA has since developed an internal customized daily fuel register for each vehicle which is checked, reconciled and surrendered on monthly basis by the Transport I/c.

193. In the new request for the procurement of a Motor Vehicle Fleet Management and Tracking System, the authority has included a requirement by the Service Provider to generate real-time fuel reports for each vehicle as a measure to assist in reconciliation and monitoring of fuel consumption.

194. Further, the two motor vehicles KDA 600P (formerly KCM 056Y) and KDA 622P (formerly KCM 055Y) were donations from Population Services International and were at the time of audit undergoing transfer to KEMSA. The transfer through NTSA has since been completed, and the Authority is in custody of the logbooks, and they have been updated in the Assets Register.

Committee Observations

The Committee observed that–

The Authority did not maintain a fuel register contrary to Regulation 140(2) of the Public Finance Management (National Government) Regulations, 2015, which requires the Accounting Officer to be responsible for or the general management of government inventories held within their control.

The omission of two vehicles from the Asset register was contrary to Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015 which requires the Accounting Officer to be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

Committee Recommendations

The Committee recommended that–

The Accounting Officer should at all times comply with the Public Finance Management (National Government) Regulations.2015 and other governing laws and regulations as applicable.

46.0 Duplicate Inventory Records

195. The Committee heard that, the statement of financial position reflects inventories balance of Kshs. 13,962,897,325 as disclosed in Note 23 to the financial statements. However, review of Information Technology (IT) environment revealed creation of duplicate inventory records amounting to Kshs.70,224,025. In addition, the system allowed excess return of inventories from facilities amounting Kshs.8,839,027. Further, commodities valued at Kshs.42,526,804 with longer shelf life were sold before those with short shelf life against principle of First Expiry First Out (FEFO).

196. In the circumstances, the effectiveness of controls on inventory management could not be confirmed

Management response

197. The management informed the Committee that there were no duplicate inventory records in the valuation report totaling to Kshs.13,958,506,661.68 for AST FY 2021/2022. The issue of duplicate returns stems from the limitations of the current ERP system, where weak or inadequate controls have resulted in the inability to detect and prevent duplicate customer returns. This lack of effective validation mechanisms allows users to inadvertently return orders more than once, leading to discrepancies in data accuracy undermining data integrity. To address this critical issue, KEMSA is in the process of implementing a new and more advanced ERP system (SAP). Upon review of the audited data, the commodities were issued following the FEFO (First Expire, First Out) principle.

Committee Observations

The Committee observed that–

The duplication of inventory records and the failure by the system to detect excess return of inventories from facilities is an indication that the authority has weak inventory management contrary to Regulation 140 (2) of the Public Finance Management (National Government) Regulations, 2015, which requires the Accounting Officer to be responsible for or the general management of government inventories held within their control.

Committee Recommendations

The Committee recommended that –

The Accounting Officer should at all times comply with the Public Finance Management (National Government) Regulations.2015 and other governing laws and regulations as applicable.

47.0 Undefined rendering fee charges

198. The Committee heard that, Note 9 to the financial statements reflects rendering of services of Kshs.787,689,106 being fees charged for procurement, warehousing and distribution. However, a warehousing fee of 3% on the value of commodities is charged but the contract agreements do not specify the storage period. In addition, commodities amounting to Kshs.8,229,260 from different donors were stored for a period between three and seven years but only charged at constants rate.

199. Further, there is no standard policy for charging these services since different partners are charged rates at 8%, 7% and 6% for the same services. In the circumstances, the value for money on procurement, warehousing and distribution services rendered to the donor partners could not be confirmed.

Management response

200. The Authority acknowledges the Auditor's observation and agrees on the need for a thorough review of the rates charged for procurement, warehousing, and distribution services. In response, the Authority is actively reviewing its pricing and costing policies to establish optimal rates and introduce clear guidelines on the duration for which warehousing fees are applied. This revision will enable the Authority to renegotiate rates with partners to ensure that fees accurately reflect the value of services provided and the storage period. The updated policy will also standardize charges across all donor partners to improve consistency and transparency in fee application.

Committee Observations

The Committee observed that–

There is lack of policy guideline on the rates charged by KEMSA for procurement, warehousing and distribution services and therefore there is a need to align fees with the value of services provided and the storage period.

Committee Recommendations

The Committee recommended that –

Within three months upon adoption of this report, the Accounting Officer should submit to the National Assembly and Auditor-General a revised and approved pricing policy for standardization of rates. The Auditor-General to review and report in the subsequent audit cycle.

48.0 Weaknesses in Delivery System

201. The Committee heard that, Note 13 to the financial statements reflects administrative costs of Kshs.842,506,072 out of which Kshs.786,643,283 relates to distribution costs of medical commodities amounting to Kshs.1,694,489,668 that were delivered after the due dates with delays ranging from eight (8) days to two hundred and fifteen days (215) days. In addition, the warehouse system indicated goods amounting to Kshs,15,704,410 were delivered to various health facilities before they were issued from the warehouse and commodities of Kshs.240,854,066 dispatched to various facilities and hospitals but could not be confirmed as having been received. Further, some of the delivery notes were not dated, stamped or signed as proof of delivery.

202. In the circumstances, the effectiveness of internal controls of the warehouse system could not be confirmed.

Management response

203. The management informed the Committee that, it adheres to Service Level Agreement with outsourced transporters and quarterly review meetings are held to address non-compliance. Instances where deliveries took eight (8) days to two hundred and fifteen days (215) days were cases where:-

i. The 215 days was Narcotic and psychotropic drugs delivery done by KEMSA vehicle to various facilities. The proof of delivery was not updated in good time.

ii. Instances where we have Floods, strikes etc. the deliveries might delay rendering some roads impassable during the distribution e.g. in Northeastern, Kitui.

iii. POD App down time where the orders could not be updated via the App

iv. Orders that have been returned back due to non-operational facilities or declined to receive by the facilities receipt cannot be confirmed in the system.

204. KEMSA has acquired new ERP system, this will be able to minimize DQA issues arising from the system. The Authority continuous to sensitize drivers on accuracy in data entry via the app and have controls in place by the ICT team to minimize DQA issues that do not reflect the actual physical data.

205. The Authority introduced a policy of submission of complete PODS by verifying they are dully filled, if not they are returned back to the transporter to ensure they are dully filled and stamped Distribution metric report to include returns column for orders returned back in the warehouse from the facilities Sensitization to the counties in ensuring new facilities are fully equipped with stamps.

Committee Observations

The Committee observed that–

There was delay in delivery of medical commodities an indication that the organization in inventory management is weak.

The warehouse system indicated that various goods were delivered to various health facilities before they were actually issued from the warehouse while commodities worth Kshs.240,854,066 were allegedly dispatched to various facilities and hospitals with no evidence of receipt. This was contrary to Regulation 140 (2) of the Public Finance Management (National Government) Regulations, 2015, which requires the Accounting Officer to be responsible for or the general management of government inventories held within their control.

Committee Recommendations

The Committee recommended that –

The Accounting Officer should at all times comply with the Public Finance Management (National Government) Regulations, 2015 and other governing laws and regulations as applicable.

49.0 Failure to Hedge Against Foreign Exchange Losses

206. The Committee heard that, Note 13 to the financial statements reflects use of goods and services expenditure of Kshs.1,689600,811 out of which Kshs.184,184,990 relates to foreign exchange loss. However, contracts were entered using foreign currency but payments made through the Kenyan currency resulting to a foreign exchange loss of Kshs.184,184,900 and there were no hedging strategies. In addition, the realized loss was not supported by schedule indicating the exchange rate both at the invoice date and the payment date.

207. In the circumstances, value for money on the foreign exchange loss of Kshs.184,184,990, could not be confirmed.

Management response

208. The Committee heard that, the Authority has made strides to cushion itself against the fluctuation of exchange rates using the following measures: -

i. Strategic currency payment utilization where dollar earnings are used for Supplier Payments as the dollars are available.

ii. The Authority has made it a requirement for local Bidders to submit bids in Kenya shillings which will significantly reduce the exposure to foreign exchange currency risk.

Committee Observations and Recommendation

The Committee had deliberated on the issue of Failure to hedge against foreign exchange losses under Realized exchange loss in its Eighth PIC-SSAA Report observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

50.0 Failure to re-Negotiate Covid-19 commodities

209. The Committee heard that, Note 8 to the financial statement statements reflects cost of sales of Kshs.7,667,817,778 out of which Kshs.1,787,954,354 relates to Covid-19 commodities. The Ministry of Health approved the disposal of Covid-19 items subject to re-negotiation with suppliers to lower the quoted prices. However, commodities with quoted price of Kshs.90,000,000 were not renegotiated.

210. In the circumstances, value for money for Covid-19 items quoted at Kshs.90,000,000 could not be confirmed.

Management response

211. The management informed the Committee that, Covid-19 suppliers were engaged to re-negotiate their offered prices downwards. However, some of the suppliers agreed to lower their prices while others declined citing various reasons.

Committee Observations

The Committee observed that–

The management did not provide documentary evidence of re-negotiation with suppliers to lower the quoted prices as per the Ministry of Health approval for the disposal of Covid-19 items.

Committee Recommendations

The Committee recommended that –

The Accounting Officer should at all times adhere to the Circulars issued from time to time by the Parent Ministry within the relevant legal and regulatory framework.

51.0 Inefficiencies in Distribution

212. The Committee heard that, Note 13 to the financial statements reflects administrative costs of Kshs.842,506,072 out of which Kshs.786,643,283 relates to distribution costs. Review of dispatch and turn around reports revealed that distributions were not coordinated with incidences of not loading tracks to their optimal levels with a view of increasing their frequency to the same dispatch stations.

213. In the circumstances, the effectiveness of internal control of the distribution as at 30 June, 2022 could not be confirmed.

Management response

214. The Committee heard that, trucks are loaded based on orders picked as per customer demand. Orders are submitted to KEMSA on demand driven systems and sometimes very urgent orders to save lives. KEMSA doesn't have control on erratic orders being made by health facilities.

215. KEMSA has direct deliveries where tonnage of trucks is measured and rural health facilities (RHF) distribution in a county where the contract is based on going round the county to distribute medical commodities. The figure in the contract considers voluminous goods for RHFs and therefore the transporter is at liberty to bring as many trucks as possible to meet distribution timelines. Payment is based on lump sum figure (Pro ration basis of the Public Health Facilities served in the distribution) and not trucks tonnage.

216. The Authority has taken the initiative with relevant stakeholders in MOH and program partners to manage order integration, this initiative will eliminate repetitive trips to same stations and optimize the trucks capacity.

Committee Observations

The Committee observed that–

The Authority failed to ensure that public resources are utilized effective, efficient and economical in the dispatch and distribution of medical commodities contrary to section 68 (1) (b) of the Public Finance Management Act, CAP 412A which requires an Accounting Officer to ensure that the resources under his/her control are used in a way that is effective, efficient and economical.

Committee Recommendations

The Committee recommended that –

The Accounting Officer should at times ensure effective, efficient and economical use of public resources compliance with the Public Finance Management Act, CAP 412A and other governing laws and regulations as applicable.

52.0 Procurements Outside E-Procurement System

217. The Committee heard that, the statement of management analysis and discussion to the financial statement indicates procurement of health products and technologies of Kshs.29,097,000,000. However, there was no evidence to show that e-procurement platform was used to procure them. This was contrary to executive order No. 2 of 2018 that required all procuring entities to undertake all their procurement through the e-procurement module.

218. In the circumstances, and in view of lack of Enterprise Resource Planning (ERP) functional modules, the Authority did not procure through e-procurement and did not achieve the set objectives under pillar number 6 on innovations and technology.

Management response

219. The Management informed the Committee that it has implemented E-procurement in the year 2021 on the IFMIS platform. Use of the IFMIS platform had challenges on integration on our mandate (procurement, warehousing and distribution). As a consequence, KEMSA stopped undertaking E-procurement on the IFMIS platform. KEMSA has acquired a new ERP system with E-procurement capability and the implementation process is ongoing. Once completed, KEMSA will be able to integrate with e-GP system.

Committee Observations

The Committee observed that–

The Authority procured health products and technologies outside the E-Procurement system contrary to executive order No. 2 of 2018 which requires all procurement to be undertaken through the e-procurement systems.

Committee Recommendations

The Committee recommended that –

The Accounting Officer should always adhere to the Executive Orders and other governing laws and regulations as applicable.

53.0 Refund of ineligible expenditure

220. The Committee heard that, Note 26 to the financial statements reflects trade and other payables from exchange transactions of Kshs.8,256,842 which includes Kshs.4,798,798,971 in respect to trade creditors-development partner's grants. The balance includes Kshs.320,000,000 refund to the World Bank due to ineligible expenditure resulting from failure to carry out due diligence on proper procurement process. This was contrary to section 68(1)(a) of the Public Finance Management Act, 2012 which requires an accounting officer for national government entity, Parliamentary Service Commission and the Judiciary be accountable to the National Assembly for ensuring that the resources of the respective entity for which he or she is the accounting officer are used in a way that is lawful and authorized. In the circumstances, the value for money on refunded expenditure of Kshs.320,000,000 could not be confirmed.

Management response

221. The management informed the Committee that, the Ministry of Health authorized KEMSA to undertake procurement of Covid-19 commodities however the letter did not specify that the funding was from the World Bank. KEMSA initiated procurement by way of Direct procurement using GOK guidelines which differ from the World Bank guidelines. The World Bank declared the procurement ineligible and demanded a refund.

222. KEMSA was implementing the project on behalf of The Ministry of Health and the project was World Bank funded. The demand for refund was due to application of retrospective covid-19 procurements which was against the World Bank funding agreement. KEMSA received funds from The Ministry of Health to settle the demand for refund.

Committee Observations

The Committee observed that–

The Authority failed to carry out due diligence on proper procurement process leading to refund of Kshs.Kshs.320,000,000 to the World Bank considered as ineligible expenditure thus committing an offence under section 197 (1) (i) of the Public Finance Management Act, CAP 412A by incurring wasteful expenditure on behalf of the Authority.

Committee Recommendations

The Committee recommended that –

Within three months upon adoption of this report, the DPP to initiate legal proceedings against the then Accounting Officer pursuant to section 199 of the Public Finance Management Act, CAP 412A.

54.0 Unfulfilled customer orders

223. The Committee heard that, Note 8 to the financial statements reflects total sales revenue of Kshs.6,3 17,198,727. The Authority received customer orders of Kshs.9,875,931 228 from various health facilities. However, only orders amounting to Kshs.534,1340,265 or 56% were processed and distributed resulting to unfulfilled customer orders of Kshs,4,534,590,963 or 44%. In addition, the processing and distribution of orders took an average of nineteen (19) days against a target often (10) days.

224. In the circumstances the effectiveness of internal control on servicing customer orders could not be confirmed.

Management response

225. The management informed the Committee that, Kenya Medical Supplies Authority attributed the low order fill rate to global supply chain disruptions during the COVID-19 pandemic, which caused delayed deliveries, as well as financial constraints arising from delayed remittances by counties that affected timely supplier payments. Operational efficiency was further impacted by government directives on social distancing, curfews, and remote working arrangements, which slowed manual order processing, dispatch, and overall turnaround times.

226. To address the challenge, management has intensified stakeholder engagement with county governments and the Council of Governors to prioritize debt settlement through follow-ups and structured payment plans. The Authority is also pursuing recapitalization support from the Government and development partners, including the World Bank. Additionally, measures have been introduced to improve supply reliability, including prioritizing procurement of a leaner list of health products and technologies through framework contracts to ensure consistent availability throughout the financial year.

Committee Observations

The Committee observed that–

The shortfall in processing customer orders by 44% may have impacted negatively on the service delivery to the public. This is contrary to section 4 (1) (e) of the Kenya Medical Supplies Authority Act, 2013 which requires KEMSA to support county governments to establish and maintain appropriate supply chain systems for drugs and medical supplies.

Committee Recommendations

The Committee recommended that–

The Accounting Officer should at all times comply with the provision of the Kenya Medical Supplies Authority Act, 2013 and other governing laws and regulations as applicable.

55.0 Loss of Revenue

227. The Committee heard that, Note 8 to the financial statement reflects total sales revenue of Kshs.6,317,198,727 which includes Kshs.1,020,631,175 for one hundred and thirteen (113) medical commodities. However, these commodities should have been sold at Kshs,1,494,065,638 hence resulting to unexplained loss of Kshs.473,434,463. The amount also includes Kshs.71,261,137 for fifty-two (52) medical commodities that had been purchased at Kshs.87,460,544 resulting to an unexplained loss of Kshs,16,199,407. In the circumstances, valued for money on medical commodities sold at Kshs.1,091,892,312 could not be confirmed.

Management response

228. The management informed the Committee that, the Authority acknowledges the loss on the products. This is as a result of products that were delivered at new tender cost prices, whose selling prices had not been reviewed and updated in the ERP at the time of sale. This was also attributed by a delay in updating selling prices due to cost price variations. Going forward we have implemented the following measures to prevent loses on sale of commodities.

i. Proactive selling prices review and update in the ERP after every tendering cycle prior to receipt of the commodities. All cost price variations will also be proactively communicated to commercial directorate to undertake a review and update of selling prices of the commodities affected.

ii. Configuration in the new ERP (SAP) to prevent sale of any product with negative margin,

Committee Observations

The Committee observed that –commodities valued at Kshs,1,494,065,638 were sold Kshs.1,020,631,175 leading to a direct and unexplained loss of Kshs. Kshs.473,434,463. This was a breach of Section 68(1)(b) of the Public Finance Management Act, Cap.412A which requires effective and efficient use of resources.

The Authority purchased medical commodities at Kshs.87,460,544 and sold them at Kshs.71,261,137 resulting to an unexplained loss of Kshs,16,199,407.

Committee Recommendations

The Committee recommends that –

The Committee reprimands the then Accounting for breach of Section 68(1)(b) of the Public Finance Management Act, Cap.412A.

56.0 Issues under Universal Health Coverage (UHC)

229. The Committee heard that, during the year under review, it was noted that since the year 2018, Kshs.12,766,762,552 had been received for Universal Health Coverage (UHC) commodities but only Kshs.10,519,028,352 was utilized by 30 June, 2022 resulting to a balance of Kshs.2,247,734,200. However, the following unsatisfactory matters were noted;

i. Analysis of UHC supporting schedules revealed a balance of Kshs.1,619,138,203, resulting to unexplained nor justified variance of Kshs.628,595,997.

ii. The UHC funds were comingled in other operational bank accounts instead of receiving them in a separate bank account contrary to Regulation 76 (1) of the Public Finance (National Government) Regulations, 2015 which requires each project have a separate bank account at the Central Bank of Kenya into which all funds shall be kept.

iii. Donor fund commodities worth Kshs.318,880,601 were erroneously distributed and accounted under UHC commodities instead of the respective donor.

iv. UHC commodities worth Kshs.30,857,471 were distributed to seventy-eight (78) private and faith-based health facilities contrary to a letter Ref: M0H/ADM/1/2116 VOL1 (70) dated 24 January, 2020 which indicates the beneficiaries of the supplies be public health facilities whose county management will have signed the Intergovernmental Participatory Agreement (IPA) with the Ministry.

v. Physical verification in twenty-six health facilities spread across six (6) counties in the month of September, 2022 revealed stock out of the GeneXpert cartridges for up to three months.

In the circumstances, the efficiency and effectiveness of the Authority to procure, store and distribute Universal Health Coverage (UHC) products could not be confirmed.

Management response

The management informed the Committee that-

230. The Authority would like to confirms that Kshs 12,817,762,551.9 was received and out of this Ksh 12,525,116,062.14 was issued out leaving an amount of Ksh 292,646,489.76 being unutilized funds as at November 2024.

231. UHC was riding on KEMSA systems. Supplies under UHC were done using the existing contracts. UHC was not a project but an integrated program hence did not require opening of a separate bank account.

232. The distributed HPTs valued at Kshs.318,880,601 were KEMSA Capital funded items. These items were capitalized when KEMSA became an Authority.

233. Under the UHC program, counties were allocated drawing rights, which they used to place orders with KEMSA. Some counties have arrangements to support faith-based healthcare facilities, and any orders for these facilities under UHC were placed through the respective counties. Only the county's authorized officer has the authority to determine which facilities, including faith-based ones, can submit orders on the county's behalf through the KEMSA LMIS ordering platform for processing.

234. Stock out at health facilities may occur as a result of several factors including not placing orders, not reporting on stock status and stock out at central level. The UHC supported procurement of GeneXpert cartridges was delivered in two shipments November 2020 and May 2021. This was a quantity of 5,824 packs of 50 tests. The average monthly consumption is 70,000 tests and therefore this consignment could have been used up in only 4 months. Therefore, the stockout at health facilities was as a result of supply chain challenges affecting a separate supply pipeline other than the UHC funded supplies. There is only one supplier/ manufacturer of the GeneXpert cartridges in the world, Cepheid.

Committee Observations

The Committee observed that–

i) The response given by the Authority on the unexplained variance of Kshs.628,595,997 did not relates to the financial year under review.
ii) The Authority combined Universal Health Coverage (UHC) funds with other operational bank accounts contrary to Regulation 76 (1) of the Public Finance (National Government) Regulations, 2015 which requires each project to have a separate bank account at the Central Bank of Kenya into which all funds shall be kept.
iii) The distribution of UHC Commodities to private and faith-based health facilities was contrary to the Ministry of Health Letter Ref: M0H/ADM/1/2116 VOL1 (70) dated 24 January, 2020 which limited the beneficiaries to only public health facilities whose county management had signed the Intergovernmental Participatory Agreement (IPA) with the Ministry.
iv) The stock out of the GeneXpert cartridges in some of the health facilities may have impacted negatively on the service delivery. This is contrary to section 4 (1) (e) of the Kenya Medical Supplies Authority Act, 2013 which requires KEMSA to support county governments to establish and maintain appropriate supply chain systems for drugs and medical supplies

Committee Recommendations

The Committee recommended that

The Accounting Officer should at all times comply with the Kenya Medical Supplies Authority Act, 2013, Public Finance (National Government) Regulations, 2015 and other governing laws and regulations as applicable.

57.0 Medical commodities received beyond the acceptable shelf life

235. The Committee heard that, Note 8 to the financial statements reflects cost of sales of Kshs.7,667,817,778 which includes Kshs.688,316,531 for commodities that were received with a

remaining shelf life of less than six months. These commodities were due for donation in line with Paragraph 17.6 of the KEMSA Standard Operating Procedures 2018 which categorizes commodities with a remaining shelf life of less than six months as having short expiry and are earmarked for donations. In addition, the warehouse management system could not generate a report indicating the manufacture date of the commodities. In the circumstances, the effectiveness of internal control on purchases of medical commodities could not be confirmed.

Management response

236. The management informed the Committee that, out of the Ksh. 688,316,531 worth of commodities that were received, Ksh. 478,620,531 relates to covid commodities which were received in 2020 but could not be entered in the system as soon as they were delivered because they did not have LPOs. The generation of LPOs took a long time because of the EACC investigation that commenced immediately these items were physically received. The Items were subsequently received into the system in June 2022 after the LPOs were generated.

237. Commodities worth Ksh 140,671,498 were program commodities which were received after approval from the amounting to Ksh 1,363,856 were received with a Letter of Undertaking from suppliers to collect any quantities that will not have been utilized before expiry.

238. Other commodities were donations received on behalf of MOH mainly in response to the Covid pandemic amounting to Ksh 67,209,166 e.g. Sultanate of Oman Donation

Committee Observations

239. **The Committee observed that–**

The Authority received commodities worth Kshs.688,316,531 with a remaining shelf life of less than six months and were due for donation in line with Paragraph 17.6 of the KEMSA Standard Operating Procedures 2018. However, the warehouse management system did not generate a report indicating the manufacture date of the commodities and thus a weakness in inventory management/control.

Committee Recommendations

240. **The Committee recommended that–**

The Accounting Officer should at all times adhere to the KEMSA Standard Operating Procedures and other governing laws and regulations as applicable.

58.0 Expiries of Medical Commodities

241. The Committee heard that, Note 8 to the financial statements reflects cost of sales of Kshs.7,667,817,778. Included in this amount is Kshs. 1,054,972,887 being expiries of medical commodities. The expiries include Covid-19 commodities of Kshs.908,890,295 and other medical commodities of Kshs.146,082,592 but no explanations for large quantity purchases despite low

demand. In addition, commodities valued at Kshs.3,322,168 expired on transit to the respective health facilities. Further, face masks and Personal Protective Equipment (PPE) kits amounting to Kshs.478,620,200 received in June 2022 were set to expire on 31 July, 2022 without justification for the short shelf life of less than two months. Also, incineration costs of Kshs.1,900,000 for disposing expired stock were incurred with a likelihood of incurring additional costs to dispose of third party expired commodities valued at Ksh.206,960,047 which are still in the stores. In the circumstances, effectiveness of internal controls on management and monitoring of stock for expiry could not be confirmed.

Management response

242. The Authority takes note of auditor's observation and responds as follows:-

The impact of Covid 19 was not anticipated and therefore the demand could not be ascertained.

243. The commodities worth Ksh 3.2M are items that were requested by facilities to be used before their expiry date. Health facilities occasionally order items that are short dated if they are able to utilize them before expiry. In this regard facilities requested for sodium hypochlorite solution. Also included in the list are items that do not expire like conical tubes.

244. The Personal Protective Equipment (PPE) kits amounting to Kshs.478,620,200 were received in 2020 but were not received in the system as soon as they were delivered because they did not have LPOs. The generation of LPOs took a long time because of the EACC investigation that commenced immediately when these items were physically received. The Items were received into the system in June 2022 after the LPOs were generated

245. On disposal of third-party commodities, The cost for incineration of expiries was not envisioned in the contracts with third parties, however communication was done to Global Fund whose commodities had high expiries due to change of regimen in HIV/AIDS treatment and they committed to refund the cost incurred on disposal. The authority regularly shares stock reports with MOH programs indicating remaining shelf life to trigger allocation and distribution as a means to mitigate against risk of expiry.

Committee Observations and Recommendations

246. The Committee had deliberated on the issue of Expiries of Medical Commodities under Expired/Damaged Drugs in the Third PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

EXAMINATION OF THE REPORT OF THE AUDITOR GENERAL ON THE AUDITED ACCOUNTS OF AGRICULTURE AND FOOD AUTHORITY FOR THE FINANCIAL YEAR 2014/2015 TO 2023/2024

Mr. Bruno Linyiru, Director-General, Agriculture Food Authority was accompanied by Mr. Joseph W. Muigai and Mr. Elias Kiragu (Manager Finance) appeared before the Committee to adduce evidence on the Audited Accounts of Agriculture and Food Authority for the Financial Years 2014/2015 to 2023/2024.

FINANCIAL 2014/2015

1.0 Financial Statements

247. The Committee heard that, the financial statements did not include balances drawn from the former Sugar Arbitration Tribunal. The management had not explained how the Sugar Arbitration Tribunal assets and liabilities have been accounted for after the repeal of the Sugar Act, 2001 following the enactment of the Crops Act, 2013.

Management response

248. The management informed the Committee that, the Sugar Arbitration Tribunal was established under section 31 of the Sugar Act No.10 of 2001. The Sugar Act was repealed by the Crops Act 2013. The Crops Act 2013 and the AFA Act 2013 were silent on the treatment of the Sugar Arbitration Tribunal. Since the Tribunal was being funded by the Sugar Development Levy, the Authority found it necessary to incorporate the assets, liabilities and staff of the Tribunal to the Sugar Directorate and in the Authority's consolidated financial statements in the FY 2015-2016.

Committee Observations

249. **The Committee observed that–**

i) A similar issue was raised by the Auditor General in the Audit report for the financial year ended 30 June 2016 while the management alleges to have incorporated the assets, liabilities and staff of the Tribunal to the Sugar Directorate and in the Authority's consolidated financial statements in the FY 2015-2016 thus misleading the Committee.

ii) The Accountability of the Assets and liabilities in question could not be confirmed.

iii) Majority of the directorates forming AFA have been legally restructured as independent institutions and thus complicating the accountability aspect of the respective directorates.

iv) The sugar arbitration Tribunal Assets and Liabilities were accounted for under Sugar directorate in year 2017 which was then consolidated to Authority books.

Committee Recommendations

250. The Committee recommends that within three months upon adoption of this report, the Auditor-General to undertake a special audit of the transition process with a view to establishing the status of the Public Assets and liabilities during the initial merger of the Directorates into the Authority and after separation of the respective directorates through enabling Acts to ascertain if there was any loss of public Assets. The report should be submitted to the National Assembly.

2.0 Property, Plant and equipment.

2.1 Rehabilitation of Kahawa House

251. The Committee heard that, as reported under the defunct Coffee Board of Kenya in the previous year, a consultant submitted on 8 February 2001 a fee note of KShs.56,742,130 for studying and assessing the rehabilitation works that would be necessary and required for Kahawa House. However, information available indicates that the amount was not paid and has remained as a non-current provision in these financial statements, as the Board was convinced that no work was carried out to warrant a charge of a charge of KES 56,742,130.

252. Consequently, the consultant sued the defunct Coffee Board of Kenya for nonpayment of the fee demanded. A review of the matter revealed that the suit is yet to be decided upon by the High Court since 19 March 2004 (case No. HC 152 of 2004). The management has not explained why rehabilitation was necessary considering that the house was refurbished in 1998/1999 at a cost of KShs.38 Million. In addition, the management has not disclosed the amount of Kshs.56,742,130 as a contingent liability in the notes to the financial statements.

Management response

253. The management informed the Committee that KShs. 56,742,130 was a result of the need for further rehabilitation for Kahawa House. The refurbishment done on Kahawa House and Coffee Plaza in 1998/99 at KShs. 38 million was due to the bomb blast that rocked Nairobi City in 1998, which necessitated repairs to the windows and window fixtures and frames in the building.

254. The Board approved the rehabilitation in its sitting on 18th August 2000. To this end the Board engaged a consultant to study and assess the rehabilitation works that would be necessary and required for Kahawa House. The Consultant Charged the Board KShs. 56,742,130 which the Board disputed and declined to pay mainly on the basis of time and work done.

255. The Consultant filed a case against the defunct Coffee Board of Kenya and the case has not been concluded yet. The Authority is seeking an out of Court settlement on an 'Without prejudice' basis. The process is ongoing.

256. The Authority made a provision in the financial statement which is reflected under note No. 32 of the 2014/15 FY financial report.

Committee Observations

The Committee observed that–

i. The house was refurbished in 1998/1999 at a cost of KShs.38 million due to the bomb blast that rocked Nairobi City in 1998. However, the Board approved further rehabilitation in its sitting on 18th August 2000 and engaged a consultant to study and assess the rehabilitation works where the Consultant Charged the Board KShs. 56,742,130. This was a nugatory expenditure that ought to have been avoided having refurbished the same building barely a year before.

ii. The Board ought to have engaged the Department of Public Works to assess the works needed rather than irregularly acquiring private consultants since the works were not procured regularly and the basis of consultancy charge is questionable.

iii. A suit against the defunct Coffee Board of Kenya for non-payment of the fee demanded is yet to be decided upon by the High Court since 19 March 2004.

Committee Recommendations

Within three months upon adoption of this report, without sub judice to matter on non-payment to the consultant of KShs. 56,742,130, the EACC to investigate the procurement process of the earlier refurbishment work done in financial year 1998/1999 at a cost of Kshs. 38 million with a view to establishing the extent of the works, the legality of the procurement process, the basis of costing and any works that were outstanding after the refurbishment. The report should be submitted to the National Assembly (PIC-SSAA) and to the DPP for a legal action, should any person be found culpable for any illegality in the process, recoveries of the amounts be made with interest at the prevailing CBK rates.

2.2 Ownership of Property, Plant and Equipment

257. The Committee heard that, the statement of financial position as at 30 June 2015, reflects a balance of KShs. 3,827,055,000 under property, plant and equipment, which excludes several properties in respect of the defunct Coffee Board of Kenya whose ownership has not been established as explained below:

i. The property, plant and equipment balance of KShs. 3,827,055,000 also includes an amount of KShs. 72,000,000 in respect of land measuring 236.35 hectares in Thika sub-county, Kiambu County. However, title documents for land measuring 137.2 hectares out of the 236.35 hectares have not been provided for audit review. It has not been possible therefore to confirm ownership status of the land measuring 137.2 hectares.

Management response

258. The management informed the Committee that the 236.35 hectares is made of LR No.10084 of 99.15 Ha and LR No.10085 of 137.2 Ha. The value of KShs. 72,000,000 relates to LR No.10084 only acquired by the defunct Coffee Board of Kenya in 1977. Records indicate that the Board initially wanted to purchase a farm from M/S Azania Investments Co. Ltd for Coffee Research comprising L.R. No.10084 and L.R. No. 10085.

259. However, the Coffee Research Foundation advised that they did not need the entire two parcels and one of them, L.R. No.10084 would be adequate.

260. The Board minutes Min. no 245 of 15th July 1977 also indicate that the then Chairman of the Board, E.N. Kuria, acquired block L.R. No.10085 which was not required for Coffee Research. The same had been paid for by the Board and the then Chairman was to repay as a loan to the Board.

261. Mr. Kuria paid the money on the 16th January 1978 through a banker's cheque forwarded by his advocate M/S Kaplan & Straton Advocates and acknowledgement of receipt communicated vide a letter ADM/2/30C dated 19th January 1978.

262. The Authority is in possession of the title for L.R. No. 10084 for 99.1Ha.

ii. The Committee heard that the balance of KShs. 3,827,055,000 also includes an amount of KShs. 6,776,000 relating to the value of two motor vehicles whose ownership is in doubt. The logbook for motor vehicle number KAR 461K was said to have been misplaced, while motor vehicle KBG 517C was registered in the name of Coffee Research Foundation.

Management response

263. The management informed the Committee that, the logbooks of the 2 vehicles are now in the custody of the Authority

264. The Committee heard that Included in the property, plant and equipment balance of KShs. 3,827,055,000 is an amount of KShs. 161,200,000 representing the value of land on which the defunct Horticultural Crops Development Authority depots stand and for which the title deeds have not been obtained.

265. The management informed the Committee that, the Authority engaged the services of KOMM advocate to follow up on all the land without title documents. The status report as indicated by the advocate vide his report dated 16th September 2024 is as summarized below;

S/NO	DEPOT	REMARKS
1.	MACHAKOS PDP No. 59/96/23-MACHAKOS	This is a 2 acres piece of land currently occupied by the Machakos County Government. As of 3rd June 2024, the advocate is engaging the County Government of Machakos on accessing the land for survey purposes.
2.	LIMURU LIMURU/BIBIRIONI/1010	This is a 6 acres piece of trust land situated in Limuru, Kiambu County. The Authority is pursuing the Kiambu County Government to release the piece of land to the National Land Commission for issuance of a letter of allotment.
3.	MWEA	This is a 2.5 acres piece of land. The Authority wrote a letter dated 31st March 2023 to the National Irrigation Board agreeing to their proposal to enter into a simple agreement. National Irrigation Board has not acquired the title for the entire land yet. The advocate is pursuing the matter.
4.	KIBWEZI	The Authority has already obtained the title deed for the Kibwezi depot, measuring 2 acres LR No. 27422.

5.	SAGANA	This is a 0.74 Ha. of land. From the report of the Authority's advocate, he is pursuing the preparation of a new Part Development Plan as the old one cannot be traced.
6.	MERU No. ABOTHUGUGUCHI/KARIENE/3165.	This is a 0.43-Ha land located in Kariene in Meru County. The Title Deed was successfully processed, and Title issued on 12th August, 2024.
7.	KITHIMANI (YATTA)	This involves 22 plots each measuring 0.03 Ha. for which title deeds have been issued in the name of HCDA on 18th July 2024. The Authority is in the process of transferring them in the name of AFA.

iii. Further, the ownership of plot L.R.No.209/12490 situated along Mombasa Road, measuring 3.5 hectares and valued at KShs. 86,000,000 is still in dispute.

Management response

266. The management informed the Committee that, the Property was subject of a court case ELC NO. 516 OF 2018 (Formerly High Court Civil Suit No 1205 of 2005) HCDA =VS= Sakir Properties Limited & 2 Others. The Judgment was delivered on 17th December 2020 in favor of the Authority and the land was reverted to the Authority, but vide a Ruling dated 10th February 2022, the Court set aside the Judgment that granted AFA ownership of the land. The Authority has appealed against the judgement.

267. The matter is coming up for compliance on 28th May, 2025.

268. HCDA was allotted by the commissioner of lands an unsurveyed piece of land LR. No.209/12490 opposite Yana Tyres along Mombasa RD Nairobi measuring 3.5Ha. for a lease term of 99 years effective 1st February 1987. On or about 2005, HCDA got information that M/S Sakir had been allotted the same land and a tittle deed issued.

269. M/S Sakir claims that they got allocated the property after HCDA surrendered the land back to the government. HCDA maintained that it did not surrender the land back and therefore a legal suit ensured through the then Gachiri Kariuki & Kiai Advocates.

270. M/S Sakir have developed the property by building residential flats.

Committee Observations

The Committee observed that–

i. There was a conflict of interest in that the then Chairman of the Board, Mr. E.N. Kuria, acquired block L.R. No.10085 through a loan from the Board since the Board had already paid for the land. This implies that the Chairperson of the Board was not only a conflicted but also abused his powers by borrowing a loan from the defunct Coffee Board thus breaching the law.

ii. Although Mr. Kuria paid the money on the 16th January 1978 through a banker's cheque forwarded by his advocate M/S Kaplan & Straton Advocates and acknowledgement of receipt communicated vide a letter ADM/2/30C dated 19th January 1978. There was no evidence that the money was deposited in the Boards bank account.

iii. The management alleged that the Logbooks of the 2 vehicles were in the custody of the Authority but there was no evidence that they were in the name of the Authority.

iv. The Authority engaged the services of KOMM advocate to follow up on all the land without title documents but not all had been acquired.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Auditor-General undertakes a special audit a with a view to establishing the status of the Authority's Public Assets and liabilities including receivables during the initial merger of the Directorates into the Authority and after separation of the respective directorates through enabling Acts to ascertain if there was any loss of public Assets. The report should be submitted to the National Assembly.

2.3 Valuation of the Property, Plant and Equipment

271. The Committee heard that-

i. The property, plant and equipment balance of KShs. 3,827,055,000 excludes an undetermined value of land in Athi River, which was allocated to the defunct Kenya Sugar Board on 18 April 1995. It is not clear therefore if and when the land will be valued for inclusion in the financial statements.

ii. The balance further excludes seven (7) acres of unvalued land in Mtwapa that had been allocated to the defunct Coconut Development Authority by the defunct Kenya Agricultural Research Institute

iii. Further, review of available records revealed that the defunct Coffee Board of Kenya carried out a revaluation exercise in year 2010, which combined the value of land on which of the Coffee Plaza and Kahawa House are located with the value of buildings resulting with a net sale value of KShs. 1,568,643,000 as at 30 June 2015. This however differs with the Authority's policy of classification of the property, plant and equipment as the two assets have been classified separately as disclosed under Note 35 to the financial statements. In view of the above, it has not been possible to determine whether the depreciation charged is consistent with the depreciation policy as disclosed under Note 1(e) to the financial statements which provides for a rate of 2.5% p.a. on buildings and not for land.

iv. Further, the Authority owns a piece of land reference No.209/10537 measuring 8.1 hectares located in Embakasi which was previously owned by the defunct Coffee Board of Kenya since October 1986. This land however remains unutilized and could therefore be lost to land grabbers.

Management response

272. The Management informed the Committee that,

i. A valuation exercise was carried out in the 2016/17 FY and the assets have been included in the Annual Report and Financial Statements for FY 2017-18.

ii. The land in question had been reserved for the defunct Kenya Agricultural Research Institute (KARI). The defunct Kenya Coconut Development Authority applied for the parcel of land from KARI through the Ministry of Agriculture for the purpose of constructing a Headquarters at Mtwapa. Kenya Agricultural Research Institute vide their letter REF. KARI/4/023C/VOL.XIV dated 2nd July 2012 informed the defunct Authority that the Board of Directors had resolved in their 98th meeting to allocate 7 Acres of land to KCDA. However, the defunct KARI now KALRO have not acquired title documents to enable transfer of the same to the Authority due to an ongoing court case. The land is also invaded by squatters as per the restraining order of the environment and land court, Mombasa ELC petition no 29 of 2019. The value of the parcel can therefore not be included in the books of the Authority.

iii. The Authority revalued its assets and the values for the two assets recognized in the Annual Report and Financial Statement for the FY 2017-18 as per IPSAS 17 Paragraph 52- Classification of Assets. The land and the buildings have now been recognized separately.

iv. On utilization of the land, the Authority leased part of the land to Kipevu 3PL Supply Chain Ltd on 13th April 2021. The land is also secured by stone wall and caveat emptor is in place to protect it from would-be land grabbers

Committee Observations

The Committee observed that–

i. The defunct KARI now KALRO had not acquired title documents to enable transfer of the same to the Authority due to an ongoing court case and the land was invaded by squatters. The value of the parcel was therefore not included in the books of the Authority.

ii. The Authority leased part of the unutilized land to Kipevu 3PL Supply Chain Ltd on 13th April 2021. The land was secured by a stone wall with caveat emptor in place to protect it from would-be land grabbers.

Committee Recommendations

The Committee in its recommendations that on matters to do with the transition process from the former Directorates to Agriculture and Food Authority recommended that a special audit be undertaken by the Auditor-General within three months upon adoption of this report and would wish to uphold the same recommendation on this matter.

2.4 Property with a Court Case

273. The Committee heard that–

i. The balance of the property, plant and equipment of KShs. 3,827,055,000 excludes the value of Riverside Estate property LR No.209/4389/3 where the defunct Cotton Development Authority's head office was located. According to information available, the property belonged to the defunct Cotton Board of Kenya and had been charged against a bank loan that the Board failed to service. The bank subsequently sold the property for KShs.21.5 million through a public auction held in November 2000. Further, records show that the purchaser of the property paid the bank an amount of KShs. 8,375,000 representing the balance of the outstanding loan, where upon the bank released the documents relating to the property to the purchaser. The purchaser thereafter, and before clearing the balance of KShs. 13,125,000 sought to transfer the title of the property in his name. The Board however declined to execute the transfer documents and as a result, the purchaser filed a case in the High Court in November 2008. The matter is still pending in court.

ii. Additional information shows that as at 30 June 1993, the defunct Cotton Board of Kenya had property, plant and equipment with a net book value of KShs. 210,759,785 and investments in Meru Ginnery Ltd of KShs. 13,940,758. The management has however not satisfactorily explained how these property, plant and equipment were accounted for upon the creation of the defunct Cotton Development Authority.

Management response

274. The management informed the Committee that–

i. As per The Cotton (Amendment) Act 2006, there was no provision for transfer of Property, Plant and Equipment from the defunct Cotton Board of Kenya to Cotton Development Authority.

ii. At the formation of AFA, Cotton Development Authority did not have ownership documents for the Meru ginnery. The Property had been sold by the former Cotton Board of Kenya to offset a bank loan as per a taskforce report. The matter has been referred to the Ministry of Agriculture & Livestock Development for further advice.

Committee Observations

The Committee observed that–

i. The Management response is contradictory in that the land with the court case between the Authority and Purchaser through bank Auction had a Title deed charged by the bank. However, after the case was ruled in favour of the Authority, the management states that it is pursuing the title documents for the property, yet it had a charged title. This raises a question as at to correct status of the title, the clearance of the Loan and possible charges by the bank to recover the loan.

ii. The Meru ginnery Property had been sold by the former Cotton Board of Kenya to offset a bank loan. The authority to sell public land to offset the loan and more so to acquire the loan as well as its purpose were not provided to the committee for information and review.

Committee Recommendations

The Committee recommended that on matters to do with the transition process from the former Directorates to Agriculture and Food Authority recommended that a special audit be undertaken by the Auditor-General within three months upon adoption of this report and would wish to uphold the same recommendation on this matter.

2.5 Presentation and Disclosure of the Property, Plant and Equipment

275. The Committee heard that–

i. The balance of Kshs.3,827,055,000 includes leasehold land reference Mombasa/Block 1/187, Mombasa/Block 1/188, Mombasa Block 1/189 and Mombasa/Block 1/251 valued at Kshs.151,000,000 However, contrary to the requirements of the International Public Sector Accounting Standards (IPSAS) No. 13, which requires lease payments to be recognized as an expense in the statement of financial performance on a straight-line basis over the lease term, the leasehold property has not been amortized.

ii. Further, the figure of Kshs.3,827,055,000 includes the value of temporary structures of Kshs.519,000 and an amount of Kshs.151 representing the cost of motor vehicles that had been disposed off by the defunct Horticultural Crops Development Authority in the year 2014

iii. It has been observed that under the defunct Tea Board of Kenya, motor vehicles were being depreciated on a straight-line basis while other assets were being depreciated on a reducing balance method. No reason has been given for this treatment. In addition, it has been noted that other plant, equipment and machinery were being depreciated at higher rates than normal rates and at different rates depending on location. Buildings were being depreciated at 2.5% in Dagoretti and Mombasa, 3.3% in Kericho and 20% at Jamhuri Park. No explanation has been provided for this inconsistency.

Under the circumstances, it is not possible to confirm that the property, plant and equipment balance of KShs.3,827,055,000 as at 30 June 2015 reflected in the financial statements of the Authority are fairly stated.

Management response

276. The management informed the Committee that–

i. The land parcels on leasehold were appropriately treated in the financial year 2014/15 and their values appropriately amortized.

ii. As correctly observed by the Auditors the value of the temporary structure at the defunct HCDA had been included in the Financial Statements FY 2013/2014.

iii. The asset had been fully depreciated in the FY 2015-16. During the revaluation carried out in the FY 2016-17, the temporary structure was not recognized as an asset.

Committee Observations

The Committee observed that –the management corrected errors later in the subsequent year.

Committee Recommendations

The Committee reprimands the then Accounting officer and the Officers then serving in the Finance department for Failure to adhere to the professional standards.

3.0 Investments in Subsidiaries

277. The Committee heard that, the statement of financial position reflects an amount of KShs. 389,000 under investments, in respect of investment in subsidiary. The investment in subsidiary of the KShs. 389,000, however, differs with the amount of KShs. 148,200 reflected in the share certificates resulting in unexplained difference of KShs. 240,560. In the circumstances, the value of investments disclosed in the financial statements cannot be confirmed.

Management response

278. The management informed the Committee that, the investment of KShs. 389,000 relates to the total shares value on a number of share certificates at Kenya Coffee Auctions Limited issued over a number of years. The KShs. 148,200 related to Share Certificate No. 14 dated 29/09/1997 for 7,410 shares of KShs. 20 each. Two more share certificates are attached, Certificate No. 7 for 1,938 shares issued on 11/12/1969 and No. 10 for 532 shares issued on 20/08/1980. The three share certificates total to 9,880 shares valued at KShs. 197,600 as evidenced by letter Ref. CR13.C.3335 dated 15 April 2016 from the Registrar General. Moreover, a letter from the defunct CBK Ref. ADM/2/45/1C dated 3rd March 2006 to Inspector General State Corporations, confirms that the Board owned 65% of issued share capital of the company. According to the financial report of the company for the year ended 30th June 2002 the issued shares were 15,200 out of which the board owned 9,880 shares valued at KShs 197,600. Earlier Financial statements of the Defunct CBK still carry the investment at KShs. 389,000.

279. From this analysis, the Authority can only confirm 9,880 shares valued at KShs. 197,600. The Authority has commenced the process of winding up of the company which is not operational, and this will determine the residual values.

Committee Observations

The Committee observed that–

i. The financial statements reported an investment balance of Kshs. 389,000 relating to shares in the coffee exchange. However, this amount differed from the Kshs.148,200 reflected in the available share certificates, resulting in an unexplained variance of Kshs. 240,800. Due

to this discrepancy, the Committee could not confirm the accuracy, completeness, or reliability of the investment value reported in the financial statements.

ii. The Authority had commenced the process of winding up of the company which has not been operational to determine the residual values. This implied that the investment is impaired and may not have economic value.

iii. The Accounting Officer(s) then were in breach of Article 201 (d) and (e) which states that; public money shall be used in a prudent and responsible way; and financial management shall be responsible, and fiscal reporting shall be clear.

Committee Recommendations

The Committee recommended that–

i Within three (3) months of adopting this report, the Accounting Officer undertakes a full reconciliation of all historical investment records to establish the accurate number and value of shares held. The Accounting Officer should thereafter submit to the National Assembly and the Auditor-General; A validated investment position reconciling the reported balance with supporting share certificates; and any necessary adjustments made to the financial statements to reflect the confirmed value.

ii The then Accounting Officer should ensure that investment of public funds are done in accordance with Article 201 (d) and (e).

iii Within three months upon adoption of this report, EACC should investigate the then Board and the Accounting Officer who sanctioned the investment in the non-performing subsidiaries and report to the National Assembly on its findings. If any officer is found culpable for the loss he/she should be held personally liable for the loss, DPP should initiate a legal process to recover the amount so lost with interest from the concerned officer at the prevailing CBK rates.

4.0 Intangible Assets

280. The Committee heard that, the statement of financial position reflects an amount of KShs. 24,249,000 under intangible assets, which includes software, trademarks and patents. As reported in the previous year, under the defunct Horticultural Crops Development Authority, the intangible assets had been understated by KShs. 604,000.

Management response

281. The management informed the Committee that the annual amortization of KShs. 6,015,000 for the 2013/2014 financial year was correctly computed being 12.5% of the closing balance of KShs. 48,122,000 as indicated in Note 15 of the financial statements. The resulting accumulated amortization is KShs. 24,106,000 giving a net book value of KShs. 24,015,000 as reported in the books for the year ended 30 June 2014.

Committee Observations

The Committee observed that –the management misstated the value of intangible assets by KShs. 604,000.

Committee Recommendations

The Committee reprimands the then Accounting Officer and the Officers then serving in the Finance department for the errors and failure, to adhere to the professional standards.

5.0 Cash and Cash Equivalents

5.1 Opening balances

282. The Committee heard that, the statement of financial position reflects an amount of KShs. 2,221,047,000 under cash and cash equivalents, which includes, as disclosed under Note 22 to the financial statements, cash in hand and short-term deposits. However, as reported in the year 2013/2014 under the defunct Horticultural Crops Development Authority, the financial statements balances differed with the supporting documents by KShs. 14,621,665, which had not been reconciled or explained. The same cash and cash equivalents reflected a negative petty cash balance of KShs. 249,000 that had not been explained at the year end. In addition, cash in hand and imprest of KShs. 2,003,000 and KShs. 49,000 respectively were not supported. Under the circumstances, the opening cash balances had variances that could not be explained and consequently, the accuracy and completeness of the cash and cash equivalents cannot be confirmed.

Management response

283. The management informed the Committee that, the cash and cash equivalent differences between the financial statements and the support documents under the defunct Horticulture Crop Development Authority FY 2013/14 were identified by management among other ledger differences leading to a formation of a special committee whose mandate included.

i. Revisit the accounting issues raised in the external audit report

ii. Identify the weaknesses of internal controls and together with the ICT department institute measures to streamline and strengthen them

iii. Carry out reconciliations of long outstanding ledger balances, cash and bank, account payable, account receivable and assets

iv. Pass necessary journals

v. Transitioning from old Navision system to the current Microsoft Dynamics under AFA

vi. Capacity builds the finance team and other staff at the directorate and address any financial management challenge on use of the ERP that they may be experiencing

284. The committee undertook the assignment, and necessary journals were made in the financial statement for 2020-2021 FY.

285. The differences in opening balances amounting to KShs. 14,621,655 relates to 3 bank accounts operated by the defunct Horticulture Development Authority, attached herewith find the analysis of the cash book entries. A reconciliation of the opening balances in the ledgers was done as highlighted in the attached report.

286. The amount of Ksh. 249,000 reflected as cash was a result of misposting of three imprest warrants in 2012/2013 FY of Ksh. 6,810.05, imprest warrants No. 3972 in financial year 2013/2014 of Ksh. 118,614.00 and imprest warrant No 4852 in the FY 2014-15 of Ksh. 123,575.95, that were not posted in the petty cash ledger rather were posted in the officer's imprest account. A reconciliation of the debtors control account and ledger account was done.

287. The KShs 2,003,000.00 relates to balances of receipts from clients from the period years FY 2012/13, 2013/2014 and July 2014 were posted in the cash in hand ledger instead of posting to the bank ledger. Debtor balances between the old system and the new system were reconciled and necessary adjustments made including posting receipts and invoices as per the attached report.

288. In regard to KShs. 49,000.00 the amount related to branch office petty cash reimbursement vide PV No 02876 dated 27th July 2014. This relates to petty cash imprest for Kajiado Station. Expenses in the ERP system that has since been addressed and the account has been cleared.

Committee Observations

The Committee observed that–

i) The Management formed a special committee to undertake the reconciliation assignment.

ii) The necessary journals were made in the financial statement for the Financial Year 2020-2021.

Committee Recommendations

The Committee reprimands the then Accounting officer and the Officers then serving in the Finance department for failure to adhere to the professional standards.

5.2. Unsupported cash balance

289. The Committee heard that, the included in the cash and cash equivalents figure of KShs.2,221,047,000 are bank accounts and balances whose supporting documents have not been provided for audit review as analyzed below:

Directorate	Account Name	Account Numbers	Account Balance KShs.	Supporting documents not provided

Sugar	NBK Nkurumah Rd Mombasa	01001009339300	412,437	Bank Confirmation Certificate
	3 Month F/D with Cooperative bank	Not availed	47,787,523	Bank Confirmation Certificate
	Rachier & Amollo & Nzamba kitonga Advocates	Not applicable	8,581,797	Documents to support funds held
Sugar Directorate – Levy	NIC Bank	1001316447	243,000	Bank Confirmation Certificate
	ECO Bank Kenya LTD (BOCO Deposit)	Not availed	5,000,000	Bank Confirmation Certificate
	Chemelil – On – Call Ac	Not Availed	10,913,125	No supporting document
	Euro Bank	Not Availed	52,237,000	Bank Confirmation Certificate
Tea	NBK Mombasa	01003007525500	100,220	Bank Confirmation Certificate
	CFC Stanbic USD account	0100002304699	29,609,732	Bank Confirmation Certificate
	CFC Stanbic KShs. Account	0100002304702	78,038,252	Bank Confirmation Certificate
HCD	BBK - Main Account	094-5019115	80,887,660	Cashbook extract
Fibre	NBK – SISAL	01003000903600	15,628,310	Cashbook extract
	TOTAL - KShs		**329,439,057**	

Management resposne

290. The management informed the Committee that, the explanation is given in the table below;

Directorate	Account name	Account No.	Account Balance	Response

	NBK Nkurumah Rd Mombasa	**0**1001009 339300	**412,437**	Bank confirmation certificate of balance was not availed during the audit due to unavailability of authorized signatories who had since left the organization. The Authority later obtained the bank confirmation certificate (attached). The Account was subsequently closed on 27th July 2022.
Sugar Directorate	3-month F/D with Cooperative Bank	**01132012 923350**	**47,787,52 3**	The certificate of balance copy for the principal amount has been attached. **Ksh.47,178,418.** The difference of Ksh.609,105 is attributed to interest accrued as at 30th June 2014.
	Rachier & Omollo &Nzamba Kitonga advocates	**11640124 95**	**8,581,797**	Ndungu Gathinji sued the then Kenya Sugar Board for the damage after he was removed from office as a receiver manager of Muhoroni Sugar Company. The court awarded him ksh 14,978,572 as damage; however the Board appealed and was instructed by the court to deposit Ksh.8,581,797 being, ksh 7,981,797 and ksh 600,000 for damages and auction fee respectively, in a joint account. Certificate of balance could not be given as the Authority was not conjoined in the opening of the account.

Sugar development Levy	NIC Bank	The correct account no. under NIC Bank and later NCBA is no.**100141922** and not **1001316447.**	243,000	The account had been dormant during the merger hence difficulties in accessing the certificate of balance for it as the Authority was in the process of changing signatories. The certificate of balance as at 31st July 2014 was provided for review.
	Ecobank (BOCO Deposit)	2210200010	5,000,000	The money was deposited by Nile Hauliers, a sugarcane transport company under Busia Outgrowers Company (BOCO) with the then Kenya Sugar Board as a precondition for a lease contract.
	Chemelil On Call A/C	LC NO. ILC0099150410	10,913,125	This was a loan to act as cash cover for letter of credit for Chemilil Sugar towards purchase of 3MW Turbo Alternator set from Kessels Engineering Works PVT Ltd. This was part of factory maintenance loan advanced to Chemilil as per the attached documents.
	Eurobank	Claim No.72379 Currently under Kenya Deposit Insurance Corporation (KDIC)	52,237,000	The call deposit of Ksh.50M was placed on 15th March 2002. The bank is under liquidation and the assets are being managed by the Kenya Deposit Insurance Corporation (KDIC) who have been paying dividends as and when the funds are available.
Tea	NBK Mombasa		100,220	Copies of bank certificate and reconciliation provided

		01003007525500		
	CFC Stanbic USD account	01000023 04699	29,609,732	Copies of bank certificate and reconciliation provided USD 300,450.61 converted @ KShs.98.55
	CFC Stanbic KShs account	01000023 04702	78.038,252	Copies of bank certificate and reconciliation provided The amount of KShs.78,038,252 was the cashbook balance as at 30th June 2015 reconciled with the bank balance of KShs.102,847,607.90
HCD	BBK – Main Account	094-501115	80,887,660	5.2(v) Extract cash book attached Pg 864
Fibre	NBK- Sisal	01003000 903600	15,628,310	During the year under review, former Sisal Board maintained a manual cash book for this bank account. Copy of the cash book provided

Committee Observations

The Committee observed that–

i. There were many gaps were due to missing documents and delayed provision of documentation during the audit, which were later provided. This suggests weak record-keeping or delayed response systems hence breaching Section 62 of the Public Audit Act CAP 412B.

ii. The Certificate of balance on the Rachier & Omollo account could not be given as the Authority was not conjoined in the opening of the account implying that there were Legal and Structural Barriers making the account inaccessible due to legal arrangements, limiting audit verification

iii. Some of the accounts were Dormant or Legacy Accounts tied to historical transactions (e.g., Eurobank, NIC), thus complicating access and verification by the auditors.

iv. The use of Manual Systems more so manual cashbooks (e.g., Fibre Directorate) was an outdated financial system that may hinder audit trail and transparency.

v. There were instances of third-Party Transactions like the deposits by external entities (e.g., ECO Bank via BOCO) which were not reflected in books, raising concerns about completeness of financial records.

vi. The response was inadequate leading to incomplete Audit Trail where some responses were merely narrative explanations without third-party confirmations.

vii. The Funds not recorded in books (e.g., BOCO deposit) is a pointer to potential misstatements in the Financial records.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the EACC should investigate the matter on how the Rachier & Omollo account was opened without conjoined Authority and proper Legal Structures between them and AFA making the account inaccessible. Also investigate the dormant bank accounts questioned by the Auditor with a view to establishing the status of the funds in the dormant accounts. Should any officer be found culpable, the DPP should take legal action with a view to recovering any amount lost with interest at the CBK prevailing rates. The report of their findings should be submitted to the National Assembly.

5.3 Bank Reconciliation

291. The Committee heard that, the Horticultural Crops Directorate's, Barclays Bank of Kenya main account No.094-5019115 bank reconciliation statement included salaries posted twice amounting to KShs.7,901,812. In addition, a payment voucher No. 2137 amounting to KShs.11, 575,468 paid to CIC Insurance has not been posted to the cash book since December 2013. Further review of the bank reconciliation statement revealed that the net salaries figure posted twice of KShs.7,901,812 includes payments of KShs.4,374,496 that are not of the personnel emoluments in nature.

Management response

292. The management informed the Committee that the breakdown of the KShs. 7,901,812 comprise of Net Salaries of KShs 3,527,315.90 posted on 6th November 2014 and KShs.4,374,496, being the following:

i. Mboga na Matunda Sacco of KShs 1,405,576

ii. Various staff in registry of KShs 106,750 and KShs 23,847

iii. The other payments paid are not of payroll liabilities amounting to KShs 2,838,322. They comprise of; Inverter power system Ksh. 308,698, National Oil ksh.784,440, Plan and Place Ksh.732,756.50, Wamboi Designs Ksh.1,012,428.20. This was addressed within the mandate of the streamlining Committee in 2020/2021.

293. The payment of KShs 11,575,468 is 50% of the CIC insurance invoice no. 02093 on staff medical insurance scheme of KShs 23,150,935. First 50% installment was paid on 6th November 2013 and

the balance 50% was paid on 10th December 2013 and the two payments posted in the ledger under one payment voucher number PV 2137.

Committee Observations

The Committee observed that–

i. The explanation for accounting errors and lack of preventive controls was inadequate. The response confirms the nature of the KShs.4.37M but does not justify or explain why these non-payroll items were included in a salary posting leading to the double posting. There was no clarity on corrective action taken before the 2020/2021 streamlining committee intervention.

ii. No evidence of reconciliation between ledger and cash book for the CIC payment. In this respect the response addresses the ledger posting, but the issue raised was about cash book omission

iii. The Management did not explain the delay or failure to post to the cash book or whether the cash book was updated retrogressively or reconciled

iv. There was no documentation or audit trail for corrective actions and thus potential risk of misclassification and weak internal controls over payroll and non-payroll expenditures.

Committee Recommendations

The Committee recommends that within three months upon the adoption of this report, the EACC should investigate the recordings with a view to establishing whether there were financial malpractices and submit a report to the National Assembly. Should any person/officer be found culpable, the DPP should initiate legal action with a view to holding the responsible parties accountable for the loss.

The Committee reprimands the officers who did the wrong posting then.

5.4 Unposted payment vouchers

294. The Committee heard that, the cash at hand and in transit figure of KShs.967,000 disclosed under Note 22 to the financial statements includes unposted payment vouchers totaling to KShs 232,813 as analyzed below:

Region	Amount - KShs.
Eastern Regional office	44,796.00
Eastern zone office	9,120.00
North Eastern Zone office	64,920.00
Coast Zone Office	27,227.00

Western Zone Office	46,810.00
Nyanza Zone Office	39,940.00
Total - KShs.	**232,813.00**

295. As a result, cash and cash equivalents have been overstated and various expenditure items understated by the same amount, respectively.

Management response

296. The management informed the Committee that, the authority posted the petty cash vouchers amounting to KShs. 232,813 and charged the expenses to the relevant expenditure lines and the cash and cash equivalents adjusted accordingly on 30th June 2015

Committee Observations

The Committee observed that –the management did not address the audit issue raised and how corrections were done to accurately report the transactions as and when they occurred but rather disputed the auditor's observations.

Committee Recommendations

The Committee reprimands the then Accounting officer and the staff working in the finance department for misreporting. Further, the Accounting Officer should always ensure that the entity keeps financial and accounting records that comply with the PFM Act, CAP 412A.

5.5 Foreign currency translation

297. The Committee heard that the cash at bank balance of KShs.451,069,000 as disclosed under Note 22 to the financial statements includes KShs.326,046, KShs.87,922,049 and KShs.4,848,184 in respect of Tea Directorate, Coffee Directorate and Fibre Directorate foreign exchange dollar accounts balances. However, a review of the balances revealed that the Authority did not use the CBK mean rate of 98.6394 as at 30 June 2015, in the translation of the USD balances to Kenya Shillings resulting to an overstatement by KShs.6,768,132 as analyzed below:-

Directorate	Bank name and Account Number	USD amount	Exchange rate used	KShs Amount as per Cashbook	CBK Rate amount in KShs	Difference in KShs
Tea	NBK 02020061 012200	3,338	97.69	326,046	329,215	(3,169)

Coffee	**CFC Stanbic** 00100000 672248	820,401	107.17	87,922,049	80,923,860	6,998,188
Fibre	**KCB** 00001134 347472	51,451	94.23	4,848,184	5,075,071	(226,887)
TOTAL						**6,768,132**

298. In view of the above, it has not been possible to confirm the accuracy of cash and cash equivalents figure of KShs. 2,221,047,000 as at 30th June, 2015.

Management response

299. The management informed the Committee that–

i) **Tea Directorate-** The rate applied was a commercial rate of Ksh.97.69 which brought a difference of Ksh.3,169. This was appropriately adjusted by applying the recommended CBK mean rate of Ksh.98.6394.

ii) **Coffee Directorate**-The bank balance was USD 820,401. However, the balance as per cashbook USD A/C was 891,384.86 which was converted at the mean rate of 98.6394 giving a total of Ksh.87,925,667.76. This is the figure captured in the Coffee Directorate ledger.

iii) **Fibre Directorate-** The difference of KShs 226,887 was corrected by a journal on 30th June 2015.

Committee Observations

The Committee observed that –the management did not address the audit issue raised and how corrections were made to accurately report the transactions as and when they occurred but rather disputed the auditor's observations.

Committee Recommendations

The Committee reprimands the then Accounting officer and the staff working in the finance department for misreporting. Further, the Accounting Officer should always ensure that the entity keeps financial and accounting records that comply with the PFM Act 2015.

6.0 Receivables from Exchange transactions

6.1 Prior year Matters

300. The Committee heard that–

i. As reported in the previous year, under the defunct Sugar Development Fund and Horticultural Crops Development Authority, balances of receivables from exchange transactions amounted to KShs. 148,166,000 and KShs. 92,506,000 as at 31st July, 2014 respectively. Although a provision had been made for the long outstanding amounts of KShs. 148,166,000 it remained uncollected as at June, 2015.

ii. In addition, the amount of KShs. 92,506,000 outstanding in the books of the defunct Horticultural Crops Development Authority included trade debtors totalling KShs. 63,540,000. The trade debtors further included credit balances of KShs. 6,097,068 whose nature was not explained. The trade debtors balance of KShs. 63,540,000 also differed with the supporting documents figure of KShs. 63,156,493.

iii. In addition, the trade receivables for the defunct Coffee Board of Kenya amounting to KShs. 2,569,275,479 had been written off in 2010/2011 without the necessary approvals from the Parent Ministry and the Treasury. No action has been taken to date to resolve these prior year issues.

Management response

301. The management informed the Committee that–

i. The amount of KShs 148,166,000 relates to levy arrears owed by state owned Sugar mills to the defunct Sugar Board that has been long outstanding. The mills have been facing severe financial constraints and have therefore not been able to settle the amounts. The National Assembly vide Certificate (No. 039/13th /2023) of 14th September 2023 approved the action plan to revive and commercialize state owned sugar companies.

   In the certificate, approval was given to write off liabilities amounting to KShs 65,778,448,646 owed to Government of Kenya, defunct Kenya Sugar Board and Commodities Fund. It is envisaged that upon verification by the Auditor General as indicated in the certificate, the full amount of KShs 148,166,000 will be written off.

ii. The difference between the trade debtors of Ksh 63,540,000, the supporting schedules of KShs. 63,156,493 and the credit balances of Ksh.6,097,068 were caused by errors in the ledgers of the defunct HCDA.

   The Authority noted the errors in the accounts receivables of the Directorate and made adjustments in the account receivables ledger. The issue was resolved in the FY 2018/19.

iii. Defunct Coffee Board of Kenya- The treatment of the trade receivables in 2010/2011 was correction of accounting errors and not a write off. Coffee Board of Kenya underwent restructuring in the years 2002 and 2009 whereby most of the employees were either retrenched or retired. Due to restructuring, the Board lacked the capacity to prepare Annual financial statements for the seven (7) year's period starting from FY 2003/04 thus creating a backlog.

   The Board of Directors engaged an accounting firm to undertake preparations of Coffee Board of Kenya financial statements for the seven (7) years starting the FY 2003/04 to 2009/10. This was completed and certificates issued by the Kenya National Audit Office for the years that were in arrears.

Committee Observations

The Committee observed that–

i) The Sugar Development Fund of KShs. 148,166,000 Levy Arrears remained uncollected. The management has been awaiting write-off approval following National Assembly action in 2023. However, no evidence of collection efforts or engagement with debtor sugar mills prior to the write-off proposal and there are no documented efforts or indication of internal controls in place to prevent recurrence of such long-outstanding debts in future.

ii) The HCDA Trade Debtors – KShs. 63,540,000 was as a result of discrepancy between ledger and supporting documents leading to unexplained credit balances. Although management argued that the errors were acknowledged and adjustments made in FY 2018/19, no supporting documentation or audit trail provided for the adjustments or how the credit balances were resolved or reclassified.

iii) The management did not outline measures to strengthen ledger accuracy and prevent future mismatches.

iv) On the Coffee Board of Kenya – KShs. 2.57 billion Receivables, the receivables were written off without required approvals where management claimed it was a correction of accounting errors due to restructuring and backlog.

However,

a) There was no formal documentation or approval from the Parent Ministry or Treasury confirming the correction.

b) There was no clarity on the nature of the accounting errors and how they justified the removal of such a large amount.

c) There was no mention of follow-up actions or accountability for the lapse in financial reporting over seven years.

Committee Recommendations

The Committee recommended that within three months upon the adoption of this report, the EACC should investigate whether the purported errors and write-offs led to financial malpractices and submit a report to the National Assembly. Should any person/officer be found culpable, the DPP should initiate legal action with a view to holding the responsible parties accountable for the loss.

6.2 Financial Year 2014/15 Matters

302. **The Committee heard that–**

i) The trade and other receivables from exchange transactions balance of KShs. 137,110,000 included rent debtors balance of KShs. 8,864,000. However, the validity of a balance of

KShs. 6,000,000 in respect of Horticultural Crop Directorate could not be ascertained since no relevant documents have been provided for audit verifications.

ii) The above balance also included trade debtors balance of KShs. 113,728,000. The trade debtors further included an amount of KShs. 69,352,000 in respect of Horticultural Crop Directorate, against a ledger balance of KShs. 63,540,000. The difference of KShs. 5,812,000 has not been explained. Further included in the trade debtors is a balance of KShs. 13,340,000 respectively of Tea Directorate whose ledger balance reflects KShs. 15,599,103. The difference of KShs. 2,259,103 has also not been explained.

iii) The trade and other receivables from exchange transactions include prepayments balance of KShs. 14,624,000. However, a balance of KShs. 5,569,000 in respect of Horticultural Crop directorate lacked verifiable documentary evidence.

iv) The financial statement figure of KShs. 137,110,000 for receivables from exchange transactions was not supported with ageing analysis of debtors to show the periods for which they have been outstanding so as to ascertain the recoverability of the balances.

Management response

The management informed the Committee that,

i) Analysis of KShs 6,000,000 is attached. These are payroll related items. This was addressed within the mandate of the streamlining Committee in 2020/2021.

ii) The ledger balance for HCD of KShs. 63,540,000 relates to the FY 2013/14. The ledger balance for the FY 2014/15 was KShs. 69,352,000. The correct ledger balance for Tea Directorate is KShs. 15,599,103.30

iii) These are long outstanding prepayments as per the attached summary and support for the same. They were:

   a) Advance to farmers 2013/14 KShs. 35,000

   b) Life Insurance 2013/14 KShs. 2,000

   c) Deposits for utilities KShs. 2,250,623

   d) General prepayments KShs. 3,280,549

Committee Observations

The Committee observed that–

i) The Rent Debtors of KShs. 6,000,000 (for Horticultural Crops Directorate) did not have documents to confirm the validity of the balance.

ii) The Trade Debtors had discrepancies of KShs. 5,812,000. The explanation by the management that the two balances relate to different years was inadequate in that there were no reconciliation provided between Financial Year Y 2013/14 and Financial Year 2014/15 figures and no explanation of how the difference arose or was resolved.

iii)The Tea Directorate had discrepancies of Kshs. 2,259,103. However, the management did not provide explanation on why the financial statement figure differed from the ledger or reconciliation/ supporting documentation for the adjustment.

iv) The prepayments of Kshs. 5,569,000 (HCD) did not have verifiable documentation, for the write-off of stale balances or validation process for these prepayments.

v) There was no ageing analysis to assess recoverability, no summary or insights from the ageing analysis were provided, no indication of provisions for doubtful debts or recovery plans and no assessment of long-outstanding balances and their impact on financial health of AFA.

Committee Recommendations

The Committee recommended that –

Within three months upon adoption of this report the Accounting Officer of the Agriculture and Food Authority (AFA) should provide a comprehensive report on how it has strengthened its financial reporting and internal controls over receivables that outlines.

i) How management performs comprehensive reconciliation of trade debtor balances across financial years to resolve discrepancies and ensure consistency between ledger and financial statements have been performed.

ii) The Development and implementation a structured recovery plan for overdue debts, including follow-up mechanisms and escalation protocols.

iii)The Review and adjust provisions for doubtful debts in line with the ageing profile and risk assessment.

iv)How management ensures that all adjustments and reconciliations are properly documented and reviewed by internal audit.

7.0 Receivables from non-Exchange transactions

7.1 Prior year Issues

303.The Committee heard that, as reported in the previous year, the financial statements of the defunct coffee Board of Kenya, Sugar Development Fund and Kenya Sugar Board reflected as at 31 July 2014, amounts of KShs. 17,194,000, KShs. 1,837,694,000, and KShs. 35,130,000 in respect of receivables from non-exchange transitions. It was noted, however, that the amounts had been outstanding for a long time; the amount could not be reconciled to supporting documents and provision for bad debts made on these balances was inadequate. These matters have so far not been resolved.

Management response

304. The management informed the Committee that, the balance at Coffee Directorate of KShs. 17,194,000 related to Ad valorem levies of KShs. 15,693,000 that has since been recovered over the years except for Meru County Coffee Marketing with a balance of KShs. 1,236,245.85. This will be addressed through the BOD for write off.

305. Staff imprests reduced from KShs. 3,685,000 in 2012/13 to KShs. 1,502,000 in 2014/15 attributable to normal operations which have since been surrendered.

306. The amount of KShs 1,837,694,000 relates to levy arrears owed by state owned Sugar mills to the defunct Sugar Board that has been long outstanding. The mills have been facing severe financial constraints and have therefore not been able to settle the amounts. The National Assembly vide Certificate (No. 039/13th /2023) of 14th September 2023 approved the action plan to revive and commercialize state owned sugar companies.

307. In the certificate, approval was given to write off liabilities amounting to KShs 65,778,448,646 owed to Government of Kenya, defunct Kenya Sugar Board and Commodities Fund. It is envisaged that upon verification by the Auditor General as indicated in the certificate, the fullamount will be written off.

308. The amount of KShs 1,837,694,000 relates to unremitted Sugar Development Levy (SDL) owed by state owned Sugar mills to the defunct Sugar Board that has been long outstanding. The mills have been facing severe financial constraints and have therefore not been able to settle the amounts. The National Assembly vide Certificate (No. 039/13th /2023) of 14th September 2023 approved the action plan to revive and commercialize state owned sugar companies.

309. In the certificate approval was given to write off liabilities amounting to KShs 65,778,448,646 owed to Government of Kenya, defunct Kenya Sugar Board (currently part of Agriculture and Food Authority) and Commodities Fund. It is envisaged that upon verification by the Auditor General as indicated in the certificate, the full amount of KShs 1,837,694,000 will be written off.

310. A comparison of the receivables from non-exchange transactions for the FY 2012/13 and 2013/14 increased from a net of KShs. 4,503,000 to KShs. 35,130,000. The increase was attributed to:

i) Debt from SDF rose from zero to KShs. 16,397,000. This was an accrual of the administrative component of the sugar levy payable to the defunct Sugar Board which was subsequently received.

ii) Imprests from KShs. 281,000 to KShs. 2,048,000 attributed to normal operations.

iii) Staff advances reduced from KShs. 3,564,000 to KShs. 2,858,000.

iv) Debts owed by former staff reduced from KShs. 2,628,000 to KShs. 2,599,000.

v) Other debtors increased from KShs. 1,173,000 to KShs. 14,040,000.

vi) The provision for doubtful debts as rightly pointed out by the Auditor remained at KShs. 3,143,000 between the two years.

Committee Observations

The Committee observed that–

311. The Coffee Directorate balance of Kshs. 17,194,000 did not have adequate documentation for provision for bad debts, recovered amounts and the Board resolution or timeline for the proposed write-off of Meru County Coffee Marketing balance.

i) The Sugar Development Fund balance of KShs. 1,837,694,000 did not have supporting documents and there was no evidence of any collection efforts or engagement records with debtor sugar mills prior to write-off proposal.

ii) The Kenya Sugar Board balance of Kshs. 35,130,000 had no supporting schedules or documentation for the breakdown, no explanation for why provision for doubtful debts remained static despite significant increase in receivables and no assessment of recoverability or actions taken to resolve balances.

Committee Recommendations

The Committee recommends that –

i) Within three months upon adoption of this report, the Accounting Officer should submit a comprehensive report to the National Assembly and the Auditor-General on legacy balances for all receivables from defunct entities. The balances should be supported by verifiable documentation, comprehensive reconciliation of historical balances, outstanding balances deemed irrecoverable and reasons for such, for example those from Meru County Coffee Marketing and state-owned sugar mills, the Board approvals in accordance with public financial management regulations 2015.

ii) The Accounting Officer should provide a structured receivables management framework developed, including regular ageing analysis, recovery strategies, and escalation protocols for any outstanding amounts now that the Authority is transitioning again to the initial setting of independent Directorates.

7.2 Unsupported balances

312. The Committee heard that, the receivables from non-exchange transactions balance of KShs.195,950,000 disclosed under Note 24 to the financial statements includes unsurrendered staff imprests from the defunct Coffee Board of Kenya of KShs. 1,497,805 which have been outstanding since 2013 contrary to the provisions of Section 71 (4) of the Public Finance Management Act 2012 on cash advanced as imprest. In addition, staff debtors in respect of Tea Directorate includes a balance of KShs. 3,422,000 which differs with the figure of KShs. 3,507,725 shown in supporting documents resulting in unexplained and unreconciled balance of KShs.85,725. Further, the balance of KShs. 195,950,000 includes an amount of KShs. 22,215,000 disclosed as staff advances under Note 24 to the financial statements. Out of the staff advances an amount of KShs. 1,271,000 relates to the Horticultural Crop Directorate whose accuracy cannot be ascertained as no supporting documents have been provided.

313. Consequently, the completeness and accuracy of receivables from non-exchange transactions balance of KShs. 195,950,000 cannot be confirmed.

Management response

314. The management informed the Committee that, the list of Coffee Board staff imprests outstanding as at 30th June 2014 and action taken on each is attached. The correct balance of KShs. 3,421,725.85 comprised of KShs 1,219,947 related to Tea Directorate staff debtors and KShs. 2,201,778 relating to AFA HQ staff debtors.

Committee Observations

The Committee observed that–

i) The imprests of KShs. 1,497,805 from the defunct Coffee Board of Kenya had been outstanding since 2013, contrary to Section 71(4) of the Public Finance Management Act, 2012.

ii) There was a discrepancy in Tea Directorate staff debtors between the KShs.3,422,000 reported and Kshs. 3,507,725 in the supporting documents amounting to Kshs. 85,725 which was not explained.

iii) The Staff advances of KShs.1,271,000 for the Horticultural Crop Directorate (HCD), lacked the relevant supporting documentation.

iv) The response submitted by the management did not address the audit issues.

Committee Recommendations

The Committee recommends that–

i) The Accounting Officer be reprimanded for failing to adequately address the audit query and breach of Section 71(4) of the Public Finance Management Act, 2012 .

ii) Within three months upon adoption of this report, the Accounting Officer should submit to the National Assembly and Auditor-General the relevant supporting documentation for the Staff advances of Kshs.1,271,000 for the Horticultural Crop Directorate (HCD) and the discrepancy of KShs. 85,725 which was not explained. The Auditor-General to review and report in the subsequent audit cycle.

8.0 Trade and other payables from exchange transactions

315. The Committee heard that–

i. The statement of financial position reflects a balance of KShs. 795,488,000 as at 30 June 2015 under trade and other payables from exchange transactions. As disclosed under Note 25 to the financial statements, this balance comprises of trade payables, project fund/clearance, third party payables and other payables. Further, as reported in the previous year on defunct entities that were merged to form Agriculture, Fisheries and Food

Authority, there were long outstanding balances in the books of the defunct Sugar Development Fund amounting to KShs. 5,000,000 and KShs. 3,062,000 in respect of Boco Tractor lease deposit and Fintech Kenya that had been outstanding for a long period.

ii. In addition, an amount of KShs. 2,636,872,172 relating to the defunct Coffee Board of Kenya had been written off as an old balance on the recommendation of a contracted consultant. However, approval for the write-off from both the Parent Ministry and the Treasury were not provided for audit review. Therefore, the propriety of the write-offs effected in the 2010/2011 financial year can still not be confirmed.

iii. The trade and other payables figure of KShs. 795,488,000 also includes tax obligations of KShs. 2,380,000 which are composed of VAT, PAYE and withholding tax. These taxes are on transactions dating back to March 2015 for the Horticultural Crops Directorate and AFFA Headquarters account, and August 2014 for Fibre Directorate. The statutory deadlines for submission of PAYE and VAT are 9th and 20th of the subsequent month. It is not clear why these tax obligations remained unsettled as at 30th June 2015. Possible penalties and interest thereon have not been factored in these financial statements.

iv. In addition, as reported in the previous year, the trade and other payables balance of KShs. 106,740,000 in the financial statement for the period ended 31 July 2014 of the defunct Horticultural Crops Development authority differed with the supporting schedules balance of KShs. 96,156,448 resulting in unreconciled variance of KShs. 10,583,552, while a balance of KShs. 1,500,038 has remained outstanding for more than four years. The trade and accruals balance also includes an amount of KShs. 5,194,331 relating to debit balances which were netted off contrary to the International Public Sector Accounting Standards (IPSAS) No.1, which states that assets and liabilities, and revenue and expenses may not be offset unless off setting is permitted or required by another IPSAS.

The creditors balance also excluded an amount of KShs. 400,000 being audit fee owing to the Office of the Auditor-General. These matters are yet to be resolved by the Authority.

Consequently, the accuracy and completeness of the trade and other payables from exchange transactions balance of KShs. 795,488,000 cannot be confirmed.

Management response

i. The management informed the Committee that, the money was deposited by Nile Haulierso, a sugarcane transport company under Busia out growers Company (BOCO) with the then Kenya Sugar Board as a precondition for a lease contract. The matter has been a subject of a court case between Busia outgrowers Company Vs Kenya Sugar Board and Nile Hauliers.

The matter was determined, and a judgement given on the 28th March 2019 which directed that the amount of KShs. 5,000,000 be released to the plaintiff (BOCO). However, upon appeal the Judgement was set aside and the amount awarded to Nile haulers Ltd on 27th May 2019. The amount has been accordingly adjusted in AFA books of accounts as per the attached journal.

The amount of KShs 3,062,000 payable to Fintech Kenya was settled on 14th October 2014.

ii. The treatment of KShs. 2,636,872,172 in 2010/2011 was correction of accounting errors and not a write off. Coffee Board of Kenya underwent restructuring in the years 2002 and 2009 whereby most of the employees were either retrenched or retired. Due to restructuring, the Board lacked the capacity to prepare Annual financial statements for a period of seven (7) years starting the FY 2003/04 creating a backlog.

The Board of Directors engaged an accounting firm to undertake preparations of Coffee Board of Kenya financial statements for the seven (7) years starting the FY 2003/04 to 2009/10. This was completed and certificates issued by the Kenya National Audit Office for the years that were in arrears.

Due to the amounts involved management forwarded a letter to PS MOA for concurrence.

iii. The payments relating to the outstanding tax obligations were made as per the the KRA ledger extract provided for review.

iv. The Audited 2013/14 financial statements of the defunct HDCA note 17 indicates that the Trade and other payables amounted to KSh 106,740,000 comprising of Trade payables of KShs 96,156,000, Sundry creditors of KShs 9,859,000 and Horticultural Associations of KShs 724,000.

The trade creditors of Kshs 1,500,038 relates to bookkeeping and accounting issues in the defunct HCDA which was addressed by the streamlining committee as earlier indicated in note 5.1 above. Similarly, the committee addressed the issue of debit balances in trade and accruals amounting to KShs 5,194,331.

The amount of KShs 400,000 audit fee was not provided for in the financial statements of the defunct HCDA. However, the amount was not among the fees invoiced by the OAG and the Authority has now settled to all outstanding audit fees.

Committee Observations

The Committee observed that–

Several audit issues were raised in respect of trade payables. The Management response was not satisfactory in relation to the matters raised below.

i) On BOCO Tractor Lease Deposit (KShs. 5,000,000), the Court case was resolved in favor of Nile Hauliers Ltd. However, no evidence in form of journal entry and no confirmation that adjustment was reviewed or approved by the auditors for adequacy.

ii) On Fintech Kenya (KShs. 3,062,000), the management alleged that the payable was Settled on 14 October 2014 vide payment voucher No. 1133. However, the date of the payment was within the year under audit and could not been reflected as a long outstanding closing balance as picked by the auditors. Further, no evidence was adduced or a reconciliation to onfirm removal from payables.

iii) On the Coffee Board of Kenya's Write-Off of Kshs. 2.636 Billion, there was no approval from Parent Ministry or Treasury, no formal approval or response from PS MOA or

Treasury provided and the eventual classification as "correction" vis a vis "write-off" remains ambiguous in absence of supporting documentation.

iv) On unsettled Tax Obligations (Kshs. 2,380,000), the amount remained unpaid and there was no evidence of penalty assessment or confirmation of full settlement.

v) On the HCDA Payables Variance (Kshs. 10.58 million) despite a streamlining committee being formed to address the issues, no reconciliation schedule showing how the variance as resolved or other documentation from streamlining committee confirming resolution.

vi) On the Outstanding Creditor (Kshs. 1,500,038), although the management indicated that the matter was being addressed by the streamlining committee, no evidence of adjustment or resolution.

vii) On Debit Balances Netting Off of Kshs. 5,194,331, this was a violation accounting standard, specifically IPSAS 1. However, there was no evidence of reversal entries or IPSAS-compliant treatment shown or confirmation of compliance with IPSAS post-adjustment.

viii) On the Audit Fee Omission of Kshs. 400,000, the fee was not included in financials, the management ought to have accrued the amount therein. No payment confirmation or updated financial statement reflecting settlement were provided.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer for AFA should submit a comprehensive report to the National Assembly and the Auditor-General detailing how each of these matters were resolved. The Auditor-General review the status during the special audit requested by the Committee in this report.

9.0 Long term Receivables from Non-exchange transactions

316. The Committee heard that, the statement of financial position reflects an amount of KShs. 131,375,000 under long term receivables from non-exchange transactions. This amount relates to a loan advanced to the Kenya Planters Cooperative Union by the Government of Kenya through the defunct Coffee Board of Kenya. However, KPCU is under receivership and no provision has been made in these financial statements to recognize loss that may arise if the KPCU is finally liquidated.

Management response

317. The management informed the Committee that, this amount relates to a loan advanced to the Kenya Planters Cooperative Union by the Government of Kenya through the defunct Coffee Board of Kenya and therefore could not make a provision in its books. However, GOK vide The National Treasury and Planning letter DGIPE/LOANS/78 dated 15/01/2019 wrote off the principal loan

plus interest. The Authority subsequently adjusted its records on the matters relating to the loan in 2017/18 Financial Reports.

Committee Observations

The Committee observed that –the management indicated that the principal loan plus interest was written off as communicated by the National Treasury and Planning in their letter REF: GIPE/LOANS/78 dated 15/01/2019 and subsequently adjusted its records on the matters relating to the loan in 2017/18 Financial Reports.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer should provide a confirmation from the National Treasury and the New Kenya Planters Cooperative Union that the amounts were actually written off and not recognized in their books

10.0 Borrowings

318. The Committee heard that, the statement of financial position reflects on an amount of KShs .763,494,000 under non-current liabilities and an amount of KShs. 68,689,000 under current portion of borrowings. The total loan balance relates to two amounts advanced to the defunct Coffee Board of Kenya, KShs. 560,000,000 GOK loan and an amount of KShs. 225,000,000 that hand been advanced to the defunct coffee Board of Kenya for onward lending to the farmers through KPCU. The GOK loan continues to accrue penalties due to failure to pay the loan installments. The loan outstanding in the account of KPCU amounting KShs. 131,375,000 also remains outstanding in the books as KPCU has been unable to meet its obligations.

319. No documents and records have been provided on these loans and consequently, the movement of the loan balances cannot be confirmed.

Management response

320. The management informed the Committee that, the National Treasury and Planning letter ref. DGIPE/LOANS/78 dated 15/01/2019 communicated the write off of the principal loan plus interest of KShs 873,816,197 for the GOK loan to Coffee Board of Kenya and to KPCU. The Authority subsequently adjusted its records on the matters relating to the loan in 2017/18 Financial Reports.

Committee Observations

The Committee observed that –the National Treasury and Planning wrote off the principal loan plus interest as communicated in their letter REF: GIPE/LOANS/78 dated 15/01/2019 and the Authority subsequently adjusted its records on the matters relating to the loan in 2017/18 Financial Reports.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer should provide to the National Assembly a confirmation from the National Treasury and the New Kenya Planters Cooperative Union that the amounts were actually written off and not recognized in their books.

11.0 Unsupported balances

321. The Committee heard that–

i. In the audit report of the defunct Horticultural Crops Development Authority for the year ended 31 July 2014 it was indicated that certain balances reflected in the financial statements were at variance with balances reflected in supporting documents or were not supported at all. No supporting documentation or explanation was provided for payment of security of KShs. 3,779,946, provision of Ksh.11,098,000, export licenses of KShs. 2,946,000, employees cost variance of KShs. 459,662 and GOK recurrent grant variance of KShs. 20,515,000. Further, the un-surrendered imprests, allowance to farmers, life insurance, tax arrears, horticultural research fund prepayments, interest on fixed deposit amounts and depreciation charges, all amounting to KShs. 114,667,000 were not supported with documentary evidence or any other workings.

ii. In addition, lease payments by the defunct Kenya Coconut development Authority amounting to KShs. 4,206,102 for the year ended 30 June 2014 could not be ascertained as there were no lease agreements. These matters were not resolved in the year under review. Under the circumstance, the accuracy and completeness of the opening balances of the accumulated surplus for the Authority cannot be confirmed.

Management response

i. The management informed the Committee that, the security payment of KShs 3,779,946 are herewith supported with a schedule of payments and payment vouchers.

   The provision of KShs 11,098,000 was a historical provision brought forward in the books of the defunct HCDA which was also addressed by the team commissioned to address bookkeeping and accounting issues.Export licenses of KShs 2,946,000 – provided for review were ledger entries in support of the income.

   GOK recurrent grant of KShs 20,515,000 – Relates to receipts from GOK on 11th of July

ii. The Defunct Kenya Coconut Development Authority (KCDA) was a tenant of National Social Security Fund (NSSF) in Mombasa. A lease agreement was drafted and signed by KCDA and forwarded to NSSF but was not executed prior to the merger. However, a new lease agreement was entered into between AFA and NSSF post-merger.

Committee Observations

The Committee observed that –the matters raised in the audit report were a pointer to weak internal controls and governance that could lead to wastage or loss of public funds.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer AFA should provide a comprehensive report on the mechanisms, strategies and other remedies that the Authority had adopted to address the weakness in internal controls and governance in the current set up of AFA.

12.0 Lease of Horticultural Produce Handling Facilities

322. The Committee heard that, as previously reported under the defunct Horticultural Crops Development Authority, the Authority signed an agreement with Fresh Produce Exporters Association of Kenya (FPEAK) for the lease of its Horticultural Produce Handling Facilities (HPHF). However, as per the agreement signed in September 2012, FPEAK took over the facilities without any rent/charges payable to the Authority. Further, available information indicates that according to the Ministry of Lands valuation report dated 7 September, 2011 it is indicated that the Authority should have charged total rent of KShs. 3,770,000 per annum for lease of the facilities.

Further, considering that the facilities were constructed through a JICA loan to the government of Kenya and that Treasury is still servicing the loan facility, the agreement between the Authority and FPEAK is not in the best interest of the Government of Kenya and the public. Available information also indicates that at the time of agreement, a member of the Board of Horticultural crops Development Authority was also an official of the Fresh Produce Exporters Association of Kenya (FPEAK).

Management response

323. The management informed the Committee that, the defunct HCDA entered into a partnership agreement with FPEAK on Horticulture depots utilization for capacity building and market access for smallholder farmers with a common objective to promote and accelerate the progress of practical training of horticulture produce for smallholder farmers.

324. The partnership agreement did not provide for any monetary consideration payable to HCDA by FPEAK. However, FPEAK ceased managing the facilities in 2014 and the cold rooms are currently being run by AFA.

Committee Observations

The Committee observed that –the Public Investment Committee in its 20th Report had deliberated on the matter and observed that there was clear conflict of interest in the Board Chairman's handling of the matter. As a result of his actions, the Authority lost revenue through non-payment of rent for the leased facilities. The Committee further observed that the facilities have since

reverted back to the Directorate and recommended that the then Chairman of the Board be held accountable for loss of revenue due to the Authority and should be surcharged for the loss.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, EACC should investigate how the contract was entered into between the Horticultural crops Development Authority and the Fresh Produce Exporters Association of Kenya (FPEAK), the investigation should extend to all the directors and staff involved in the contracting process. The investigation should quantify the amounts so lost over the term of the Contract including any incidental expenditure related to it and the officers responsible for occasioning the loss and submit a report to the National Assembly on the findings. The DPP should initiate legal action, should any person be held culpable for any illegality in the process and recoveries of the amounts be made with interest at the prevailing CBK rates.

13.0 Revenue

13.1 Fines, Penalties and Levies

325. The Committee heard that, Note 5 to the financial statements discloses and amount of KShs. 1,574,812,000 in respect of levies, fees, cess and others. However, no documentary evidence has been produced for verification to confirm the accuracy of this figure.

Management response

326. The management informed the Committee that, the amount of KShs 1,574,812,000 comprises mainly of levies, cess, licenses and permit fees realized for the period 1st of August 2014 to 30th June 2015.

Committee Observations

The Committee observed that –the Management response did not address the issue raised in the audit report.

Committee Recommendations

The Committee recommends that –

i) The Committee reprimands the Accounting Officer for the inadequate response.

ii) Within three months upon adoption of this report, the Accounting Officer should provide documentary evidence to the Auditor-General for review in form of bank statements to prove that the levies, cess, licenses and permit fees were realized in the period 1st of August 2014 to 30th June 2015 and report in the subsequent audit cycle.

13.2 Loss on sale of assets

327. The Committee heard that, Note 20 to the financial statements reflects a negative balance of KShs. 125,000 described as a loss in sale of assets. No workings have been provided to show how the loss on disposal of assets was arrived at. Consequently, the loss of KShs. 125,000 for the year ended 30 June 2015 cannot be confirmed.

Management response

328. The management informed the Committee that, the workings for the loss of loss on sale of assets was provided for review.

Committee Observations

The Committee observed that –the management did not provided workings to show how the loss on disposal of assets was arrived at thus contravening Section 62 of the Public Audit Act 2012.

Committee Recommendations

The Committee recommended that–

i) Accounting officers should comply with the provisions of Section 68(2) of the Public Finance Management Act of 2012 by submitting all the required information for audit within the stipulated timelines.

ii) The Accounting Officer who failed to provide required information for audit pursuant to Section 62(1) of the Public Audit Act, 2015 should be prosecuted for the offence pursuant to Act.

13.3 Gain / losses on foreign exchange

329. The Committee heard that, Note 21 to the financial statements shows KShs. 9,098,000 described as gain on foreign exchange transactions. However, no evidence has been produced confirming how the gain was determined as at 30 June 2015.

Management response

330. The management informed the Committee that the workings for the loss of loss on gain/loss on foreign exchange is hereby provided.

Committee Observations

The Committee observed that –the management did not provided evidence confirming how the gain was determined as at 30 June 2015 thus contravening Section 62 of the Public Audit Act 2012.

Committee Recommendations

The Committee recommended that–

i) Accounting officers should comply with the provisions of Section 68(2) of the Public Finance Management Act of 2012 by submitting all the required information for audit within the stipulated timelines.

ii) The Accounting Officer who fails to provide required information for audit pursuant to Section 62(1) of the Public Audit Act, 2015 should be prosecuted for the offence pursuant to the Act.

13.4 Finance Income - External Investments

331. The Committee heard that, the statement of financial performance reflects an amount of KShs. 150,746,000 under finance income – external investments and as disclosed under Note7 to the financial statement relates to interest income from Government securities. The management has not provided evidence to show how KShs. 150,746,000 was determined. In the absence of supporting documents or explanation, it not possible to confirm the accuracy and completeness of KShs. 150,746,000 described as Finance Income – External Investment

Management response

332. The management informed the Committee that, support documents of KShs. 150,746,000 were hereby provided.

Committee Observations

The Committee observed that –the management did not provided evidence to show how KShs. 150,746,000 was determined thus contravening Section 62 of the Public Audit Act 2012.

Committee Recommendations

The Committee recommended that–

i) Accounting officers should comply with the provisions of Section 68(2) of the Public Finance Management Act of 2012 by submitting all the required information for audit within the stipulated timelines.

ii) The Accounting Officer who fails to provide required information for audit pursuant to Section 62(1) of the Public Audit Act, 2015 should be prosecuted for the offence pursuant to the Act.

13.5 Finance Income – Outstanding Receivables

333. The Committee heard that, the statement of financial performance reflects revenue from exchange transactions figure of KShs. 249,418,000, which includes KShs. 13,685,000 described under Note 8 to the financial statement as finance– outstanding receivables. However, no supporting

documents or explanation have been provided for the figure. Consequently, its validity cannot be confirmed.

Management response

334. The management informed the Committee that, this was interest accrued on short term deposits by Coffee Board of Kenya. The certificate of balance, ledger transactions and journals to support the accrued interest are attached.

Committee Observations

The Committee observed that–

The Committee observed that –the management did not provide supporting documents or explanation for the figure thus contravening Section 62 of the Public Audit Act 2012.

Committee Recommendations

The Committee recommended that–

i. Accounting officers should comply with the provisions of Section 68(2) of the Public Finance Management Act of 2012 by submitting all the required information for audit within the stipulated timelines.

ii. The Accounting Officer who fails to provide required information for audit pursuant to Section 62(1) of the Public Audit Act, 2015 should be prosecuted for the offence pursuant to the Act.

13.6 Other Income

335. The Committee heard that, the statement of financial performance's revenue from exchange transactions balance of KShs. 249,418,000 includes an amount of KShs. 9,004,000 disclosed under Note 9 to the financial statements as other income. However, the management has not supported this figure with documentary evidence.

336. Consequently, the completeness and accuracy of other income of KShs. 9,004,000 cannot be ascertained.

Management response

337. The management informed the Committee that, support documents of KShs. 9,004,000 were provided.

Committee Observations

The Committee observed that –the management did not providesupporting documents or explanation for the figure of KShs. 9,004,000 disclosed in the financial statements as other income thus contravening Section 62 of the Public Audit Act 2012.

Committee Recommendations

The Committee recommended that–

i) Accounting officers should comply with the provisions of Section 68(2) of the Public Finance Management Act of 2012 by submitting all the required information for audit within the stipulated timelines.

ii) The Accounting Officer who fails to provide required information for audit pursuant to Section 62(1) of the Public Audit Act, 2015 should be prosecuted for the offence pursuant to the Act.

14.0 Unsupported Expenses

338. The Committee heard that, the statement of financial performance for the year ended 30th June 2015 reflects an amount of KShs. 2,101,525,000 under expenses. Audit review of available records, however revealed variances between identical item balances reflected in the financial statements and those reflected in the ledger as detailed below;

Item	Sub-Item	Financial statement KShs	Ledger KShs	Difference KShs
Regulation & Compliance	Inspection & Surveillance	19,276,000	19,058,894	217,106
	Development & Review of Standards	5,744,000	-	5,744,000
Technical Advisory	Collaboration & Coordination	22,146,000	18,481,708	(3,664,292)
	Stakeholders Capacity building	45,119,000	-	45,119,000
	Crop Senses	3,663,000		3,663,000
Market Research & Development	Market Research & Development	10,036,000	7,677,834	2,358,166
	Value addition & Promotion	35,510,000	-	35,722,000

Repairs and maintenance	Repairs and maintenance	35,510,000	36,996	(1,486,041)
Totals		**177,296,000**	**82,214,477**	**95,081,513**

339. In view of the above, the accuracy and completeness of expenses during the year, cannot be confirmed.

Management response

340. The management informed the Committee that, the report and financial statements as at 30th June 2015 were restated in 2017.

Committee Observations

The Committee observed that –the Management response did not address the issue raised in the audit report since the correction of the error through restatement in 2017 for anomalies in the report and financial statements as at 30th June 2015 was not supported with evidence.

Committee Recommendations

The Committee recommended that-

i) The Accounting Officer be reprimanded for the inadequate response.

ii) Within three months upon adoption of this report, the Accounting officer should provide documentary evidence to the Auditor-General for review in form of restated Financial statements as at 30th June 2017.

15.0 Operating and administrative costs - Security service providers

341. The Committee heard that, Note 17 to the financial statements discloses an amount of KShs. 541,763,000 described as administrative expenses. Included in the amount is KShs. 5,057,136 paid to Cobra Security for providing extra security services to HCDA's six depots. However, the management has not provided evidence that the firm was contracted in compliance with Section 29(3) of the Public Procurement and Disposal Act, 2005. In addition, no explanation has been provided for terminating the contract of the previous firm, M/S Eversafe Security. In the absence of evidence, the Authority was in breach of the law.

Management response

342. The management informed the Committee that, Cobra Security firm was brought in upon the defunct HCDA entering into an agreement with FPEAK to run the 6 depots. Where upon they were awarded the security contract as per award letter and contract attached. M/S Eversafe were providing security services prior to FPEAK occupying the pack houses. The contract of M/S Eversafe was terminated by giving one month's notice as per the contract clause 7(ii).

Committee Observations

The Committee observed that-

i) These were extra cost with respect to Lease of Horticultural Produce Handling Facilities and in addition to the issue of irregular contracting where funds were lost, addition loss in form of security fees was incurred. In light of this observation, the Committee upholds the observation and the recommendation therein.

ii) The Public Investment Committee in its 20th PIC Report had deliberated on the matter and observed that there was clear conflict of interest in the Board Chairman's handling of the matter. As a result of his actions, the Authority lost revenue through non-payment of rent for the leased facilities. The Committee further observed that the facilities have since reverted back to the Directorate and recommended that the then Chairman of the Board be held accountable for loss of revenue due to the Authority and should be surcharged for the loss.

iii) Within three months upon adoption of this report, EACC should investigate how the contract was entered into between the Horticultural crops Development Authority and the Fresh Produce Exporters Association of Kenya (FPEAK), the investigation should extend to all the directors and staff involved in the contracting process. The investigation should quantify the amounts so lost over the term of the Contract including any incidental expenditure related to it and the officers responsible for occasioning the loss and submit a report to the National Assembly on the findings. The DPP should initiate legal action, should any person be held culpable for any illegality in the process and recoveries of the amounts be made with interest at the prevailing CBK rates.

16.0 Disbursements to other institutions expense

343. The Committee heard that, the statement of financial performance reflects an expenditure of KShs. 430,064,000 disclosed under Note 18 to the financial statements as being amounts disbursed to other institutions. However, no documentary evidence has been provided to support the expenditure. Consequently, the propriety of the expenditure cannot be confirmed.

Management response

344. The management informed the Committee that, disbursements to other institutions expense amounting KShs. 430,064,000 relates to KShs 321,421,924 disbursed to Tea Research Institute and KShs 108,602,785 for infrastructure fund in accordance with sharing formulas provided for in the repealed Tea Act.

Committee Observations

The Committee observed that –the Management response did not address the issue raised in the audit report since no documentary evidence has been provided to support the expenditure in form of bank statements.

Committee Recommendations

The Committee recommends that –

i) The committee reprimands the Accounting Officer for the inadequate response.

ii) Within three months upon adoption of this report, the Accounting officer should provide documentary evidence to the Auditor-General for review in form of bank statements to prove that the amounts were disbursed to Tea Research Institute and infrastructure fund in accordance with sharing formulas provided for in the repealed Tea Act.

17.0 Variances between the financial statements and records

345. The Committee heard that, the following variances were observed between the financial statements and the documents provided for audit verifications: -

Item	Figures in the Financial Statements KShs. 000	Figures as per Records KShs .000	Variance
Levies , Fees & Cess	1,574,812	2,704,454	(1,129,642)
Licenses & Permits	26,114	26,287	(170)
Finance income –External Investments	150,746	357,773	(207,027)
Other incomes	37,963	9,004	28,959
Employee Costs	603,197	608,016	(4,819)
Board Expenses	4,551	2,164	2,387
Depreciation & Amortization	101,650	130,568	(28,918)
Repairs & Maintenance	35,510	37,022	(1,512)
Operating & Admin Expenses	541,763	595,254	(54,491)
Disbursements to Other Institutions	430,064	1,649,575	(1,219,511)
Finance Costs	12,680	13,007	(327)

Loss on sale of Assets	3	125	(122)
Gain on Forex	9,098	2,103	6,995
Cash and Cash Equivalents	2,221,047	5,661,248	(3,440,201)
Receivables from exchange transactions	137,110	2,554,161	(2,417,054)
Receivables from Non- Exchange Transactions	195,949	49,906	146,043
Property , Plant and Equipment	3,827,055	3,757,664	69,391
Intangible Assets			
Trade & Other Payables	795,448	1,558,433	(759,985)
Current Provisions	23,360	333,498	(310,228)
Current Portion of Borrowings	763,494	709,358	54,136

346. The management has not provided reconciliation statements and any necessary journal adjustments for the variances

Management response

347. The management informed the Committee that, the report and financial statements as at 30th June 2015 were restated in 2017.

Committee Observations

Committee observed that the Management response did not address the issue raised in the audit report since the correction of the error through restatement in 2017 for anomalies in the report and financial statements as at 30th June 2015 was not supported with evidence.

Committee Recommendations

The Committee recommends that –

i. The committee reprimands the Accounting Officer for the inadequate response.

ii. Within three months upon adoption of this report, the Accounting officer should provide documentary evidence to the Auditor-General in form of restated Financial statements as at 30th June 2017 for review and concurrence.

FINANCIAL YEAR 2015/2016

1.0 Financial Statements

348. The Committee heard that, as similarly reported in the previous year, the financial statements do not include balances drawn from the former Sugar Arbitration Tribunal. The management has not explained how the Sugar Arbitration Tribunal assets and liabilities have been accounted for after the repeal of the Sugar Act, 2001 upon the commencement of the Crops Act, 2013.

Management response

349. The management informed the Committee that, the Sugar Arbitration Tribunal was established under section 31 of the Sugar Act No..10 of 2001. The Sugar Act was repealed by the Crops Act 2013. The Crops Act 2013 and the AFA Act 2013 were silent on the treatment of the Sugar Arbitration Tribunal.

350. Since the Tribunal was being funded by the Sugar Development Levy, the Authority found it necessary to incorporate the assets, liabilities and staff of the Tribunal to the Sugar Directorate and in the Authority's consolidated financial statements in the FY 2015-2016.

Committee Observations

The Committee observed that–

i) The issue on failure to account for the Sugar Arbitration Tribunal assets and liabilities 3 was deliberated in its Report for the financial year ending 30th June, 2015 and upholds the observations and recommendations therein.

ii) This issue was raised by the Auditor General in the Audit report for the financial year under consideration (30 June 2016) while the management alleges to have incorporated the assets, liabilities and staff of the Tribunal to the Sugar Directorate and in the Authority's consolidated financial statements in the FY 2015-2016 thus misleading the Committee.

iii) The Accountability of the Assets and liabilities in question could not be confirmed.

iv) Majority of the directorates forming have been legally restructured as independent institutions and thus complicating the accountability aspect of the respective directorates.

v) The sugar arbitration Tribunal Assets and Liabilities were accounted under Sugar directorate in year 2017 which was then consolidated to Authority books.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Auditor-General to undertake a special audit of the transition process with a view to establishing the status of the Public Assets and liabilities during the initial merger of the Directorates into the Authority and after separation of the respective directorates through enabling Acts to ascertain if there was any loss of public Assets. The report should be submitted to the committee through the clerk of the National Assembly.

2.0 Property, Plant and Equipment

2.1 Rehabilitation of Kahawa House

351. The Committee heard that, as reported in the audit report for the defunct Coffee Board of Kenya in the previous year, a consultant submitted on 8 February 2001 a fee note of Kshs. 56,742,130 for studying and assessing the rehabilitation works that would be necessary and required for Kahawa house. However, Information available indicates that the amount was not paid as the Board was convinced that no work was carried out to warrant a charge of KES 56,742,130. Consequently, the consultant sued the defunct Coffee Board of Kenya for non-payment of the fee demanded. A review of the matter during 2015/2016 financial year revealed that the suit was yet to be decided upon by the High Court since 19 March 2004 (case No. HC 152 of 2004). The management has not explained why rehabilitation was necessary considering that the house was refurbished in 1998/1999 at a cost of KShs. 38 Million. In addition, the management has not disclosed the amount of KShs. 56,742,130 as a contingent liability in the notes to the financial statements.

Management response

352. The management informed the Committee that, KShs. 56,742,130 was a result of the need for further rehabilitation for Kahawa House. The refurbishment done on Kahawa House and Coffee Plaza in 1998/99 at KShs. 38 million was due to the bomb blast that rocked Nairobi City in 1998, which necessitated repairs to the windows and window fixtures and frames in the building (Bills of quantities for Kahawa House & Coffee Plaza provided).

353. The Board approved the rehabilitation in its sitting on 18th August 2000. To this end the Board engaged a consultant to study and assess the rehabilitation works that would be necessary and required for Kahawa House. The Consultant Charged the Board KShs. 56,742,130 which the Board disputed and declined to pay mainly on the basis of time and work done. The Consultant filed a case against the defunct Coffee Board of Kenya and the case has not been concluded yet. The Authority sought for an out of Court settlement on an 'Without prejudice' basis, however, the negotiation collapsed and the matter will be referred back to court.

354. The Authority made a provision in the financial statement which is reflected under note No. 34 of the 2015/16 FY financial report.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Rehabilitation of Kahawa House in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the committee upholds the observations and recommendations therein.

2.2 Ownership of Property, Plant and Equipment

355. The Committee heard that, the statement of financial position as at 30 June 2016, reflects a balance of Ksh.3,827,055,000 under property, plant and equipment, which excludes several properties whose ownership has not been established as explained below:

i. The balance of KShs. 3,757,105,000 includes an amount of KShs. 72,000,000 in respect of land measuring 236.35 hectares in Thika sub-county, Kiambu County. However, title documents for land measuring 137.2 hectares out of 236.35 hectares have not been provided for audit review. It has not been possible therefore to confirm ownership status of the land measuring 137.2 hectares.

ii. The balance also includes two motor vehicles with a value of Kshs.6,776,000 whose ownership is in doubt. Motor vehicle number KAR 461K logbook has been misplaced, while motor vehicle KBG 517C was registered in the name of Coffee Research Foundation.

iii. Included also in the property, plant and equipment balance of Kshs.3,757,105,000 is an amount of Kshs.161,200,000 representing the value of land on which the defunct Horticultural Crops Development Authority depots stand and for which the title deeds have not been obtained

iv. Further, the ownership of plot L.R No.209/12490 situated along Mombasa Road, measuring 3.5 hectares and valued at Kshs. 86,000,000 is still in dispute.

Management response

356. The management informed the Committee that,

i) The 236.35 hectares is made of LR No.10084 of 99.15 Ha and LR No.10085 of 137.2 Ha. The value of KShs. 72,000,000 relates to LR No.10084 only acquired by the defunct Coffee Board of Kenya in 1977.

Records indicate that the Board initially wanted to purchase a farm from M/S Azania Investments Co. Ltd for Coffee Research comprising L.R. No.10084 and L.R. No. 10085.

However, the Coffee Research Foundation advised that they did not need the entire two parcels and one of them, L.R. No.10084 would be adequate.

The Board minutes Min. no 245 of 15th July 1977 also indicate that the then Chairman of the Board, E.N. Kuria, acquired block L.R. No.10085 which was not required for Coffee Research. The same had been paid for by the Board and the then Chairman was to repay as a loan to the Board.

Mr. Kuria paid the money on the 16th January 1978 through a banker's cheque forwarded by his advocate M/S Kaplan & Straton Advocates and acknowledgement of receipt communicated vide a letter ADM/2/30C dated 19th January 1978.

The Authority is in possession of the title for L.R. No. 10084 for 99.1Ha.

ii. Logbooks of the 2 vehicles are now in the custody of the Authority.

iii. The Authority engaged the services of KOMM advocate to follow up on all the land without title documents. The status report as indicated by the advocate vide his report dated 16th September 2024 is as summarized below.

S/NO	DEPOT	REMARKS
1.	MACHAKOS PDP No. 59/96/23-MACHAKOS	This is a 2 acres piece of land currently occupied by the Machakos County Government. As of 3rd June 2024, the advocate is engaging the County Government of Machakos on accessing the land for survey purposes.
2.	LIMURU LIMURU/BIBIRIONI/1010	This is a 6 acres piece of trust land situated in Limuru, Kiambu County. The Authority is pursuing the Kiambu County Government to release the piece of land to the National Land Commission for issuance of a letter of allotment.
3.	MWEA	This is a 2.5 acres piece of land. The Authority wrote a letter dated 31st March 2023 to the National Irrigation Board agreeing to their proposal to enter into a simple agreement. National Irrigation Board has not acquired the title for the entire land yet. The advocate is pursuing the matter.
4.	KIBWEZI	The Authority has already obtained the title deed for the Kibwezi depot, measuring 2 acres LR No. 27422.
5.	SAGANA	This is a 0.74 Ha. of land. From the report of the Authority's advocate, he is pursuing the preparation of a new Part Development Plan as the old one cannot be traced.
6.	MERU No. ABOTHUGUGUCHI/KARIENE/3165.	This is a 0.43-Ha land located in Kariene in Meru County. The Title Deed was successfully processed and Title issued on 12th August, 2024.
7.	KITHIMANI (YATTA)	This involves 22 plots each measuring 0.03 Ha. for which title deeds have been issued in the name of HCDA on 18th July 2024. The Authority is in the process of transferring them in the name of AFA.

iv. The Property was subject of a court case ELC NO. 516 OF 2018 (Formerly High Court Civil Suit No 1205 of 2005) HCDA-VS-Sakir Properties Limited & 2 Others. The Judgment was delivered on 17th December 2020 in favor of the Authority and the land was reverted to the Authority, but vide a Ruling dated 10th February 2022, the Court set aside the Judgment that granted AFA ownership of the land. The Authority has appealed against the judgement.

The matter is coming up in court for compliance on 28th May, 2025.

HCDA was allotted by the commissioner of lands an un-surveyed piece of land LR. No.209/12490 opposite Yana Tyres along Mombasa RD Nairobi measuring 3.5Ha. for a lease term of 99 years effective 1st February 1987. On or about 2005, HCDA got information that M/S Sakir had been allotted the same land and a tittle deed issued.

M/S Sakir claims that they got allocated the property after HCDA surrendered the land back to the government. HCDA maintained that it did not surrender the land back and therefore a legal suit ensured through the then Gachiri Kariuki & Kiai Advocates.

M/S Sakir have developed the property by building residential flats.

Committee Observations

The Committee observed that–

i) The ownership of the 3.5-hectare plot along Mombasa Road (LR No.209/12490) valued at Kshs. 86,000,000 is under legal dispute.

ii) The Property was subject of a court case ELC NO. 516 OF 2018 (Formerly High Court Civil Suit No 1205 of 2005) HCDA-VS-Sakir Properties Limited & 2 Others.

iii) The property was originally allotted to HCDA in 1987 for a 99-year lease but in 2005, HCDA discovered that Sakir Properties Ltd had been issued a title deed for the same land with Sakir claiming that HCDA surrendered the land back to the government, which HCDA denies.

iv) The land in question has already been developed into residential flats on the property by Sakir.

v) The court judgment in 2020 initially favoured AFA, reverting the land to the Authority. However, a 2022 ruling set aside that judgment but AFA has since appealed the ruling, with a compliance hearing scheduled for 28th May 2025.

Committee Observations

The Committee observed that –the issue of Ownership of Property, Plant and Equipment in its Report for the financial year ending 30th June, 2015 observed and made recommendations therein. Consequently, the Committee upholds the observations and recommendations therein.

2.3 Valuation of the Property, Plant and Equipment

357. The Committee heard that–

i) The property, plant and equipment balance of Kshs.3,757,105,000 excludes land of undetermined value of in Athi River Plot No.24848 – Mavoko Municipality, which was allocated to the defunct Kenya Sugar Board on 18 April 1995. It is not clear therefore if and when the land will be valued for inclusion in the financial statements.

ii) The balance also excludes seven (7) acres of unvalued land in Mtwapa that had been allocated to the defunct Kenya Coconut Development Authority by the defunct Kenya Agricultural Research Institute. In addition, the ownership had not been transferred by the Kenya Agricultural research Institute by the time the Authority ceased to exist upon the commencement of the Crops Act, 2013.

iii) Further, review of available records revealed that the defunct Coffee Board of Kenya carried out a revaluation exercise in year 2010, which combined the value of land on which of the Coffee Plaza and Kahawa House are located with the value of buildings with a net fair value of Kshs.1,568,643,000 as at 30 June 2015. This treatment differs with the Authority's policy of classification of property, plant and equipment as the two assets have been classified separately as disclosed under Note 37 to the financial statements. In view of the above, it has not been possible to determine whether the depreciation charged is consistent with the depreciation policy as disclosed under Note 1(e) to the financial statements which provides for a rate of 2.5% p.a. on buildings and not for land.

iv) Further, the Authority owns a piece of land reference No.209/10537 measuring 8.1 hectares located in Embakasi which was previously owned by the defunct Coffee Board of Kenya since October 1986. This land however remains unutilized and could therefore be lost to land grabbers

Management response

358. The management informed the Committee that–

i) A valuation valuation exercise was carried out in the 2016/17 FY and the asset has been included in the Annual Report and Financial Statements for FY 2017-18.

ii) The land in question had been reserved for the defunct Kenya Agricultural Research Institute (KARI). The defunct Kenya Coconut Development Authority applied for the parcel of land from KARI through the Ministry of Agriculture for the purpose of constructing a Headquarters at Mtwapa. Kenya Agricultural Research Institute vide their letter REF. KARI/4/023C/VOL.XIV dated 2nd July 2012 informed the defunct Authority that the Board of Directors had resolved in their 98th meeting to allocate 7 Acres of land to KCDA. However, the defunct KARI now KALRO have not acquired title documents to enable transfer of the same to the Authority due to an ongoing court case. The land is also invaded by squatters as per the restraining order of the environment and land court, Mombasa ELC petition no 29 of 2019

The value of the parcel can therefore not be included in the books of the Authority.

iii) The Authority revalued its assets and the values for the two assets recognized in the Annual Report and Financial Statements for the FY 2017-18 as per IPSAS 17 Paragraph 52 (now IPSAS 45)- Classification of Assets. The land and the buildings have now been recognized separately.

iv) On utilization of the land, the Authority leased part of the land to Kipevu 3PL Supply Chain Ltd on 13th April 2021. The land is also secured by a stone wall and a caveat emptor is in place to protect it from would-be land grabbers

Committee Observations

The Committee observed that, the issue of valuation of the Property, Plant and Equipment was in its Report for the financial year ending 30th June, 2015. Consequently, the Committee upholds the observations and recommendations therein.

2.4 Property with a Court Case

359. The Committee heard that–

i) The balance of the property, plant and equipment of KShs. 3,757,105,000 excludes the value of Riverside Estate property LR No.209/4389/3 where the defunct Cotton Development Authority's head office was located. According to information available, the property belonged to the defunct Cotton Board of Kenya and had been charged against a bank loan that the Board failed to service. The bank subsequently sold the property for Kshs.21.5 million through a public auction held in November 2000. Further, records show that the purchaser of the property paid the bank an amount of Kshs.8,375,000 representing the balance of the outstanding loan, where upon the bank released the documents relating to the property to the purchaser. The purchaser thereafter, and before clearing the balance of Kshs.13,125,000 sought to transfer the title of the property in his name. The Board however declined to execute the transfer documents and as a result, the purchaser filed a case in the High Court in November 2008. The matter is still pending in court.

ii) Additional information shows that as at 30 June 1993, the defunct Cotton Board of Kenya had property, plant and equipment with a net book value of Kshs.210,759,785 and investments in Meru Ginnery Ltd of Kshs.13,940,758. The management has however not satisfactorily explained how these property, plant and equipment were accounted for upon the creation of the defunct Cotton Development Authority.

Management response

360. The management informed the Committee that–

i) The case has since been concluded and the Authority is in possession of ownership document.

ii) As per The Cotton (Amendment) Act 2006, there was no provision for transfer of Property, Plant and Equipment from the defunct Cotton Board of Kenya to Cotton Development Authority. At the formation of AFA, Cotton Development Authority did not have ownership documents for the Meru ginnery. The Property had been sold by the former Cotton Board of Kenya to offset a bank loan as per a taskforce report.

The matter has been referred to the Ministry of Agriculture & Livestock Development for further advice.

Committee Observations

The Committee observed that –on the issue of property with a court case in its Report for the financial year ending 30th June, 2015, observed and made recommendations therein. Consequently, the Committee upholds the observations and recommendations therein.

2.5 Idle Equipment

361. The Committee heard that, the Authority constructed a staff recreation center that included a gym and a cafeteria at the Sugar Directorate offices in Upper Kabete in the year 2013/2014 at a cost of Kshs 75,524,000. In the year under review, the Authority procured and installed gym equipment and kitchen equipment at a cost of Kshs 21,097,442 and Kshs 6,366,187 respectively for use in the center. The equipment have however not been commissioned and are lying idle. In addition, no gym instructor has been hired to facilitate training and safety of the staff who will be using the facility.

Management response

362. The management informed the Committee that, the gym and the kitchen facility had been conceptualized before the merger of August, 2014. The construction and equipping of the same was ongoing at the time of the merger. This was eventually completed and two facilities fully became operational to all the staff of the authority. The facilities are fully in use to date and there is a gym instructor.

Committee Observations

The Committee Observed that, although the gym and the cafeteria at the Sugar Directorate offices in Upper Kabete started in the year 2013/2014 at a cost of Kshs 75,524,000 were completed and the Authority procured and installed gym equipment and kitchen equipment at a cost of Kshs 21,097,442 and Kshs 6,366,187 respectively they had been left idle until the audit issue was raised.

Committee Recommendations

The Committee recommends that within three months after adoption of this report, the Accounting Officer should submit to the National Assembly and Auditor-General a comprehensive report on the total occupancy capacity, capacity in use, register of gym entrants on a monthly basis for the current financial year, income from the charges for gym or cafeteria services if any and the related costs for each unit. The Auditor-General to review and report in the subsequent audit cycle.

2.6 Presentation and Disclosure of the Property, Plant and Equipment

363. The Committee heard that–

i) The balance balance of Kshs.3,757,105,000 includes leasehold land reference Mombasa/Block 1/187, Mombasa Block 1/188, Mombasa Block 1/189 and Mombasa/Block 1/251 valued at Kshs.151,000,000. However, contrary to the requirements of the International Public Sector Accounting Standards (PSAS) No. 13, which requires lease payments to be recognized as an expense in the statement of financial performance on a straight-line basis over the lease term, the leasehold property has not been amortized.

ii) Further, the figure of Kshs.3,757,105,000 includes the value of temporary structures of Kshs.519,000 and an amount of Kshs. 151,060,000 representing the cost of motor vehicles

that had been disposed off by the defunct Horticultural Crops Development Authority in the year 2014.

iii) It has been observed that under the defunct Tea Board of Kenya, motor vehicles were being depreciated on a straight-line basis while other assets were being depreciated on a reducing balance method. No reason has been given for this treatment. In addition, it has been noted that other plant, equipment and machinery were being depreciated at higher rates than normal rates and at different rats depending on location. Buildings were being depreciated at 2.5% in Dagoretti and Mombasa, 3.3% in Kericho and 20% at Jamhuri Park. No explanation has been provided for this inconsistency.

Under the circumstances, it is not possible to confirm that the property, plant and equipment balance of Kshs.3,740,353,000 as at 30 June 2025 reflected in the financial statements of the Authority are fairly stated.

Management response

364. The management informed the Committee that–

i) The land parcels on leasehold were appropriately treated in the financial year 2014/15 and their values appropriately amortized.

ii) As correctly observed by the Auditors the value of the temporary structure at the defunct HCDA had been included in the Financial Statements FY 2013/2014. However, the asset had been fully depreciated in the FY 2015-16. During the revaluation carried out in the FY 2016-17, the temporary structure was not recognized as an asset.

The cost of the motor vehicles disposed by the Horticultural Development Authority in the year 2013/2014 was Ksh. 182,110.00 as per the attached schedule. The financial statement for the defunct HCDA for the FY 2013/2014 had omitted the value of the asset disposed. Upon the merger, the omission was corrected by restating the comparative Figures for 2013/2014 in the financial statement for the Authority for FY 2014/2015.

iii. All assets acquired by AFA from the previous Boards had been subjected to the depreciation policies prevailing before the 1/8/2014. However, a valuation of all AFA assets was undertaken in the 2016/2017 FY and since then a uniform policy on depreciation was adopted across the Authority. The new fixed asset values were adopted and addressed in the financial statement for financial year 2017/18.

Committee Observations

The Committee observed that –the Authority had misreported various balances in the Financial Statement by deviating from the presentation and disclosure requirements of various International Public Sector Accounting standards. This is contrary to Section 81(3) of the Public Financial Management Act 2012 which requires the accounting officer to prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.

Committee Recommendations

The Committee recommends that the then Accounting officer be reprimanded and the Officers then serving in the Finance department, for failure to adhere to the professional standards.

3.0 Investments in Subsidiaries

365. The Committee heard that, the statement of financial position reflects an amount of Kshs.389,000 under investments, in respect of investment, which as disclosed in Note 35 to the financial statements relates to investment in subsidiary. However, the investment in subsidiary of the Kshs.389,000 differs with the amount of Kshs.148,200 reflected in the share certificates resulting in unexplained difference of Kshs.240,560.

In the circumstances, the value of investments disclosed in the financial statements cannot be confirmed.

Management response

366. The management informed the Committee that, the investment of KShs. 389,000 relates to the total shares value on a number of share certificates at Kenya Coffee Auctions Limited issued over a number of years. The KShs. 148,200 related to Share Certificate No. 14 dated 29/09/1997 for 7,410 shares of KShs. 20 each. Two more share certificates are attached, Certificate No. 7 for 1,938 shares issued on 11/12/1969 and No. 10 for 532 shares issued on 20/08/1980. The three share certificates total to 9,880 shares valued at KShs. 197,600 as evidenced by letter Ref. CR13.C.3335 dated 15 April 2016 from the Registrar General. Moreover, a letter from the defunct CBK Ref. ADM/2/45/1C dated 3rd March 2006 to Inspector General State Corporations, confirms that the Board owned 65% of issued share capital of the company. According to the financial report of the company for the year ended 30th June 2002 the issued shares were 15,200 out of which the board owned 9,880 shares valued at KShs 197,600. Earlier Financial statements of the Defunct CBK still carry the investment at KShs. 389,000.

From this analysis, the Authority can only confirm 9,880 shares valued at KShs. 197,600. The Authority has commenced the process of winding up of the company which is not operational and this will determine the residual values.

Committee Observations and Recommendations

The Committee had deliberated on the issue of investment in subsidiaries in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

4.0 Intangible Assets

367. The Committee heard that, the statement of financial position reflects an amount of Kshs 63,452,000 under intangible assets, which includes software, trademarks and patents. As reported in the previous year, the intangible assets had been understated by Kshs.604,000.

Management response

368. The management informed the Committee that, the annual amortization of KShs. 6,015,000 for the 2013/2014 financial year was correctly computed being 12.5% of the closing balance of KShs. 48,122,000 as indicated in Note 15 of the financial statements. The resulting accumulated amortization is KShs. 24,106,000 giving a net book value of KShs. 24,015,000 as reported in the books for the year ended 30 June 2014. We therefore confirm that there was no understatement of the intangible assets by KShs. 604,000.

Committee Observations

The Committee observed that –while examining the audit report for 2014/2015, the management misstated the value of intangible assets by KShs. 604,000.

Committee Recommendations

The Committee reprimands the then Accounting Officer and the Officers then serving in the Finance department for the careless errors and failure to adhere to the professional standards.

5.0 Cash and Cash Equivalents

5.1Opening balances and Accuracy of Cash and Cash Equivalents

369. The Committee heard that, the statement of financial position as at 30th June 2016 reflects an amount of Kshs. 3,999,735,000 under cash and cash equivalents, which includes, as disclosed under Note 23 to the financial statements, cash on hand and in transit, short-term deposits and collateral deposits. As reported in the year 2014/2015, the financial statements and cash and cash equivalents balance for the year 2013/2014 differed with the supporting documents by Kshs.14,621,665, which had not been reconciled or explained. The same cash and cash equivalents reflected a negative petty cash balance of Kshs.249,000 that had not been explained at the year end. In addition, cash in hand and imprest of KShs. 2,003,000 and Kshs.49,000 as at 30th June 2015 respectively were not be supported. The cash and cash equivalents balance of Kshs. 3,999,735,000 as at 30th June 2016 similarly differs with the documents provided for audit verification figure of Kshs. 3,999,737,000 by unreconciled balance of Kshs 39,998,000.

370. Consequently, the accuracy and completeness of the cash and cash equivalents of Kshs. 3,999,735,000 as at 30th June 2016 cannot be confirmed.

Management response

371. The management informed the Committee that, the cash and cash equivalent differences between the financial statements and the support documents under the defunct Horticulture Crop

Development Authority FY 2013/14 were identified by management among other ledger differences leading to a formation of a special committee whose mandate included:-

i. Revisit the accounting issues raised in the external audit report
ii. Identify the weaknesses of internal controls and together with the ICT department institute measures to streamline and strengthen them
iii. Carry out reconciliations of long outstanding ledger balances, cash and bank, account payable, account receivable and assets
iv. Pass necessary journals
v. Transitioning from old Navision system to the current Microsoft Dynamics under AFA
vi. Capacity builds the finance team and other staff at the directorate and address any financial management challenge on use of the ERP that they may be experiencing.

372. The committee undertook the assignment, and necessary journals were made in the financial statement for 2020-2021 FY.

373. The differences in opening balances amounting to KShs. 14,621,655 relates to 3 bank accounts operated by the defunct Horticulture Development Authority, attached herewith find the analysis of the cash book entries. A reconciliation of the opening balances in the ledgers was done as highlighted in the attached report.

374. The amount of Ksh. 249,000 reflected as cash was a result of misposting of three imprest warrants in 2012/2013 FY of Ksh. 6,810.05, imprest warrants No. 3972 in financial year 2013/2014 of Ksh. 118,614.00 and imprest warrant No 4852 in the FY 2014-15 of Ksh. 123,575.95, that were not posted in the petty cash ledger rather were posted in the officer's imprest account. A reconciliation of the debtors control account and ledger account was done as indicated in the attached report.

375. The KShs 2,003,000.00 relates to balances of receipts from clients from the period years FY 2012/13, 2013/2014 and July 2014 were posted in the cash in hand ledger instead of posting to the bank ledger. Debtor balances between the old system and the new system were reconciled and necessary adjustments made including posting receipts and invoices as per the attached report.

376. In regard to KShs. 49,000.00 the amount related to branch office petty cash reimbursement vide PV No 02876 dated 27th July 2014. This relates to petty cash imprest for Kajiado Station. Expenses in the ERP system that has since been addressed and the account has been cleared.

377. Differences in Cash and Cash Equivalent Balance- The financial statement for the year 2015/2016 was restated and the bank balance for cash and cash equivalents of the restated account is Ksh. 3,975,544,000. This however differs with the amount verified by the auditor of Ksh. 3,959,737,000 owing to the restatement of the financial statement as explained here below:

Directorate	Amount reported	Restated amount	Difference
	Kshs 000'	Kshs 000'	Kshs 000'

HQ	11,399.86	11,399.86	-
TEA	1,555,739	1,555,371	367
COFFEE	623,709	616,711	6,998
SUGAR	1,573,499	1,557,586	15,913
HCD	142,500	140,932	1,568
FIBRE	73,744	74,355	(611)
NUTS	18,724	18,724	-
FOOD	420	464	(44)
CONSOLIDATED	**3,999,735**	**3,975,544**	**24,191**

The Differences are explained below: -

i **Tea Directorate- Kshs 368,000 -** The account of fixed deposit for Tea Directorate was understated by kshs.364, 000 on one deposit that was under lien, Further, the foreign exchange rate difference applied on the financial statements of 2014/15 were overstated and were adjusted by Kshs. 3,000 hence affecting the opening balances by a total of Kshs. 367,000. This has since been adjusted to reflect the correct position as per 2015/16 financial statements.

ii **Coffee Directorate Kshs. 6,998,00-** The difference of Kshs. 6,998,000 was due to exchange rate used at the close of 2014/15 financial year. The amount therefore adjusted affected the opening balance of 2015/16 financial statements.

iii **Sugar Directorate Ksh. 15,913,000 -** In the 2014/15 financial statement we reversed the amount of bank deposit held on behalf of BOCO traders amounting Kshs. 5,000,000 and amounts of Kshs. 10,913,000 call deposit that related to Chemelil sugar. The journal was passed to the ledger accounts and posted correctly.

iv **Horticulture Directorate Ksh. 1,568,000-** The difference related station imprests return that were eventually expensed and the necessary journals forwarded to audit officers.

v **Fiber Directorate Ksh. 611,293** - The difference of Kshs. 611,293 was adjusted and a JV attached herewith.

vi **Food Crops Directorate Ksh.44,000-** The difference arose due to adjustment of the closing bank statement that was different from the provisional statement used to reconcile the account.

Committee Observations

The Committee observed that–

i) The cash and cash equivalent differences between the financial statements and the support documents under the defunct Horticulture Crop Development Authority FY 2013/14 were

identified by management among other ledger differences leading to a formation of a special committee to look into and resolve the matters.

ii) The way the differences were addressed were unprofessional since passing journals to correct financial statements that have been audited is irregular since corrections can only be done through restatement of balances or prior year adjustment. However, no such treatment is evident.

Committee Recommendations

The Committee reprimands the Accounting officer for misleading the committee with its response.

5.2 Unsupported cash balance

378. The Committee heard that, as similarly reported in the previous year, included in the cash and cash equivalents figure of Kshs. 3,999,735,000 as at 30 June 2016, are bank accounts and balances whose supporting documents have not been provided for audit review as analyzed below:

Directorate	Account Name	Account Numbers	Account Balance Kshs.	Supporting documents not provided
Sugar	NBK Nkurumah Rd Mombasa	01001009339300	412,437	Bank Confirmation Certificate
	3 Month F/D with Cooperative bank	Not availed	47,787,523	Bank Confirmation Certificate
	Rachier & Amollo & Nzamba kitonga Advocates	Not applicable	8,581,797	Documents to support funds held
Sugar Directorate - Levy	NIC Bank	1001316447	243,000	Bank Confirmation Certificate
	ECO Bank Kenya LTD (BOCO Deposit)	Not availed	5,000,000	Bank Confirmation Certificate
	Chemelil – On – Call Ac	Not Availed	10,913,125	No supporting document

	Euro Bank	Not Availed	52,237,000	Bank Confirmation Certificate
Tea	NBK Mombasa	01003007525500	100,220	Bank Confirmation Certificate
	CFC Stanbic USD account	0100002304699	29,609,732	Bank Confirmation Certificate
	CFC Stanbic KShs. account	0100002304702	78,038,252	Bank Confirmation Certificate
HCD	BBK - Main Account	094-5019115	80,887,660	Cashbook extract
Fibre	NBK - SISAL	01003000903600	15,628,310	Cashbook extract
TOTAL - Kshs		**329,439,057**		

379. No action has been taken to correct the position. Consequently, the opening balances of cash and cash equivalents as at 30 June 2016 cannot be ascertained.

Management response

380. The management was informed as follows;

Directorate	**Account name**	**Account No.**	**Account Balance**	**Response**
Sugar Directorate	NBK Nkurumah Rd Mombasa	**01001009339300**	412,437	Bank confirmation certificate of balance was not availed during the audit due to unavailability of authorized signatories who had since left the organization. The Authority later obtained the bank confirmation certificate (attached). The Account was subsequently closed on 27th July 2022.

				Appendices **5.2(a)** Bank confirmation certificate as of 30th June 2015. Pg. No. **5.2(b)** Confirmation of closure of the Account submitted on 30th June 2022. Pg. No.
	3 month F/D with Cooperative Bank	**01132012923350**	47,787,523	The certificate of balance copy for the principal amount has been attached. **Ksh.47,178,418.** The difference of Ksh.609,105 is attributed to interest accrued as at 30th June 2014. **Appendices** **5.2(c)** Bank confirmation certificate. **5.2(d)** Journal on accrued interest
	Rachier & Omollo &Nzamba Kitonga advocates	**1164012495**	8,581,797	Ndungu Gathinji sued the then Kenya Sugar Board for the damage after he was removed from office as a receiver manager of Muhoroni Sugar Company. The court awarded him ksh 14,978,572 as damage; however the Board appealed and was instructed by the court to deposit Ksh.8,581,797 being, ksh 7,981,797 and ksh 600,000 for damages and auction fee respectively, in a joint account. Certificate of balance could not be given as the Authority was not conjoined in the opening of the account. **Appendices** **5.2(e)**Court Order to deposit the money following the appeal Pg. No. **5.2(f)** Confirmation of transfer of Ksh.8,581,797. Pg. No.

				5.2(g) Letter to the Deputy Registrar of the High Court from Rachier & Omollo dated 1st August 2024 Pg. No. **5.2 (g ii)** response from registrar of the high court confirming release of the funds Pg. No. **5.2 (g iii)** Journal adjusting the ledgers following (d) above as at 30th June 2024 Pg No
Sugar development Levy	NIC Bank	The correct account no. under NIC Bank and later NCBA is no.**100141922** and not **1001316447.**	243,000	The account had been dormant during the merger hence difficulties in accessing the certificate of balance for it as the Authority was in the process of changing signatories. The certificate of balance as at 31st July 2014 is hereby attached. **Appendices** **5.2(h)** Bank confirmation certificate. **5.2(i)** Approval for closure from the National Treasury and evidence of closure from the bank. **5.2(j)** Letter from PS introducing new Signatories.
	Ecobank (BOCO Deposit)	2210200010	5,000,000	The money was deposited by Nile Hauliers, a sugarcane transport company under Busia Outgrowers Company (BOCO) with the then Kenya Sugar Board as a precondition for a lease contract. **Appendices** **5.2(K)** Confirmation of balance dated 30th June 2013.

				5.2(l) Journal indicating it's not in our books in 2015/16.
	Chemelil On Call A/C	LC NO. ILC0099150410	10,913,125	This was a loan to act as cash cover for letter of credit for Chemilil Sugar towards purchase of 3MW Turbo Alternator set from Kessels Engineering Works PVT Ltd. This was part of factory maintenance loan advanced to Chemilil as per the attached documents. **Appendices** **5.2(m)** Copy Letter of Credit in favour Kessels Engineering Works PVT Ltd Pg. No. **5.2(n)** Bank statement extract indicating the on-call amount transactions. Pg. No. **5.2(o)** Extract of debenture agreement indicating the charge of the 3MW Turbo Alternator in favour of KSB as part of a loan of Ksh.120M. Pg. No. **5.2 (p)** ii.copy bank statement showing release of funds to Kessels Engineering Works PVT Ltd. Pg. No.
	Eurobank	Claim No.72379 Currently under Kenya Deposit Insurance Corporation (KDIC)	52,237,000	The call deposit of Ksh.50M was placed on 15th March 2002. The bank is under liquidation and the assets are being managed by the Kenya Deposit Insurance Corporation (KDIC) who have been paying dividends as and when the funds are available. **5.2(q)** Call deposit certificate Pg. No. **5.2(r)** Update letter from the Euro bank liquidation agent dated 11th October 2019. Pg. No. **5.2(s)** Bank extract statement indicating receipt of Ksh. 1,048,533

				from KDIC being part of the dividends payout. Pg. No.
Tea	NBK Mombasa	01003007525500	100,220	**5.2(t)** Copies of bank certificate and reconciliation attached. Pg. No.
	CFC Stanbic USD account	0100002304699	29,609,732	**5.2(u)** Copies of bank certificate and reconciliation attached. USD 300,450.61 converted @ KShs.98.55. Pg. No.
	CFC Stanbic KShs account	0100002304702	78.038,252	**5.2(v)** Copies of bank certificate and reconciliation attached. The amount of KShs.78,038,252 was the cashbook balance as at 30th June 2015 reconciled with the bank balance of KShs.102,847,607.90 (Certificate attached) Pg. No.
HCD	BBK – Main Account	094-501115	80,887,660	**5.2(w)** Extract cash book attached Pg. No.
Fibre	NBK- Sisal	01003000903600	15,628,310	During the year under review, former Sisal Board maintained a manual cash book for this bank account. **5.2(x)** Copy of the cash book attached. Pg. No. Pg. No.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Unsupported cash balance in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

5.3 Bank Reconciliation

381. The Committee heard that, as similarly reported in the previous year, the Horticultural Crops Directorate's, Barclays Bank of Kenya main account No.094-5019115 bank reconciliation statement included salaries posted twice amounting to Kshs.7, 901,812. Further, review of the bank reconciliation statement revealed that the net salaries figure posted twice of to Kshs.7, 901,812 812 includes payments of Kshs.4,374,496 that are not of the personnel emoluments nature. In addition, a payment voucher No. 2137 amounting to Kshs. 11,575,468 paid to CIC Insurance has not been posted to the cash book since December 2013. No action has bee taken to correct the position as at 30 June 2016.

Management response

382. The management informed the Committee that, the breakdown of the KShs. 7,901,812 comprise of Net Salaries of KShs 3,527,315.90 posted on 6th November 2014 and KShs.4,374,496, being the following:

i) Mboga na Matunda Sacco of KShs 1,405,576

ii) Various staff in registry of KShs 106,750 and KShs 23,847

iii) The other payments paid are not of payroll liabilities amounting to KShs 2,838,322. They comprise of; Inverter power system Ksh. 308,698, National Oil ksh.784,440, Plan and Place Ksh.732,756.50, Wamboi Designs Ksh.1,012,428.20. This was addressed within the mandate of the streamlining Committee in 2020/2021.

383. The payment of KShs 11,575,468 is 50% of the CIC insurance invoice no. 02093 on staff medical insurance scheme of KShs 23,150,935. First 50% installment was paid on 6th November 2013 and the balance 50% was paid on 10th December 2013 and the two payments posted in the ledger under one payment voucher number PV 2137.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Bank Reconciliation in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

5.4 Unposted payment vouchers

384. The Committee heard that, as reported also in the previous year, the cash at hand and in transit figure of KShs. 1,929,000 as described under Note 23 to the financial statements includes balances of payment vouchers relating to the year ended 30th June 2015 that had not been posted as follows:

Region	Amount - KShs.
Eastern Regional office	44,796.00
Eastern zone office	9,120.00
North Eastern Zone office	64,920.00
Coast Zone Office	27,227.00
Western Zone Office	46,810.00
Nyanza Zone Office	39,940.00

Total - KShs.	**232,813.00**

385. The opening balance of cash as at 30th June 2018 has therefore been understated by the amount of Kshs 232,813.

Management response

386. The management informed the Committee that, the authority posted the petty cash vouchers amounting to KShs. 232,813 and charged the expenses to the relevant expenditure lines and the cash and cash equivalents adjusted accordingly on 30th June 2015.

Committee Observations

The Committee observed that –the matter had been deliberated on when examining the Audit report for financial year 2014/2015 and observed that the management did not address the audit issue raised and how corrections were made to accurately report the transactions as and when they occurred but rather disputed the auditor's observations.

Committee Recommendations

The Committee reprimands the then Accounting officer and the staff working in the finance department for misreporting. Further, the Accounting Officer should always ensure that the entity keeps financial and accounting records that comply with the PFM Act 2015.

5.5 Foreign currency translation

387. The Committee heard that, the cash at bank balance of KShs.530,970,000 as disclosed under Note 23 to the financial statements includes balances brought forward from the previous year of KShs.326,046, KShs.87,922,049 and KShs.4,848,184 in respect of Tea Directorate, Coffee Directorate and Fibre Directorate foreign exchange dollar accounts balances. However, a review of the balances revealed that the Authority did not use the CBK mean rate of 98.6394 as at 30 June 2015, in the translation of the USD balances to Kenya Shillings resulting to an overstatement by KShs.6,768,132 as analyzed below: -

Directorate	Bank name and Account Number	USD amount	Exchange rate used	KShs Amount as per Cashbook	CBK Rate amount in KShs	Difference in KShs
Tea	NBK 02020061012200	3,338	97.69	326,046	329,215	(3,169)

Coffee	**CFC Stanbic** 00100000672248	820,401	107.17	87,922,049	80,923,860	6,998,188
Fibre	**KCB** 00001134347472	51,451	94.23	4,848,184	5,075,071	(226,887)
TOTAL					**6,768,132**	

388. This matter had not been resolved as at 30 June 2016.

Management response

389. The management informed the Committee that–

i) **Tea Directorate-** The rate applied was a commercial rate of Ksh.97.69 which brought a difference of Ksh.3,169. This was appropriately adjusted by applying the recommended CBK mean rate of Ksh.98.6394.

ii) **Coffee Directorate-** The bank balance was USD 820,401. However, the balance as per cashbook USD A/C was 891,384.86 which was converted at the mean rate of 98.6394 giving a total of Ksh.87,925,667.76. This is the figure captured in the Coffee Directorate ledger.

Committee Observations

The Committee observed that –the matter had been deliberated on when examining the Audit report for financial year 2014/2015 and observed that the management did not address the audit issue raised and how corrections were made to accurately report the transactions as and when they occurred but rather disputed the auditor's observations.

Committee Recommendations

390. The Committee reprimands the then Accounting officer and the staff working in the finance department for misreporting. Further, the Accounting Officer should always ensure that the entity keeps financial and accounting records that comply with the PFM Act 2015.

5.6 Short term Deposits

391. The Committee heard that, the short-term deposits of Kshs. 3,296,009,000 as at 30 June 2016 as disclosed in Note 23, includes an amount of Kshs. 52,237,000 in respect of deposits that had been placed in Euro Bank, which was placed under receivership in the 1990s. Although full provision has been made in these financial statements for the deposits in Euro Bank, the Authority is yet to recover any money from the receiver manager of the bank.

392. Further, the short-term deposits include an amount of Kshs. 8,581,797 under the name Rachier & Amollo & Nzamba Kitonga Advocates deposited in an escrow account by orders of the court. No supporting documentation has been provided to show the nature or the existence of the amount.

Management response

393. The management informed the Committee that the call deposit of Ksh.50M was placed on 15th March 2002. The bank is under liquidation and the assets are being managed by the Kenya Deposit Insurance Corporation (KDIC) who have been paying dividends as and when the funds are available. Ndungu Gathinji sued the then Kenya Sugar Board for the damage after he was removed from office as a receiver manager of Muhoroni Sugar Company. The court awarded him ksh 14,978,572 as damage; however the Board appealed and was instructed by the court to deposit Ksh.8,581,797 being, ksh 7,981,797 and ksh 600,000 for damages and auction fee respectively, in a joint account.

Committee Observations

The Committee observed that–

i) The Authority had an investment in call deposit of Kshs. 52,237,000 that had been placed in Euro Bank(under receivership). Although the management indicated that the assets are being managed by the Kenya Deposit Insurance Corporation (KDIC) who have been paying dividends as and when the funds are available, there was no evidence to prove the fact.

ii) On the amount of Kshs. 8,581,797 under the name Rachier & Amollo & Nzamba Kitonga Advocates deposited in an escrow account by orders of the court, the account did have a conjoint authority for both parties.

iii) The then Accounting Officer(s) were in breach of Article 201 (d) and (e) which states that;(d) public money shall be used in a prudent and responsible way; and (e) financial management shall be responsible, and fiscal reporting shall be clear.

Committee Recommendations

The Committee recommends that–

i) The accounting officer should ensure that investment of public funds are done in accordance with Article 201 (d) and (e) which states that;(d) public money shall be used in a prudent and responsible way; and (e) financial management shall be responsible, and fiscal reporting shall be clear.

ii) Within three months upon adoption of this report, EACC should investigate the then board and the accounting officer who sanctioned the investment in the short-term deposits and report to the National Assembly on its findings. If any Officer is found culpable for the loss in lease/rental fee, he/she should be held personally liable for the loss, DPP should initiate a legal process to recover the amount lost with interest from the concerned officer at the prevailing CBK Rates.

5.7 Overdrawn Bank accounts

394. The Committee heard that, the examination of documents presented for audit revealed that co-operative Bank A/c No.011210000534400 relating to Coffee Directorate and NBK A/c N0. 01001032736 held at Kisumu were overdrawn by Kshs. 3,142,327 and Kshs. 12,627 respectively contrary to the requirements of the law. The Authority is therefore in breach of Section 28(4) of the Public Finance Management Act, 2012. In view of the above, it has not been possible to confirm the accuracy of cash and cash equivalents balance of Kshs. 3,999,735,000 as at 30 June 2016.

Management response

395. The management informed the Committee that, the overdrawn Account number 01120000543400 was caused by unposted receipts thus causing a difference between the Cashbook and bank account which had an actual amount of Kshs. 9,157,844.25. The postings were eventually done in the cashbook to correct the overdrawn bank account. The same applies to the Cashbook overdrawn position of Ksh 12,627 and was similarly addressed.

396. Therefore, the matter was resolved in 2016/2017.

Committee Observations

The Committee observed that, the management presented incomplete, misleading financial records for audit thus the Authority had misreported the balance in the Financial Statement deviating from the presentation and disclosure requirements of various International Public Sector Accounting standards. This is contrary to Section 81(3) of the Public Financial Management Act 2012 which requires the accounting officer to prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.

Committee Recommendations

The committee reprimands the then Accounting officer and the Officers then serving in the Finance department for Failure to adhere to the professional standards.

6.0 Receivables from Exchange transactions

6.1 Prior year Matters

397. The Committee heard that–

i) The statement of financial position and as disclosed under Note 24 to the financial statements reflects an amount of Kshs. 3,367,586,000 (2015 – Kshs 2,554,161,000) under receivables from exchange transactions as at 30 June 2016. As reported in the previous year, under the defunct Sugar Development Fund and Horticultural Crops Development Authority, balances of receivables from exchange transactions amounted to KShs. 148,166,000 and KShs. 92,506,000 respectively. Although a provision had been made for

the long outstanding amounts of KShs. 148,166,000 it remained uncollected as at 30 June, 2016.

ii) In addition, the amount of KShs. 92,506,000 outstanding in the books of the defunct Horticultural Crops Development Authority included trade debtors totalling KShs. 63,540,000 which was not reconciled to the supporting documents figure of Kshs. 63,156,493. The trade debtors further included credit balances of KShs. 6,097,068. Further, the trade receivables for the defunct Coffee Board of Kenya amounting to KShs. 2,569,275,479 had been written off in 2010/2011 without the necessary approvals from the Parent Ministry and the Treasury.

No action has been taken to date to resolve these prior year issues.

Management response

398. The management informed the Committee that–

i) The amount of KShs 148,166,000 relates to levy arrears owed by state owned Sugar mills to the defunct Sugar Board that has been long outstanding. The mills have been facing severe financial constraints and have therefore not been able to settle the amounts. The National Assembly vide Certificate (No. 039/13th /2023) of 14th September 2023 approved the action plan to revive and commercialize state owned sugar companies.

In the certificate, approval was given to write off liabilities amounting to KShs 65,778,448,646 owed to Government of Kenya, defunct Kenya Sugar Board and Commodities Fund. It is envisaged that upon verification by the Auditor General as indicated in the certificate, the full amount of KShs 148,166,000 will be written off.

ii) The difference between the trade debtors of Ksh 63,540,000, the supporting schedules of KShs. 63,156,493 and the credit balances of Ksh.6,097,068 were caused by errors in the ledgers of the defunct HCDA.

The Authority noted the errors in the accounts receivables of the Directorate and made adjustments in the account receivables ledger.

Defunct Coffee Board of Kenya- The treatment of the trade receivables in 2010/2011 was correction of accounting errors and not a write off. Coffee Board of Kenya underwent restructuring in the years 2002 and 2009 whereby most of the employees were either retrenched or retired. Due to restructuring, the Board lacked the capacity to prepare Annual financial statements for the seven (7) years period starting from FY 2003/04 thus creating a backlog. The Board of Directors engaged an accounting firm to undertake preparations of Coffee Board of Kenya financial statements for the seven (7) years starting the FY 2003/04 to 2009/10. This was completed and certificates issued by the Kenya National Audit Office for the years that were in arrears.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Receivables from Exchange Transactions-Prior year Matters in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

6.2 Year 2015/16 Issues

399. The Committee heard that–

i) Included in the trade and other receivables from exchange transactions balance of Kshs.3,367,586,000 as at 30 June 2016 and as disclosed under Note 24 to the financial statements is an amount of Kshs.3,342,880,000 relating to trade debtors (levy arrears) as at 30 June 2016, which has been outstanding for a long time.

In addition, an increase of the outstanding arrears by Kshs.1,084,144,392 from the originally audited figure of Kshs.2,258,735,608 has not been supported with any documentary evidence. Although a specific provision of Kshs.126,417,000 has been made in these financial statements in respect of the levies, no action is being taken to recover the levy arrears. In addition, the management has not explained why the liability was not transferred to the Commodities Fund on operationalization of the Crops Act of 2013.

ii) The balance further includes rent debtors balance of Kshs.8,746,000. However, as reported in the previous year, the validity of a balance of Kshs.6,000,000 in respect of Horticultural Crop Directorate cannot still be ascertained since no documents have been provided so far for audit review.

iii) As also reported in the previous year, the trade debtors balance for 2014/2015 included an amount of Kshs.69,352,000 in respect of Horticultural Crop Directorate, while the ledger showed a balance of Kshs.63,540,000 resulting in a difference of Kshs.5,812,000. Similarly in 2014/2015, the trade debtors balance also included an amount of Kshs.13,340,000 in respect of Tea Directorate while the ledger reflected Kshs.15,599,103, resulting in a difference of Kshs.2,259,103. These differences have not been reconciled or explained to date.

iv) The trade and other receivables from exchange transactions include prepayments balance of Kshs.15,959,000. However, a balance of Kshs.5,569,000 in respect of Horticultural Crop Directorate relating to the previous year lacks verifiable documentary evidence.

v) The financial statements figure of Kshs.3,367,586,000 for receivables from exchange transactions is not supported with ageing analysis of debtors to show in the periods for which they have been outstanding so as to ascertain the recoverability of the balances.

Management response

400. The management informed the Committee that–

i) The amount that relates to levy arrears and Loans owed by state owned Sugar mills to the defunct Sugar Board has been long outstanding. The mills have been facing severe financial

constraints and have therefore not been able to settle the same. The National Assembly vide Certificate (No. 039/13th /2023) of 14th September 2023 approved the action plan to revive and commercialize state owned sugar companies.

In the certificate, approval was given to write off liabilities amounting to Kshs 65,778,448,646 owed to Government of Kenya, defunct Kenya Sugar Boards and Commodities Fund. It is envisaged that upon verification by the Auditor General as indicated in the certificate, the full amount of the levy arrears will be written off. The increase in the trade debtors amount between the FY 2014/15 and 2015/16 relates to loans given by the Sugar Directorate to sugar Mills.

The loans were given through the SDF have since been transferred to the Commodities Fund.

ii) Analysis of KShs 6,000,000 was provided for review. These are payroll related items. This was addressed within the mandate of the streamlining Committee in 2020/2021.

iii) The ledger balance for HCD of KShs. 63,540,000 relates to the FY 2013/14. The ledger balance for the FY 2014/15 was KShs. 69,352,000.

The correct ledger balance for Tea Directorate of KShs. 15,599,103.30 was provided for review.

These are long outstanding prepayments as per the attached summary and support for the same. They were:

i) Advance to farmers 2013/14 KShs. 35,000

ii) Life Insurance 2013/14 KShs. 2,000

iii) Deposits for utilities KShs. 2,250,623

iv) General prepayments KShs. 3,280,549

Ageing analysis schedule for debtors as at 30th June 2016 was provided for review.

Committee Observations

The Committee observed that, the balance of Kshs.3,367,586,000 reported in the financial statements comprised of various balances that were not supported with the relevant documents or were at variance with the source documents implying that their accuracy and existence could not be confirmed.

Committee Recommendations

The Committee recommends that within three months upon of this report and as recommended in its deliberation of 2014/2015 audit report that a special audit be undertaken with a view to establishing the status of the Public Assets and liabilities during the initial merger of the Directorates into the Authority and after separation of the respective directorates through enabling Acts to ascertain if there was any loss of public Assets should cover all the Assets and Liabilities

including receivables. The report should be submitted to the committee through the clerk of the National Assembly.

7.0 Receivables from Non- Exchange transactions

7.1Prior year Issues

401. The Committee heard that, the statement of financial position as at 30 June 2016 reflects an amount of Kshs.99,125,000 under receivables from non-exchange transactions. As reported in the previous year, the financial statements as at 31 July 2014 of the defunct Coffee Board of Kenya, Sugar Development Fund and Kenya Sugar Board reflected amounts of Kshs.17,194,000, Kshs.1,837,694,000, and Kshs.35,130,000 respectively relating to receivables from non-exchange transactions.

402. It was, noted, however that the amounts were outstanding for a long time; the amount could not be reconciled to supporting documents and provision for bad debts made on these balances was inadequate. These matters have not been resolved to date.

Management response

403. The management informed the Committee that the balance of Coffee Directorate of KShs. 17,194,000 related to Ad valorem levies of KShs. 15,693,000 that has since been recovered over the years except for Meru County Coffee Marketing with a balance of KShs. 1,236,245.85. This will be addressed through the Board of Directors for write off.

404. Staff imprests reduced from KShs. 3,685,000 in 2012/13 to KShs. 1,502,000 in 2014/15 attributable to normal operations which have since been surrendered.

405. The Sugar Directorate- the amount of KShs 1,837,694,000 relates to levy arrears owed by state owned Sugar mills to the defunct Sugar Board that has been long outstanding. The mills have been facing severe financial constraints and have therefore not been able to settle the amounts. The National Assembly vide Certificate (No. 039/13th /2023) of 14th September 2023 approved the action plan to revive and commercialize state owned sugar companies.

406. In the certificate, approval was given to write off liabilities amounting to KShs 65,778,448,646 owed to Government of Kenya, defunct Kenya Sugar Board and Commodities Fund. It is envisaged that upon verification by the Auditor General as indicated in the certificate, the full amount will be written off.

407. A comparison of the receivables from non-exchange transactions for the FY 2012/13 and 2013/14 increased from a net of KShs. 4,503,000 to KShs. 35,130,000. The increase was attributed to:

a) Debt from SDF rose from zero to KShs. 16,397,000. This was an accrual of the administrative component of the sugar levy payable to the defunct Sugar Board which was subsequently received.

b) Imprests from KShs. 281,000 to KShs. 2,048,000 attributed to normal operations.

c) Staff advances reduced from KShs. 3,564,000 to KShs. 2,858,000.

d) Debts owed by former staff reduced from KShs. 2,628,000 to KShs. 2,599,000.

e) Other debtors increased from KShs. 1,173,000 to KShs. 14,040,000.

f) The provision for doubtful debts as rightly pointed out by the Auditor remained at KShs. 3,143,000 between the two years.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Receivables from Exchange Transactions-Prior year Matters in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

7.2 Unsupported balances

408. The Committee heard that–

i) The receivables from non-exchange transactions balance of Kshs.99,125,000 further includes staff debtors amounting to Kshs.21,285,000 as disclosed under Note 25 to the financial statements. The latter includes unsurrendered staff imprests from the defunct Coffee Board of Kenya amounting to Kshs.2,270,769 which have been outstanding since 2013 contrary to the provisions of Section 71 (4) of the Public Finance Management Act 2012 on cash advanced as imprest.

ii) As reported in 2014/2015, staff debtors balance for that year in respect of Tea Directorate included a balance of Kshs.J,422,000 which differed with the figure of Kshs.3,507,725 shown in supporting documents resulting to unexplained and unreconciled balance of Kshs.85,725. Further, the receivables from non- exchange transactions balance for 2014/15 included an amount of Kshs.22,215,000 disclosed as staff advances out of which an amount of Kshs.1,271,000 relating to the Horticultural Crop Directorate lacked verifiable supporting documents. These matters have similarly remained unresolved.

iii) Further, the receivables from non-exchange transactions includes other receivables balance of Kshs.40,320,000 relating to medical funds owed to the Coffee Directorate by the Authority's Headquarters. Consequently, the completeness and accuracy of receivables from non-exchange transactions balance as at 30 June 2016 cannot be confirmed.

Management response

409. The management informed the Committee that–

i) The list of Coffee Board staff imprests outstanding as at 30 th June and action taken was provided for review.

ii) The correct balance of KShs. 3,421,725.85 comprised of KShs 1,219,947 related to Tea Directorate staff debtors and KShs. 2,201,778 relating to AFA HQ staff debtors. The list of HCD staff advances outstanding as at 30th June 2014 and action taken on was provided for review.

iii) This is related to inter-directorate indebtedness within AFA, which was eventually offset during consolidation and reporting.

Committee Observations and Recommendations

The Committee had deliberated on the issue of unsupported balances in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

8.0 Trade and other payables from exchange transactions

410. The Committee heard that–

i) The statement of financial position reflects a balance of Kshs.1,382,105,000 as at 30 June 2016 under trade and other payables from exchange transactions. As disclosed under Note 27 to the financial statements, this balance comprises of trade payables, project fund/clearance, third party payables and other payables. Further, as reported in the previous year on defunct entities that were merged to form Agriculture, Fisheries and Food Authority, there were long outstanding balances in the books of the defunct Sugar Development Fund amounting to Kshs.5,000,000 and Kshs.3,062,000 in respect of Boco Tractor lease deposit and Fintech Kenya that had been outstanding for considerably a long period.

In addition, an amount of Kshs.2,636,872,172 relating to the defunct Coffee Board of Kenya had been written off as an old balance on the recommendation of a contracted consultant. However, approval for the write-off from both the Parent Ministry and the Treasury were not provided for audit review. Therefore, the propriety of the write-offs effected in the 2010/2011 financial year can still not be confirmed.

ii) In addition, the trade and other payables from exchange transactions amounting to Kshs.1,382,105,000 includes trade and other payables balance of Kshs.106,740,000 brought forward from the books of the defunct Horticultural Crops Development Authority, which differed with the supporting schedules balance of Kshs.96,156,448 resulting in un-reconciled variance of Kshs.10,583,552. There is also a balance of Kshs. 1,500,038 which has remained outstanding for more than five years. The trade and accruals balance includes an amount of Kshs. 5,194,331 relating to debit balances which were netted off contrary to the International Public Sector Accounting Standards (IPSAS) No.1, which states that assets and liabilities, and revenue and expenses may not be offset unless off setting is permitted or required by another IPSAS. The creditors balance also excluded an amount of Kshs.400,000 being audit fee owing to the Office of the Auditor-General.

Consequently, the accuracy and completeness of the trade and other payables from exchange transactions balance of Kshs.1,382,105,000 as at 30 June 2016 cannot be confirmed.

Management response

411. The management informed the Committee that–

i) The money was deposited by Nile Hauliers, a sugarcane transport company under Busia Outgrowers Company (BOCO) with the then Kenya Sugar Board as a precondition for a lease contract. The matter has been a subject of a court case between Busia Outgrowers Company Vs Kenya Sugar Board and Nile Hauliers.

ii) The matter was determined, and a judgement given on the 28th March 2019 which directed that the amount of KShs. 5,000,000 be released to the plaintiff (BOCO). However, upon appeal the Judgement was set aside and the amount awarded to Nile haulers Ltd on 27th May 2019. The amount has been accordingly adjusted in AFA books of accounts as per the attached journal. The amount of KShs 3,062,000 payable to Fintech Kenya was settled on 14th October 2014 as per attached payment voucher no. 1133.

iii) The treatment of KShs. 2,636,872,172 in 2010/2011 was correction of accounting errors and not a write off. Coffee Board of Kenya underwent restructuring in the years 2002 and 2009 whereby most of the employees were either retrenched or retired. Due to restructuring, the Board lacked the capacity to prepare Annual financial statements for a period of seven (7) years starting the FY 2003/04 creating a backlog.

The Board of Directors engaged an accounting firm to undertake preparations of Coffee Board of Kenya financial statements for the seven (7) years starting the FY 2003/04 to 2009/10. This was completed and certificates issued by the Kenya National Audit Office for the years that were in arrears. Due to the amounts involved management forwarded a letter to PS MOA for concurrence.

iv) The Audited 2013/14 financial statements of the defunct HDCA note 17 indicates that the Trade and other payables amounted to KShs 106,740,000 comprising of Trade payables of KShs 96,156,000, Sundry creditors of KShs 9,859,000 and Horticultural Associations of KShs 724,000.

The trade creditors of Kshs 1,500,038 relates to bookkeeping and accounting issues in the defunct HCDA which was addressed by the streamlining committee as earlier indicated in note 5.1 above.

Similarly, the committee addressed the issue of debit balances in trade and accruals amounting to KShs 5,194,331.

The amount of KShs 400,000 audit fee was not provided for in the financial statements of the defunct HCDA. However, the amount was not among the fees invoiced by the OAG and the Authority has now settled to all outstanding audit fees.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Trade and other payables from exchange transactions in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

9.0 Long term Receivables from Non-exchange transactions

412. The Committee heard that, the statement of financial position reflects an amount of Kshs.131,375,000 as at 30 June 2016 under long term receivables from non-exchange transactions. This amount relates to a loan advanced to the Kenya Planters Cooperative Union (KPCU) by the Government of Kenya through the defunct Coffee Board of Kenya for onward lending to farmers. However, KPCU is under receivership and no provision has been made in these financial statements to recognize losses that may arise if the KPCU is finally liquidated.

Management response

413. The management informed the Committee that, the amount relates to a loan advanced to the Kenya Planters Cooperative Union by the Government of Kenya through the defunct Coffee Board of Kenya and therefore could not make a provision in its books. However, GOK vide The National Treasury and Planning letter DGIPE/LOANS/78 dated 15/01/2019 wrote off the principal loan plus interest. The Authority subsequently adjusted its records on the matters relating to the loan in 2017/18 Financial Reports.

Committee Observations and Recommendations

The Committee had deliberated on the issue of long-term Receivables from Non-exchange transactions in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

10.0 Borrowings

414. The Committee heard that, the statement of financial position as at 30 June 2016 reflects an amount of Kshs.722,037,000 under non-current liabilities and an amount of Kshs.68,933,000 under current portion of borrowings. The total loan balance relates to two amounts advanced to the defunct Coffee Board of Kenya, Kshs.560,000,000 GOK loan and an amount of Kshs.225,000,000 that had been advanced to the defunct Coffee Board of Kenya for onward lending to farmers through KPCU. The GOK loan continues to accrue penalties due to failure to pay the loan installments. The amount of loan outstanding in the account of KPCU amounting to Kshs.131,375,000 also remains outstanding in the books as KPCU has been unable to meet its obligations. No documents and records have been provided on these loans and consequently, the movement of the loan balances cannot be confirmed.

Management response

415. The management informed the Committee that, the National Treasury and Planning letter ref. DGIPE/LOANS/78 dated 15/01/2019 communicated the write off of the principal loan plus interest of KShs 873,816,197 for the GOK loan to Coffee Board of Kenya and to KPCU. The Authority subsequently adjusted its records on the matters relating to the loan in 2017/18 Financial Reports.

Committee Observations and Recommendations

The Committee had deliberated on the issue of borrowings in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

11.0 Unsupported balances

416.The Committee heard that–

i) As was also reported in the previous year, the audit of the defunct Horticultural Crops Development Authority for the year ended 31 July 2014 revealed certain balances in the financial statements that were at variance with balances reflected in supporting documents or were not supported at all. No supporting documentation or explanation was provided for payment of security of Kshs.3,779,946, provision of Kshs.11,098,000, export licenses of Kshs.2,946,000, employees costs variance of Kshs.459,622, and GOK recurrent grant variance of Kshs.20,515,000. Further, the un-surrendered imprests, allowance to farmers, life insurance, tax arrears, horticultural research fund prepayments, interest on fixed deposit amounts and depreciation charges, all amounting to Kshs.114,667,000 were not supported with documentary evidence or any other workings.

ii) In addition, lease payments by the defunct Kenya Coconut Development Authority amounting to Kshs. 4,206,102 for the year ended 31 July 2014 could not be ascertained, as there were no lease agreements.

These matters were not resolved in the year under review. Under the circumstances, the accuracy and completeness of the opening balances of the accumulated surplus for the Authority cannot be confirmed.

Management response

417.The management informed the Committee that–

i) The security payment of KShs 3,779,946 is herewith supported with a schedule of payments and payment vouchers. The provision of KShs 11,098,000 was a historical provision brought forward in the books of the defunct HCDA which was also addressed by the team commissioned to address bookkeeping and accounting issues. Export licenses of KShs 2,946,000 – Attached ledger entries in support of the income. GOK recurrent grant of KShs 20,515,000 – Relates to receipts from GOK on 11th of July 2014. Schedule of long outstanding payables amounting to KShs 114,667,000 was attached.

ii) The Defunct Kenya Coconut Development Authority (KCDA) was a tenant of National Social Security Fund (NSSF) in Mombasa. A lease agreement was drafted and signed by KCDA and forwarded to NSSF but was not executed prior to the merger. However, a new lease agreement was entered into between AFA and NSSF post-merger.

Committee Observations and Recommendations

The Committee had deliberated on the issue of unsupported balances in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

12.0 Lease of Horticultural Produce Handling Facilities

418. The Committee heard that, as previously reported under the defunct Horticultural Crops Development Authority, the Authority signed an agreement with Fresh Produce Exporters Association of Kenya (FPEAK) for the lease of its Horticultural Produce Handling Facilities (HPHF). However, as per the agreement signed in September 2012, FPEAK took over the facilities without any rent/charges payable to the Authority. Further, available information indicates that according to the Ministry of Lands valuation report dated 7 September, 2011 it is indicated that the Authority should have charged total rent of Kshs.3,770,000 per annum for lease of these facilities.

419. Further, considering that the facilities were constructed through a JICA loan to the Government of Kenya and that Treasury is still servicing the loan facility, the agreement between the Authority and FPEAK is not in the best interest of the Government of Kenya and the public. Available information also indicates that at the time of the agreement, a member of the Board of Horticultural Crops Development Authority was also an official of the Fresh Produce Exporters Association of Kenya (FPEAK).

Management response

420. The management informed the Committee that, the defunct HCDA entered into a partnership agreement with FPEAK on horticulture depots utilization for capacity building and market access for smallholder farmers, with a common objective to promote and accelerate the progress of practical training of horticultural produce for smallholder farmers..

421. Therefore, the partnership agreement did not provide for any monetary consideration payable to HCDA by FPEAK. However, FPEAK ceased managing the facilities in 2014 and the cold rooms are currently being run by AFA.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Lease of Horticultural Produce Handling Facilities in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

13.0 Revenue

13.1 Fines, Penalties and Levies

422. The Committee heard that Note 5 to the financial statements reflects an amount of Kshs.3,563,305 in respect of levies, licenses, permit, cess and other levies. However, no documentary evidence has been produced for verification to confirm the accuracy of this figure.

Management response

423. The management informed the Committee that, the amount of KShs 3,563,305 comprises mainly of levies, licenses and permit fees realized for the period 1st of August 2014 to 30th June 2015.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Fines, Penalties and Levies in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

13.2 Loss on sale of assets

424. The Committee heard that, Note 20 to the financial statements reflects a negative balance of Kshs.33,000 described as a loss on sale of assets. No workings have been provided to show how the loss on disposal of assets was arrived at. Consequently, the loss of Kshs.33,000 for the year ended 30 June 2016 cannot be confirmed.

Management response

425. The management informed the Committee that, the workings for the loss of loss on sale of assets was provided for review.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Loss on sale of assets in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

13.3 Gain / losses on foreign exchange

426. The Committee heard that, Note 21 to the financial statements shows a balance Kshs.6,767,000 described as gain on foreign exchange transactions. However, no evidence has been produced to show how the gain was determine.

Management response

427. The management informed the Committee that the workings for the loss of loss on gain/loss on foreign exchange is hereby provided.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Gain / losses on foreign exchange in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

13.4 Finance Income - External Investments

428. The Committee heard that, the statement of financial performance reflects an amount of Kshs.391,433,000 for the year ended 30 June 2016 under finance income - external investments and as disclosed under Note 7 to the financial statements relates to interest income from Government securities. The management has not provided evidence to show how Kshs.391,433,000 was determined. In the absence at supporting documents or explanation, it is not possible to confirm the accuracy and completeness of Kshs.391,433,000 described as Finance Income - External Investment.

Management response

429. The Management informed the Committee that, Support documents of KShs. 391,433,000 are hereby provided.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Finance Income - External Investments in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

13.5 Finance Income – Outstanding Receivables

430. The Committee heard that, the statement of financial performance reflects revenue from exchange transactions of Kshs.528,726,000 for the year ended 30 June 2016 which includes Kshs.20,726,000 described under Note 8 to the financial statements as finance income — outstanding receivables. However, no supporting documents or explanations have been provided for the figure. Consequently, its validity cannot be ascertained.

Management response

431. The Management informed the Committee that interest was accrued on short term deposits by Tea and coffee Directorates. The certificate of balance, ledger transactions and journals to support the accrued interest are hereby provided.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Finance Income – Outstanding Receivables in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

13.6 Other Income

432. The Committee heard that, the statement of financial performance reflects revenues from exchange transactions figure of Kshs.528,736,000 which includes an amount of Kshs.13,400,000 disclosed under Note 9 to the financial statements as other income. However, the management has not supported the figure of Kshs.13,400,000 with verifiable documentary evidence.

Consequently, the completeness a accuracy of other income of Kshs.13,400,000 for the year ended 30 June 2016 cannot be ascertained.

Management response

433. The Management informed the Committee those other incomes in the year 2015/2016 was Ksh. 13,263,000. However, the financial statement for that year carried the erroneous figure of Kshs. 13,400,000 resulting to a difference of Ksh.137,000. These adjustments are corrected in the comparative for 2016/2017 FY. Support documents of KShs. 13,263,000 was provided for review.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Other Income in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

14.0 Unsupported Expenses

434. The Committee heard that, the statement of financial performance for the year ended 30 June 2015 reflected an amount of Kshs.2,101,525,000 under expenses. A review of available records, however, revealed variances between the figures that were reflected in the financial statements and the figures reflected in the ledger as detailed below;

Item	Sub-Item	Financial statement KShs	Ledger KShs	Difference KShs
Regulation & Compliance	Inspection & Surveillance	19,276,000	19,058,894	217,106
	Development & Review of Standards	5,744,000	-	5,744,000
Technical Advisory	Collaboration & Coordination	22,146,000	18,481,708	(3,664,292)

	Stakeholders Capacity building	45,119,000	-	45,119,000
	Crop Senses	3,663,000		3,663,000
Market Research & Development	Market Research & Development	10,036,000	7,677,834	2,358,166
	Value addition & Promotion	35,510,000	-	35,722,000
Repairs and maintenance	Repairs and maintenance	35,510,000	36,996	(1,486,041)
Totals		**177,296,000**	**82,214,477**	**95,081,513**

435. In view of the above, the accuracy and completeness of expenses during the year, cannot be confirmed

Management response

436. The Management informed the Committee that, the report and financial statements as at 30th June 2015 were restated in 2017.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Unsupported Expenses in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

15.0 Operating and administrative costs - Security service providers

437. The Committee heard that, Note 17 to the financial statements discloses an amount of Kshs.624,917,000 described as administrative expenses for the year ended 30 June 2016. However, the comparative balances for previous year included an amount of Kshs.5,057,136 paid to a security firm for providing extra security services to HCDA's Six depots. However, the management has not provided evidence that the firm was contracted in compliance with Section 29(3) of the Public Procurement and Disposal Act, 2005. In addition, no explanation has been provided for terminating the contract of the previous firm. In the absence of evidence, the Authority was in breach of the law.

Management response

438. The management informed the Committee that, Cobra Security firm was brought in upon the defunct HCDA entering into an agreement with FPEAK to run the 6 depots. Where upon they were awarded the security contract as per award letter and contract attached. M/S Eversafe were providing security services prior to FPEAK occupying the pack houses. The contract of M/S Eversafe was terminated by giving one month's notice as per the contract clause 7(ii) attached.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Operating and administrative costs - Security service providers in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

16.0 Disbursements to other institutions expense

439. The Committee heard that, the statement of financial performance reflects an expenditure of Kshs.2,246,900,000 for the year ended 30 June 2016 disclosed under Note 18 to the financial statements as being amounts disbursed to other institutions. However, no documentary evidence has been provided to support the expenditure. Consequently, the propriety of the expenditure of Kshs.2,246,900,000 cannot be confirmed

Management response

440. The management informed the Committee that, amount disbursed in the year 2015/2016 was Ksh. 2,210,874,000, however, the financial statement for that year carried the erroneous figure of Kshs. 2,246,900,000. These adjustments are corrected in the comparative for 2016/2017 FY.

441. A breakdown of the disbursements to other institutions expense amounting KShs. 2,210,874,000 is given here below:

i) **Tea Directorate:** KShs 462,920,188 disbursed to Tea Research Institute and KShs 118,236,026.50 for infrastructure fund in accordance with sharing formulas provided for in the repealed Tea Act. Further Ksh.69,248,619.60 relates to refunds to Tea Traders.

ii) **Sugar Directorate:**

Grant to KESREF, Kshs. 414,589,

Prescribed Reserves (15% of Levy), Kshs. 311,331

Factory Rehabilitation =0.71/4*0.85*levy, Kshs. 313,147

Cane Development =0.66/4*0.85*levy, Kshs. 291,094

Roads Grants=0.29/4*0.85*levy, Kshs. 127,905

Disbursements for Capital Grants, Kshs. 102,403

Total disbursements Kshs. 1,560,469

Committee Observations and Recommendations

The Committee had deliberated on the issue of Disbursements to other institutions expense in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

17.0 Accuracy of the Financial Statements

442. The Committee heard that, the statement of financial position as at 30 June 2016 reflects amounts of Kshs.8,799,466,000 under net assets and liabilities respectively. However, it has been noted that corresponding figures as at 30 June 2015 for the under listed items differ with the audited figures in the financial statements for the year ended 30 June 2015 as detailed:

Assets	**2015/16** Financial Statements Comparative **Figures** (Kshs'000) for the year ended 30 June 2015	**2014/15 Financial** Statements Audited Figures (Xshs'000)	Variance Kshs'000
Current Assets Cash and cash equivalents	5,684,755	2,221,047	3,463,708
Receivables from exchange Transactions	2,556, 774	137,110	2,419,664
Receivables from non- Exch transactions	34,055	195,949	(161,894)
Non-current assets Property, plant and equipment	3,770,249	3,827,055	(56,806)
Investments	389	389	
Intangible assets	21,355	24,249	(2894)
Long term receivables from	131,375	131,375	
	3,923,368	3,983,068	59 7 0
Liabilities			
Trade and other payables from exchange transactions	1,578,974	795,488	783,486
Current provisions	17,186	23,360	(6,174)
Current portion of borrowings	68,680	68,689	(9)

Tax obligations	1,973	2,380	(407)
Non-current liabilities Non-current provisions	383,562	56,742	326,820
Borrowings	709,358	763,494	54 1 6
Reserves	9,547,012	4,884,989	4,662,023
Accumulated Deficit	t117,271)	(67,445)	(49,826)

443. In addition, the statement of financial performance for the year ended 30 June 2016 reflects corresponding figures for 2014/15 that differs from the figures reflected in the comparative financial statements for the year ended 30 June 2015 as detailed below:

Statement of Financial performance	2015/16 **Financial** statements corresponding figures Kshs'000	2014/15 **Financial** statements comparative figures Kshs'000	Variance **Kshs'000**
Revenue from Non-Exchange Transactions			
Grants from development Partners	600		600
Fines, penalties and levies	2,762,315	1,574,812	1,187,503
Licenses and permits		26,114	(26,114)
Revenue from exchange			
Transactions			
Finance Income - External Investments	358,138	150,746	207,392
Other income	9,490	9,004	486
Expenses Employee cost	608,017	603,197	4,820
Board Expenses	2,164	4,551	(2,387)
Depreciation and amortization Expenses	126,373	101,650	24,723

Repairs and maintenance	39,268	35,510	3,758
Technical and advisory	126,866	126,855	11
Market Research and Development	196,931	197,152	(221)
Operating/Administrative Expenses	593,091	541,763	51,328
Disbursement to other Institutions	1,652,632	430,064	1,222,568

444. No adjusting journals have been provided for audit review in support of the new corresponding figures for 2014/15 reflected in the financial statements for 2015/16. In addition, the variances between the balances reflected in the comparative financial statements for 2014/15 and the corresponding figures under 2014/15 in the financial statements or 2015/16 have not been explained. Consequently, the accuracy of the financial statements cannot be confirmed

Management response

445. The management informed the Committee that, the report and financial statements as at 30th June 2015 were restated in 2017.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Accuracy of the Financial Statements in its report for the Financial Year 2014/2015, observed and made recommendations. Consequently, the committee upholds the observations and recommendations therein.

FINANCIAL YEAR 2016/2017

1.0 Property, Plant and Equipment

1.1 Rehabilitation of Kahawa house

446. The Committee heard that, as reported in the previous year, a consultant submitted on 8 February 2001 a fee note of Kshs.56,742,130 in respect of a contract for studying and assessing the rehabilitation works that would be necessary and required for Kahawa House. However, information available indicates that the amount was not paid as the Board was convinced that no work was carried out to warrant a charge of Kshs.56,742,130.

Consequently, the consultant sued the defunct Coffee Board of Kenya for non-payment of the fee demanded. A review of the matter during 2016/2017 financial year revealed that the suit was yet

to be decided upon by the High Court since 19 March 2004 (Case No HC 152 of 2004). The management has not explained why rehabilitation was necessary considering that the house was refurbished in 1998/1999 at a cost of Kshs.38 million. In addition, the management has not disclosed the amount of Kshs.56,742,130 as a contingent liability in the notes to the financial statements.

Management response

447. The management informed the Committee that, the KShs. 56,742,130 was a result of the need for further rehabilitation for Kahawa House. The refurbishment done on Kahawa House and Coffee Plaza in 1998/99 at KShs. 38 million was due to the bomb blast that rocked Nairobi City in 1998, which necessitated repairs to the windows and window fixtures and frames in the building.

448. The Board approved the rehabilitation in its sitting on 18th August 2000. To this end the Board engaged a consultant to study and assess the rehabilitation works that would be necessary and required for Kahawa House. The Consultant Charged the Board KShs. 56,742,130 which the Board disputed and declined to pay mainly on the basis of time and work done.

449. The Consultant filed a case against the defunct Coffee Board of Kenya and the case has not been concluded yet. The Authority is seeking an out of Court settlement on an 'Without prejudice' basis. The process is ongoing.

450. The Authority made a provision in the financial statement which is reflected under note No. 34 of the 2015/16 FY financial report.

Committee Observations and Recommendations

The Committee deliberated on the issue of Rehabilitation of Kahawa house in its report for financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.2 Ownership of Property, Plant and Equipment

451. The Committee heard that, the statement of financial position as at 30 June 2017, reflects a balance of Kshs.3,672,606,000 under property, plant and equipment, which includes several properties whose ownership has not been established as explained below:

i) The balance of Kshs.3,672,606,000 includes an amount of Kshs.72,000,000 in respect of land measuring 236.35 hectares In Thika, Kiambu County. However, the documents for land measuring 137.2 hectares out of the 236.35 hectares have not been provided for audit review. It has not been possible therefore to confirm ownership status of the land measuring 137.2 hectares.

ii) The balance also includes a motor vehicle registration number KBG 517C, which was registered in the name of Coffee Research Foundation.

iii) Included also in the property plant and equipment balance of Kshs.3,672,606,000 is an amount of Kshs.161,200,000 representing the value of land on which the defunct Horticultural Crops Development Authority depots stand and for which title deeds had not been obtained. Further, the ownership of Plot L.R No.209/12490 situated along Mombasa Road, measuring 3.5 hectares and valued at Kshs.86,000,000 is still in dispute.

Management response

452. The management informed the Committee that–

i) The 236.35 hectares is made of LR No.10084 of 99.15 Ha and LR No.10085 of 137.2 Ha. The value of KShs. 72,000,000 relates to LR No.10084 only acquired by the defunct Coffee Board of Kenya in 1977.

Records indicate that the Board initially wanted to purchase a farm from M/S Azania Investments Co. Ltd for Coffee Research comprising L.R. No.10084 and L.R. No. 10085.

However, the Coffee Research Foundation advised that they did not need the entire two parcels and one of them, L.R. No.10084 would be adequate.

The Board minutes Min. no 245 of 15th July 1977 also indicate that the then Chairman of the Board, E.N. Kuria, acquired block L.R. No.10085 which was not required for Coffee Research. The same had been paid for by the Board and the then Chairman was to repay as a loan to the Board.

Mr. Kuria paid the money on the 16th January 1978 through a banker's cheque forwarded by his advocate M/S Kaplan & Straton Advocates and acknowledgement of receipt communicated vide a letter ADM/2/30C dated 19th January 1978.

The Authority is in possession of the title for L.R. No. 10084 for 99.1Ha.

ii) Logbook of the motor vehicle is now in the custody of the Authority.

iii) The Authority engaged the services of KOMM advocate to follow up on all the land without title documents. The status report as indicated by the advocate vide his report dated 16th September 2024 is as summarized below:

S/NO	DEPOT	REMARKS
1.	MACHAKOS PDP No. 59/96/23-MACHAKOS	This is a 2 acres piece of land currently occupied by the Machakos County Government. As of 3rd June 2024, the advocate is engaging the County Government of Machakos on accessing the land for survey purposes.

2.	LIMURU LIMURU/BIBIRIONI/1010	This is a 6 acres piece of trust land situated in Limuru, Kiambu County. The Authority is pursuing the Kiambu County Government to release the piece of land to the National Land Commission for issuance of a letter of allotment.
3.	MWEA	This is a 2.5 acres piece of land. The Authority wrote a letter dated 31st March 2023 to the National Irrigation Board agreeing to their proposal to enter into a simple agreement. National Irrigation Board has not acquired the title for the entire land yet. The advocate is pursuing the matter.
4.	KIBWEZI	The Authority has already obtained the title deed for the Kibwezi depot, measuring 2 acres LR No. 27422.
5.	SAGANA	This is a 0.74 Ha. of land. From the report of the Authority's advocate, he is pursuing the preparation of a new Part Development Plan as the old one cannot be traced.
6.	MERU No. ABOTHUGUGUCHI/KARIENE/3165.	This is a 0.43-Ha land located in Kariene in Meru County. The Title Deed was successfully processed and Title issued on 12th August, 2024. -Copy attached.
7.	KITHIMANI (YATTA)	This involves 22 plots each measuring 0.03 Ha. for which title deeds have been issued in the name of HCDA on 18th July 2024.
		The Authority is in the process of transferring them in the name of AFA.

The Property was subject of a court case ELC NO. 516 OF 2018 (Formerly High Court Civil Suit No 1205 of 2005) HCDA =VS= Sakir Properties Limited & 2 Others. The Judgment was delivered on 17th December 2020 in favor of the Authority and the land was reverted to the Authority, but vide a Ruling dated 10th February 2022, the Court set aside the Judgment that granted AFA ownership of the land. The Authority has appealed against the judgement.

The matter is coming up in court for compliance on 28th May, 2025.

HCDA was allotted by the commissioner of lands an unsurveyed piece of land LR. No.209/12490 opposite Yana Tyres along Mombasa RD Nairobi measuring 3.5Ha. for a lease term of 99 years effective 1st February 1987. On or about 2005, HCDA got information that M/S Sakir had been

allotted the same land and a tittle deed issued. M/S Sakir claims that they got allocated the property after HCDA surrendered the land back to the government. HCDA maintained that it did not surrender the land back and therefore a legal suit ensured through the then Gachiri Kariuki & Kiai Advocates. M/S Sakir have developed the property by building residential flats.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.3 Valuation of the Property, Plant and Equipment

453. The Committee heard that–

i) The property, plant and equipment balance of Kshs.3,672,606,000 excludes land of undetermined value in Athi River Plot No.24848 - Mavoko Municipality, which was allocated to the defunct Kenya Sugar Board on 18 April 1995. It is not clear if and when the land will be valued for inclusion in the financial statements.

ii) The balance also excludes seven acres of unvalued land in Mtwapa that has been allocated to the defunct Kenya Coconut Development Authority by the defunct Kenya Agricultural Research Institute. In addition, the ownership had not been transferred by the Kenya Agricultural Research Institute by the time the Authority ceased to exist upon the commencement of the Crops Act, 2013.

iii) During the year 2000, the defunct Horticulture Development Corporation constructed a depot in Machakos on L.R. No. 1491/1/2/R at a cost of Kshs.55,677,000, which was one of the seven satellite depots meant for horticultural produce handling facilities (HPHF), which were funded by both the Governments of Kenya and Japan. Contrary to the original agreement with the government that the facilities' sole purpose was to pre-cool horticultural produce and provide support of market access for smallholders. the facility is currently occupied as an office by the County Government of Machakos. No compensation has been granted to the Authority for the conversion of its facility.

iv) Further, a review of available records revealed that the defunct Coffee Board of Kenya carried out a revaluation exercise in the year 2010, which combined the value of land on which the Coffee Plaza and Kahawa House are located with the value of buildings with a net value of Kshs.1,568,643,000 as at 30 June 2015. This treatment differs with the Authority's policy on classification of property, plant and equipment as the two assets have been classified separately as disclosed under Note 35 to the financial statements. In view of the above, it has not been possible to determine whether the depreciation charged is consistent with the depreciation policy as disclosed under Summary of Significant Accounting Policies, Note 2(e) to the financial statements, which provides for a rate of 2.5% p.a. on buildings and none on land.

v) In addition, the Authority owns a piece of land reference No. 209/10537 measuring 8.1 hectares located in Embakasi which was previously owned by the defunct Coffee Board of Kenya since October 1986. This land has, however, remained unutilized and is prone to illegal acquisition by land grabbers.

vi) Additional information shows that as at 30 June 1993, the defunct Cotton Board of Kenya had property, plant and equipment with a net book value of Kshs.210,759,785 and investments in Meru Ginnery Ltd of Kshs.13,940,758. The management has, however, not satisfactorily explained how these property, plant and equipment were accounted for upon the creation of the defunct Cotton Development Authority.

Management response

454. The management informed the Committee that: -

i) A valuation exercise was carried out in the 2016/17 FY and the asset has been included in the Annual Report and Financial Statements for FY 2017-18

ii) The land in question had been reserved for the defunct Kenya Agricultural Research Institute (KARI). The defunct Kenya Coconut Development Authority applied for the parcel of land from KARI through the Ministry of Agriculture for the purpose of constructing a Headquarters at Mtwapa. Kenya Agricultural Research Institute vide their letter REF. KARI/4/023C/VOL.XIV dated 2nd July 2012 informed the defunct Authority that the Board of Directors had resolved in their 98th meeting to allocate 7 Acres of land to KCDA. However, the defunct KARI now KALRO have not acquired title documents to enable transfer of the same to the Authority due to an ongoing court case. The land is also invaded by squatters as per the restraining order of the environment and land court, Mombasa ELC petition no 29 of 2019.

The value of the parcel can therefore not be included in the books of the Authority.

iii. Since 2014 the Authority has made several attempts to revert this facility to its initial purpose of packing and pre-cooling horticultural produce by small-scale exporters. On 16/9/2016 the matter was referred to the Intergovernmental Relations Technical Committee to assist in reverting back the facility to the Authority and recovery of the outstanding amounts. (Ref. AFA/LM/IGRTC.VOL.I (48)). On 19/12/2017 the matter was again forwarded to the Cabinet through the Principal Secretary for further action (Ref: AFA/DG/MOA/HCD/VOL.II). Besides the above efforts, the Authority is following up on payments for the rent.

iv. The Authority revalued its assets and the values for the two assets recognized in the Annual Report and Financial Statements for the FY 2017-18 as per IPSAS 17 Paragraph 52 (now IPSAS 45)- Classification of Assets. The land and the buildings have now been recognized separately.

v. On utilization of the land, the Authority leased part of the land to Kipevu 3PL Supply Chain Ltd on 13th April 2021. The land is also secured by stone wall and caveat emptor is in place to protect it from would be land grabbers.

vi. As per The Cotton (Amendment) Act 2006, there was no provision for transfer of Property, Plant and Equipment from the defunct Cotton Board of Kenya to Cotton Development Authority. At the formation of AFA, Cotton Development Authority did not have ownership documents for the Meru ginnery. The Property had been sold by the former Cotton Board of Kenya to offset a bank loan as per a taskforce report.

The matter has been referred to the Ministry of Agriculture & Livestock Development for further advice.

Committee Observations and Recommendations

The Committee deliberated on the issue of Valuation of the Property, Plant and Equipment in its report for financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.4 Property with a Court Case

455. The Committee heard that, the property, plant and equipment balance of Kshs.3,672,606,000 as at 30 June 2017 excludes the value of Riverside Estate property L.R. No. 209/4389/3 where the defunct Cotton Development Authority's head office was located. According to information available, the property belonged to the defunct Cotton Board of Kenya and has been charged against a bank loan that the Board failed to service. The bank subsequently sold the property for Kshs.21.5 million through a public auction held in November 2000. Further, records show that the purchaser of the property paid the bank an amount of Kshs.8,375,000 representing the balance of the outstanding loan, whereupon the bank released the documents relating to the property to the purchaser. The purchasers thereafter, and before clearing the balance of Kshs.13,125,000 sought to transfer the title to the property in his name. The Board however declined to execute the transfer documents and as a result and shortly thereafter, the purchaser filed a case in the High Court in November 2008. Although the case was determined on 25 September, 2015, the Authority has not obtained the title deed to the property and consequently the ownership could not be confirmed.

Management response

456. The management informed the Committee that, the case has since been concluded and the Authority is in possession of ownership document.

Committee Observations and Recommendations

The Committee deliberated on the issue of Property with a Court Case in its report for financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.5 Idle Equipment

457. The Committee heard that, the Authority constructed a staff recreation Centre that included a gym and a cafeteria at the Sugar Directorate Offices in Upper Kabete in the year 2013/2014 at a cost of Kshs.75,534,000. During the year 2016, the Authority procured and Installed gym equipment at a cost of Kshs.21,097,442 for use in the Centre. The equipment has however not been commissioned to date and is lying idle. In addition, no gym instructor has been hired to facilitate training and safety of the staff who will be using the facility. In the circumstances, the Government has not received value for money on the facility.

Management response

458. The management informed the Committee that, the gym and the kitchen facility had been conceptualized before the merger of August, 2014. The construction and equipping of the same was ongoing at the time of the merger. This was eventually completed and two facilities fully became operational to all the staff of the authority. The facilities are fully in use to date and there is a gym instructor.

Committee Observations and Recommendations

The Committee deliberated on the issue of idle equipment in its report for financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.6 Presentation and Disclosure of the Property, Plant & Equipment

459. The Committee heard that–

i) The property, plant and equipment balance of Kshs.3,672,606,000 as at 30 June 2017 includes value of temporary structures of Kshs.519,000 and an amount of Kshs.151,060,000 representing the cost of motor vehicles that had been disposed of by the defunct Horticultural Crops Development Authority in the year 2014.

ii) It had been noted that under the defunct Tea Board of Kenya, motor vehicles were being depreciated on a straight-line basis while other assets were being depreciated on a reducing balance method. No reason has been given for this treatment. In addition, it was noted that other plant, equipment and machinery were being depreciated at higher rates than normal rates and at different rates depending on location. Buildings were being depreciated at 2.5% in Dagoretti and Mombasa, 3.3% in Kericho and 20% at Jamhuri Park. No explanation has been provided for this inconsistency.

Management response

460. The management informed the Committee that–

i) As correctly observed by the Auditors the value of the temporary structure at the defunct HCDA had been included in the Financial Statements FY 2013/2014. However, the asset had been fully depreciated in the FY 2015-16. During the revaluation carried out in the FY 2016-17, the temporary structure was not recognized as an asset.

The cost of the motor vehicles disposed by the Horticultural Development Authority in the year 2013/2014 was KShs. 182,110.00 as per the attached schedule. The financial statement for the defunct HCDA for the FY 2013/2014 had omitted the value of the asset disposed. Upon the merger the omission was corrected by restating the comparative Figures for 2013/2014 in the financial statement for the Authority for FY 2014/2015.

ii) All assets acquired by AFA from the previous Boards had been subjected to the depreciation policies prevailing before 1st August 2014.

However, a valuation of all AFA assets was undertaken in the 2016/2017 FY and since then a uniform policy on depreciation was adopted across the Authority. The new fixed asset values were adopted and addressed in the financial statement for financial year 2017/18.

Committee Observations and Recommendations

The Committee deliberated on the issue of Presentation and Disclosure of the Property, Plant & Equipment in its report for financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.7 Delay in Completion of Project

461. The Committee heard that–

i) The Authority Contracted M/S Twiga Construction Company for construction of an office Building, for the Tea Board of Kenya (Now Tea Directorate) at a contract price of Kshs.343,000,000 on 18th December 2012. The Form of Agreement indicated that the contract would be for Building and Civil Works and the duration of the contract would be sixty-five weeks from 17 January. 2013 to 18 April, 2014.

ii) Although there have been extensions to the contract and the Management has explained there was change in scope of works, the contractor has not completed the works to date as stipulated in the contract agreement. This is despite the direction by the National Treasury vide their letter Ref. DGIPE/A/1/10 dated 19 July 2016 that all on-going projects were to be completed in 2016/2017 financial year.

iii) The contractor has not paid damages for non-completion of the works within the stipulated period.

iv) Further, the addendum to the contract was not signed by the contractor and hence the revised contract sums of Kshs.399,858,465 and Kshs.422,300,450 as indicated in the penultimate certificates No 21 and No 22 respectively are not supported by any valid agreement. The actual amount of the revised contract sum is therefore not clear.

Under the circumstances, it is not possible to confirm whether the property, plant and equipment balance of Kshs.3,672,606,000 as at 30 June 2017 reflected in the financial statements of the Authority is fairly stated.

Management response

462. The management informed the Committee that–

i) The defunct Tea Board of Kenya (Now Tea Directorate under AFA) entered into a contract with M/S Twiga Construction Company Ltd for construction of the office Building, phase II on 18th December 2012. The 1st addendum was issued extending the period due to changes in the scope of work from partitioning 2 floors to partitioning 6 floors. The contractor completed most of the civil work in 2014 and was issued Certificate of Sectional Completion on 28th November 2014 and the defect liability period was to expire on 28th May 2015. However, before the completion of this period and attendance of other snag issues, there were changes in the scope of works and brief of partitioning, design works after formation of AFA in 2014.

ii) The 1st brief was to partition 2 floors to be occupied by the Tea Board of Kenya, which was changed through the 2nd addendum, in order to partitioning the entire building i.e., 6 floors. This meant that there were new designs and costs estimates. The works were eventually done and a Certificate of Practical Completion was issued on 30th May 2016. The Authority moved into the new building in March 2016 after the fit out works and supply of furniture were completed.

iii) The original contract price was Kshs. 343 million. After variation of works referred to above, the contract sum was varied with a total of Kshs 83,898,465.08. The net addition to the contract after incorporating the provisional sum for interior partitioning and all services works in the Bills of Quantities (Kshs. 27,040,000) was Kshs. 56,858,465.08 thus bringing the total sum to Kshs. 399,858,465.08.

iv) The project has since been completed and the final account has been settled.

Committee Observations

The Committee observed that–

i) There were extensions to the contract, but the Management did not explain the changes in the scope of works.

ii) The management alleges that a Certificate of Practical Completion was issued on 30th May 2016 and the Authority moved into the new building in March 2016 after the fit out works and supply of furniture were completed. However, audit conducted one year after reported that the contractor had not completed the works as at the reporting date as stipulated in the contract agreement therefore the submission by the management was misleading and the status remained doubtful.

iii) The contractor had not paid damages for non-completion of the works within the stipulated period.

iv) The Management puts the revised contract sums at Kshs.399,858,465 while the audit reported that the penultimate certificates No 21 and No 22 indicates Kshs.399,858,465 and Kshs.422,300,450 respectively and yet they were not supported by any valid agreement. The actual cost at completion is unknown.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, EACC to investigate the status of completion of the project, the actual cost incurred in the project, any flaws in the procurement and implementation process with a view to establishing whether there were any financial improprieties or breach of the law and submit a report on its finding to the National Assembly. If any officer is found culpable for any loss in public funds, he/she should be held personally liable for the loss, DPP should initiate a legal process to recover the amount so lost with interest from the concerned officer at the prevailing CBK rates.

2.0 Investment in Subsidiary

463. The Committee heard that, as previously reported, the statement of financial position as at 30 June, 2017 reflects an amount of Kshs.389,000 under investments, which as disclosed in Note 34 to the financial statements relates to investments on coffee exchange shares. However, the investment in subsidiary of Kshs.389,000 differs with the amount of Kshs.148,200 reflected in the share certificates resulting in an unexplained difference of Kshs.240,560. In the circumstances, the value of investments disclosed in the financial statements could not be confirmed.

Management response

464. The management informed the Committee that, the investment of KShs. 389,000 relates to the total shares value on a number of share certificates at Kenya Coffee Auctions Limited issued over a number of years. The KShs. 148,200 related to Share Certificate No. 14 dated 29/09/1997 for 7,410 shares of KShs. 20 each. Two more share certificates are attached, Certificate No. 7 for 1,938 shares issued on 11/12/1969 and No. 10 for 532 shares issued on 20/08/1980. The three share certificates total to 9,880 shares valued at KShs. 197,600 as evidenced by letter Ref. CR13.C.3335 dated 15 April 2016 from the Registrar General. Moreover, a letter from the defunct CBK Ref. ADM/2/45/1C dated 3rd March 2006 to Inspector General State Corporations, confirms that the Board owned 65% of issued share capital of the company. According to the financial report of the company for the year ended 30th June 2002 the issued shares were 15,200 out of which the board owned 9,880 shares valued at KShs 197,600. Earlier Financial statements of the Defunct CBK still carry the investment at KShs. 389,000.

465. From this analysis, the Authority can only confirm 9,880 shares valued at KShs. 197,600. The Authority has commenced the process of winding up of the company which is not operational, and this will determine the residual values.

Committee Observations and Recommendations

The Committee deliberated on the issue of Investment in Subsidiary in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

3.0 Cash and Cash Equivalents

3.1 Opening Balances and Accuracy of Cash and Cash Equivalents

466. The Committee heard that, the statement of financial position as at 30 June 2017 reflects an amount of Kshs.2,825,458,000 under cash and cash equivalents, which includes, as disclosed under Note 22 to the financial statements, cash on hand and in transit, short-term deposits, and collateral deposits. As reported in the year 2014/2015, the financial statements cash and cash equivalents balance for the year 2013/2014 differed with the supporting documents by Kshs.14,621,665. Although management has since passed a prior year adjustment to clear the amount from the cashbook, no supporting documents were provided to explain how the amount had been written off. The same cash and cash equivalents was net of a negative petty cash of Ksh.249,000 that had not been explained at the year end. In addition, cash in hand and imprest of Kshs.2,003,000 and Kshs.49,000 as at 30 June 2015 respectively have not been supported by any verifiable documentary
evidence to date.

Management response

467. The management informed the Committee that, the cash and cash equivalent differences between the financial statements and the support documents under the defunct Horticulture Crop Development Authority FY 2013/14 were identified by management among other ledger differences leading to a formation of a special committee whose mandate included.

a) Revisit the accounting issues raised in the external audit report.

b) Identify the weaknesses of internal controls and together with the ICT department institute measures to streamline and strengthen them.

c) Carry out reconciliations of long outstanding ledger balances, cash and bank, account payable, account receivable and assets.

d) Pass necessary journal.

e) Transitioning from old Navision system to the current Microsoft Dynamics under AFA.

f) Capacity builds the finance team and other staff at the directorate and address any financial management challenge on use of the ERP that they may be experiencing

468. The committee undertook the assignment, and necessary journals were made in the financial statement for 2020-2021 FY.

469. The differences in opening balances amounting to KShs. 14,621,655 relates to 3 bank accounts operated by the defunct Horticulture Development Authority, attached herewith find the analysis of the cashbook entries. A reconciliation of the opening balances in the ledgers was done as highlighted in the attached report.

470. The amount of Ksh. 249,000 reflected as cash was a result of misposting of three imprest warrants in 2012/2013 FY of Ksh. 6,810.05, imprest warrants No. 3972 in financial year 2013/2014 of Ksh. 118,614.00 and imprest warrant No 4852 in the FY 2014-15 of Ksh. 123,575.95, that were not posted in the petty cash ledger rather were posted in the officer's imprest account. A reconciliation of the debtors control account and ledger account was done as indicated in the attached report.

471. The KShs 2,003,000.00 relates to balances of receipts from clients from the period years FY 2012/13, 2013/2014 and July 2014 were posted in the cash in hand ledger instead of posting to the bank ledger. Debtor balances between the old system and the new system were reconciled and necessary adjustments made including posting receipts and invoices as per the attached report.

In regard to KShs. 49,000.00 the amount related to branch office petty cash reimbursement vide PV No 02876 dated 27th July 2014. This relates to petty cash imprest for Kajiado Station. Expenses in the ERP system that has since been addressed and the account has been cleared.

Committee Observations and Recommendations

The Committee deliberated on the issue of Opening Balances and Accuracy of Cash and Cash Equivalents in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

3.2 Unsupported Cash Balances

472. The Committee heard that, as reported in the previous year, included in the cash and cash equivalents figure of Kshs.2,825,458,000 as at 30 June 2017 are bank account balances relating to previous years whose supporting documents have not been provided for audit review as analyzed below:

Directorate	Account Name	Account Numbers	Account balance Kshs.	Supporting documents not provided
Sugar	Rachier & Amollo & Nzamba Kitonga Advocates	Not applicable	8,581,797	Documents to support funds held
Sugar Directorate	NIC Bank	1001316447	243,000	Bank Confirmation Certificate

	ECO Bank Kenya LTD (BOCO Deposit)	Not availed	5,000,000	Bank Confirmation Certificate
	Chemilil - On-call Acc.	Not availed	10,913,125	No supporting document
	Euro Bank	Not availed	52,237,000	Bank Confirmation Certificate
	TOTAL – Kshs		**66,061,797**	

Management response

Directorate	Account name	Account No.	Account Balance	Response
Sugar Directorate	Rachier & Omollo &Nzamba Kitonga advocates	**1164012495**	**8,581,797**	Ndungu Gathinji sued the then Kenya Sugar Board for the damage after he was removed from office as a receiver manager of Muhoroni Sugar Company. The court awarded him ksh 14,978,572 as damage; however the Board appealed and was instructed by the court to deposit Ksh.8,581,797 being, ksh 7,981,797 and ksh 600,000 for damages and auction fee respectively, in a joint account. Certificate of balance could not be given as the Authority was not conjoined in the opening of the account

Sugar development Levy	NIC Bank	The correct account no. under NIC Bank and later NCBA is no.**100141922** and not **1001316447.**	243,000	The certificate of balance as at 31st July 2014 is hereby attached.
	Ecobank (BOCO Deposit)	**2210200010**	5,000,000	The money was deposited by Nile Hauliers, a sugarcane transport company under Busia Outgrowers Company (BOCO) with the then Kenya Sugar Board as a precondition for a lease contract.
	Chemelil On Call A/C	**LC NO. ILC0099150410**	10,913,125	This was a loan to act as cash cover for letter of credit for Chemilil Sugar towards purchase of 3MW Turbo Alternator set from Kessels Engineering Works PVT Ltd. This was part of factory maintenance loan advanced to Chemilil as per the attached documents.
	Eurobank	Claim No.72379 Currently under Kenya Deposit Insurance Corporation (KDIC)	52,237,000	The call deposit of Ksh.50M was placed on 15th March 2002. The bank is under liquidation and the assets are being managed by the Kenya Deposit Insurance Corporation (KDIC) who have been paying dividends as and when the funds are available.

Committee Observations and Recommendations

The Committee deliberated on the issue of Unsupported Cash Balances in its report for the

financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

3.3 Bank Reconciliation

473. The Committee heard that, as also reported in the previous year, the Horticultural Crops Directorate's, Barclays Bank of Kenya main account No.094-5019115 bank reconciliation statement included salaries posted twice amounting to Kshs.7,901,812. Further, a review of the bank reconciliation statement revealed that the net salaries figure posted twice of Kshs.7,901,812 included payments of Kshs.4,374,496 that were not of the personnel emoluments in nature. In addition, a payment voucher No. 2137 for an amount of Kshs.11,575,468 paid to CIC Insurance had not been posted to the cash book since December 2013. No action had been taken to correct the position as at 30 June 2017.

Management response

474. The management informed the Committee that, the breakdown of the KShs. 7,901,812 comprise of Net Salaries of KShs 3,527,315.90 posted on 6th November 2014 and KShs.4,374,496, being the following:

i. Mboga na Matunda Sacco of KShs 1,405,576

ii. Various staff in registry of KShs 106,750 and KShs 23,847

iii. The other payments paid are not of payroll liabilities amounting to KShs 2,838,322. They comprise of; Inverter power system Ksh. 308,698, National Oil ksh.784,440, Plan and Place Ksh.732,756.50, Wamboi Designs Ksh.1,012,428.20.This was addressed within the mandate of the streamlining Committee in 2020/2021.

475. The payment of KShs 11,575,468 is 50% of the CIC insurance invoice no. 02093 on staff medical insurance scheme of KShs 23,150,935. First 50% installment was paid on 6th November 2013 and the balance 50% was paid on 10th December 2013 and the two payments posted in the ledger under one payment voucher number PV 2137.

Committee Observations and Recommendations

The Committee deliberated on the issue of Bank Reconciliation in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

3.4 Short Term Deposits

476. The Committee heard that, the short-term deposits of Kshs.2,271,055,000 as at 30 June 2017 as disclosed in Note 22 to the financial statements, include an amount of Kshs.52,237,000 in respect of deposits that had been placed in Euro Bank, which was placed under receivership in the 1990s. Although full provision has been made in these financial statements for the deposits in Euro Bank, the Authority is yet to recover any money from the receiver manager of the bank.

477. Further, the short-term deposits include an amount of Kshs.8,581,797 under the name of Rachier & Amollo & Nzamba Kitonga Advocates deposited in an escrow account by orders of the court. The National Treasury vide their letter Ref. DGIPE/A/1/10 dated 19 July 2016 recommended that the Authority provide details of this account to both the Ministry of Agriculture and The National Treasury. However, no supporting documentation has been provided to show the nature or the existence of the amount.

478. In view of the above, it has not been possible to confirm the accuracy of cash and cash equivalents balance of Kshs.2,825,458,000.

Management response

479. The management informed the Committee that, the call deposit of Ksh.50M was placed on 1 5th March 2002.

480. The bank is under liquidation and the assets are being managed by the Kenya Deposit Insurance Corporation (KDIC) who have been paying dividends as and when the funds are available.

481. Ndungu Gathinji sued the then Kenya Sugar Board for the damage after he was removed from office as a receiver manager of Muhoroni Sugar Company. The court awarded him ksh 14,978,572 as damage; however, the Board appealed and was instructed by the court to deposit of Ksh.8,581,797 being, ksh 7,981,797 and Ksh 600,000 for damages and auction fee respectively, in a joint account.

Committee Observations and Recommendations

The Committee deliberated on the issue of short-term deposits in its report for the financial year 2015/2016, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

4.0 Receivables from Exchange Transactions

482. The Committee heard that–

i) The statement of financial position as at 30 June 2017 and as disclosed under Note 23 to the financial statements reflects an amount of Kshs.3,335,913,000, (2016 Kshs.3,367,586,000) under receivables from exchange transactions. As reported in previous years, the defunct Sugar Development Fund and Horticultural Crops Development Authority, balances of receivables from exchange transactions amounted to Kshs.148,166,000 and Kshs.92,506,000 respectively. Although a provision had been made for the long outstanding amount of Kshs.148,166,000, it still remained uncollected as at 30 June 2017.

ii) In addition, the amount of Kshs.92,506,000 outstanding in the books of the defunct Horticultural Crops Development Authority included trade debtors totaling Kshs.63,540,000 which was not reconciled to the supporting documents figure of Kshs.63,156,493. The trade debtors also included unexplained credit balances totaling Kshs.6,097,068. Further, the trade receivables for the defunct Coffee Board of Kenya amounting to Kshs.2,569,375,479 had

been written off in 2010/2011 without necessary approvals from the Parent Ministry and the National Treasury.

iii) In addition, included in the trade and other receivables from exchange transactions balance of Kshs.3,335,913,000 as at 30 June 2017 and as disclosed under Note 23 to the financial statements is an amount of Kshs.3,318,809,000 relating to trade debtors (levy arrears) as at 30 June 2017, which has been outstanding for a long time. Although a specific provision of Kshs.126,417,000 has been made in these financial statements in respect of the levies, no action is being taken to recover the levy arrears. In addition, the management has not explained why the liability was not transferred to the Commodities Fund on operationalization of the Crops Act of 2013.

iv) The balance further includes rent debtors balance of Kshs.15,739,000 However, as reported in the previous year, the validity of a balance of Kshs.6,000,000 in respect of Horticultural Crop Directorate cannot still be ascertained since no documents have been provided so far for audit review.

v)As also reported in the previous year, the trade debtors balance for 2014/2015 included an amount of Kshs.69,352,000 in respect of Horticultural Crop Directorate, while the ledger showed a balance of Kshs.63,540,000 resulting in a difference of Kshs.5,812,000. Similarly, in 2014/2015, the trade debtors balance also included an amount of Kshs.13,340,000 in respect of Tea Directorate while the ledger reflected Kshs.15,599,103, resulting in a difference of Kshs.2,259, 103. Although management has effected journal entries to equate the two balances, no supporting documentation or reconciliations were provided to confirm how the decision to equate the balances was arrived at.

vi) The trade and other receivables from exchange transactions in the year 2015/2016 included prepayments balance of Kshs.15,959,000. However, a balance of Kshs.5,569,000 in respect of Horticultural Crop Directorate relating to the previous year lacks verifiable documentary evidence. Although management has proposed journal entries to write off the prepayments, no documentary evidence was provided to indicate the nature of the prepayment or the reasons for its being written off.

vii) The financial statements figure of Kshs.2,825,458,000 for receivables from exchange transactions is not supported with ageing analysis of debtors to show the periods for which they have been outstanding so as to ascertain the recoverability of the balances.

viii) As reported in the previous year, the financial statements as at 31 July 2014 of the defunct Coffee Board of Kenya, Sugar Development Fund and Kenya Sugar Board reflected amounts of Kshs.17,194,000, Kshs.1,837,694,000, and Kshs.35,130,000 respectively relating to receivables from non-exchange transactions. The amounts had been outstanding for a long time and further, could not be reconciled to supporting documents. In addition, the provision for bad debts made on these balances was inadequate. This matter has remained unresolved to date

Management response

483.The management informed the Committee that–

i) The amount of KShs 148,166,000 relates to levy arrears owed by state owned Sugar mills to the defunct Sugar Board that has been long outstanding. The mills have been facing severe financial constraints and have therefore not been able to settle the amounts. The National Assembly vide Certificate (No. 039/13th /2023) of 14th September 2023 approved the action plan to revive and commercialize state owned sugar companies.

In the certificate, approval was given to write off liabilities amounting to KShs 65,778,448,646 owed to Government of Kenya, defunct Kenya Sugar Board and Commodities Fund. It is envisaged that upon verification by theAuditor General as indicated in the certificate, the full amount of KShs 148,166,000 will be written off.

ii) The difference between the trade debtors of Ksh 63,540,000, the supporting schedules of KShs. 63,156,493 and the credit balances of Ksh.6,097,068 were caused by errors in the ledgers of the defunct HCDA. The Authority noted the errors in the accounts receivables of the Directorate and made adjustments in the account receivables ledger.

Defunct Coffee Board of Kenya- The treatment of the trade receivables in 2010/2011 was correction of accounting errors and not a write off. Coffee Board of Kenya underwent restructuring in the years 2002 and 2009 whereby most of the employees were either retrenched or retired. Due to restructuring, the Board lacked the capacity to prepare Annual financial statements for the seven (7) year's period starting from FY 2003/04 thus creating a backlog.

The Board of Directors engaged an accounting firm to undertake preparations of Coffee Board of Kenya financial statements for the seven (7) years starting the FY 2003/04 to 2009/10. This was completed and certificates issued by the Kenya National Audit Office for the years that were in arrears.

iii)The amount that relates to levy arrears and Loans owed by state owned Sugar mills to the defunct Sugar Board has been long outstanding. The mills have been facing severe financial constraints and have therefore not been able to settle the same. The National Assembly vide Certificate (No. 039/13th /2023) of 14th September 2023 approved the action plan to revive and commercialize state owned sugar companies.

In the certificate, approval was given to write off liabilities amounting to KShs 65,778,448,646 owed to Government of Kenya, defunct Kenya Sugar Board and Commodities Fund. It is envisaged that upon verification by the Auditor General as indicated in the certificate, the full amount of the levy arrears will be written off. The increase in the trade debtors amount between the FY 2014/15 and 2015/16 relates to loans given by the Sugar Directorate to sugar Mills.

The loans were given through the SDF have since been transferred to the Commodities Fund.

iv)Analysis of KShs 6,000,000 was provided. These are payroll related items. This was addressed within the mandate of the streamlining Committee in 2020/2021.

v) The ledger balance for HCD of Kshs. 63,540,000 relates to the FY 2013/14, Note 14 receivables from exchange transactions. The ledger balance for AFA the FY 2014/15 was Kshs. 69,352,000 as per note 24 on receivables from exchange transactions for FY 2014/15

and the supporting schedule. The correct ledger balance for Tea Directorate of KShs. 15,599,103.30 was provided for review.

vi) These are long outstanding prepayments as per the attached summary and support for the same. They were:

a) Advance to farmers 2013/14 KShs. 35,000

b) Life Insurance 2013/14 KShs. 2,000

c) Deposits for utilities KShs. 2,250,623

d) General prepayments KShs. 3,280,549

vii) The figure noted by the auditors of Kshs. 2,852,458,000 as receivables from exchange transactions relates to cash and cash equivalents as per the Statement of Financial Position of the Annual accounts and financial statement for the period ending 30th June 2017.

Receivables from exchange transactions amount to Kshs. 3,335,913,430 itemised below.

Levy Arrears	2,897,023,170.46
Others- SDF	229,121,575.89
Trade Debtors	15,019,541.26
Prepayments	1,365,624.66
Rent Debtors	15,738,576.95
Other Debtors	149,640,749.74
Insurance Debtors	40,000.00
Interest Receivables	10,897,113.61
Interest Receivable	17,067,077.80
	3,335,913,430.37

The Ageing analysis schedule for debtors as at 30th June 2017 was provided for review.

viii) The balance at Coffee Directorate of KShs. 17,194,000 related to Ad valorem levies of KShs. 15,693,000 that has since been recovered over the years except for Meru County Coffee Marketing with a balance of KShs. 1,236,245.85. This will be addressed through the BOD for write off.

Staff imprest reduced from KShs. 3,685,000 in 2012/13 to KShs. 1,502,000 in 2014/15 attributable to normal operations which have since been surrendered.

Sugar Directorate-The amount of KShs 1,837,694,000 relates to levy arrears owed by state owned Sugar mills to the defunct Sugar Board that has been long outstanding. The mills have been facing severe financial constraints and have therefore not been able to settle

the amounts. The National Assembly vide Certificate (No. 039/13th /2023) of 14th September 2023 approved the action plan to revive and commercialize state owned sugar companies.

In the certificate, approval was given to write off liabilities amounting to KShs 65,778,448,646 owed to Government of Kenya, defunct Kenya Sugar Board and Commodities Fund. It is envisaged that upon verification by the Auditor General as indicated in the certificate, the full amount will be written off.

A comparison of the receivables from non-exchange transactions for the FY 2012/13 and 2013/14 increased from a net of KShs. 4,503,000 to KShs. 35,130,000. The increase was attributed to:

1) Debt from SDF rose from zero to KShs. 16,397,000. This was an accrual of the administrative component of the sugar levy payable to the defunct Sugar Board which was subsequently received.
2) Imprests from KShs. 281,000 to KShs. 2,048,000 attributed to normal operations.
3) Staff advances reduced from KShs. 3,564,000 to KShs. 2,858,000.
4) Debts owed by former staff reduced from KShs. 2,628,000 to KShs. 2,599,000.
5) Other debtors increased from KShs. 1,173,000 to KShs. 14,040,000.
6) The provision for doubtful debts as rightly pointed out by the Auditor remained at KShs. 3,143,000 between the two years.

Committee Observations and Recommendations

The Committee deliberated on the issue of Receivables from Exchange Transactions in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

5.0 Receivables from Non-Exchange Transactions

484. The Committee heard that–

i) The statement of financial position as at 30 June 2017 reflects an amount of Kshs.20,232,000 under receivables from non-exchange transactions, which includes staff debtors amounting to Kshs.14,320,000 as disclosed under Note 24 to the financial statements. The latter Includes un surrendered staff imprests from the defunct Coffee Board of Kenya amounting to Kshs.2,270,769 which have been outstanding since 2013 contrary to the provisions of Section 71 (4) of the Public Finance Management Act, 2012 on cash advanced as imprest.

ii) As reported in 2014/2015, staff debtors balance for that year in respect of Tea Directorate included a balance of Kshs.3,422,000 which differed with the figure of Kshs.3,507,725 shown in supporting documents resulting in unexplained and unreconciled balance of Kshs.85,725. Further, the receivables from non-exchange transactions balance for 2014/15

Included an amount of Kshs.22,215,000 disclosed as staff advances out of which an amount of Kshs.1,271,000 relating to the Horticultural Crops.

Directorate lacked verifiable supporting documents. These matters have similarly remained unresolved.

Management response

i) The management informed the Committee that, the list of Coffee Board staff imprest outstanding as at 30th June 2014 and action taken was provided for review.

ii) The correct balance of KShs. 3,421,725.85 comprised of KShs 1,219,947 related to Tea Directorate staff debtors and KShs. 2,201,778 relating to AFA HQ staff debtors.

The list of HCD staff advances outstanding as at 30th June 2014 and action taken on each is attached. Consequently, the completeness and accuracy of receivables from non-exchange transactions balance as at 30 June 2017 could not be confirmed.

Committee Observations and Recommendations

The Committee deliberated on the issue of Receivables from Non-Exchange Transactions in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

6.0 Long Term Receivables from Non-exchange Transactions

485. The Committee heard that, the statement of financial position as at 30 June 2017 reflects an amount of Kshs.131,375,000 under long term receivables from non-exchange transactions. This amount relates to a loan advanced to the Kenya Planters Cooperative Union (KPCU) by Government of Kenya through the defunct Coffee Board of Kenya for onward lending to farmers. However, KPCU is under receivership and no provision has been made in these financial statements to recognize losses that may arise if the KPCU is finally liquidated.

Management response

486. The management informed the Committee that, this amount relates to a loan advanced to the Kenya Planters Cooperative Union by the Government of Kenya through the defunct Coffee Board of Kenya and therefore could not make a provision in its books. However, GOK vide The National Treasury and Planning letter DGIPE/LOANS/78 dated 15/01/2019 wrote off the principal loan plus interest. The Authority subsequently adjusted its records on the matters relating to the loan in 2017/18 Financial Reports.

Committee Observations and Recommendations

The Committee deliberated on the issue of Long-Term Receivables from Non-exchange Transactions in its report for the financial year 2014/2015, observed and made recommendations

therein. Consequently, the committee upholds the observations and recommendations therein.

7.0 Trade and Other Payables from Exchange Transactions.

487. The Committee heard that–

i) The statement of financial position as at 30 June 2017 reflects a balance of Kshs.849,568,000 under trade and other payables from exchange transactions. As disclosed under Note 26 to the financial statements, this balance comprises of trade payables, payments received in advance, project funds, third party payables, other payables and overdrawn bank accounts. Further, as reported in the previous year on defunct entities that were merged to form Agriculture and Food Authority, there were long outstanding balances in the books of the defunct Sugar Development Fund amounting to Kshs.5,000,000 and Kshs.3,062,000 in respect of Boco Tractor lease deposit and Fintech Kenya that had been outstanding for considerably a long period.

ii) In addition, an amount of Kshs.2,636,872,172 relating to the defunct Coffee Board of Kenya had been written off as an old balance on the recommendation of a contracted consultant. However, approval for the write-off from both the Parent Ministry and the Treasury were not provided for audit review. Therefore, the propriety of the write-offs effected in the 2010/2011 financial year could still not be confirmed.

iii) In addition, the trade and other payables from exchange transactions balance of Kshs.849,568,000 includes trade and other payables amounting to Kshs.106,740,000 brought forward from the books of the defunct Horticultural Crops Development Authority. The latter amount differed with the supporting schedules balance of Kshs.96,156,448 resulting in un-reconciled variance of Kshs.10,583,552. In addition, a balance of Kshs.1,500,038 has remained outstanding for more than five years. Further, the trade and accruals balance in 2015/2016 included an amount of Kshs.5,194,331 relating to debit balances which were netted off contrary to the International Public Sector Accounting Standards (IPSAS) No.1, which states that assets and liabilities, and revenue and expenses may not be offset unless off setting is permitted or required by another IPSAS. The creditors balance also excluded an amount of Kshs.400,000 being audit fee owing to the Office of the Auditor-General.

Consequently, the accuracy and completeness of the trade and other payables from exchange transactions balance of Kshs.849,568,000 could not be confirmed.

Management response

488. The management informed the Committee that–

i) The money was deposited by Nile Hauliers, a sugarcane transport company under Busia Outgrowers Company (BOCO) with the then Kenya Sugar Board as a precondition for a

lease contract. The matter has been a subject of a court case between Busia Outgrowers Company Vs Kenya Sugar Board and Nile Hauliers.

The matter was determined, and a judgement given on the 28th March 2019 which directed that the amount of KShs. 5,000,000 be released to the plaintiff (BOCO). However, upon appeal the Judgement was set aside and the amount awarded to Nile haulers Ltd on 27th May 2019. The amount has been accordingly adjusted in AFA books of accounts as per the attached journal.

The amount of KShs 3,062,000 payable to Fintech Kenya was settled on 14th October 2014 as per attached payment voucher no. 1133.

The treatment of KShs. 2,636,872,172 in 2010/2011 was correction of accounting errors and not a write off. Coffee Board of Kenya underwent restructuring in the years 2002 and 2009 whereby most of the employees were either retrenched or retired. Due to restructuring, the Board lacked the capacity to prepare Annual financial statements for a period of seven (7) years starting the FY 2003/04 creating a backlog.

The Board of Directors engaged an accounting firm to undertake preparations of Coffee Board of Kenya financial statements for the seven (7) years starting the FY 2003/04 to 2009/10. This was completed and certificates issued by the Kenya National Audit Office for the years that were in arrears. Due to the amounts involved management forwarded a letter to PS MOA for concurrence.

ii) The Audited 2013/14 financial statements of the defunct HDCA note 17 indicates that the Trade and other payables amounted to KShs 106,740,000 comprising of Trade payables of KShs 96,156,000, Sundry creditors of KShs 9,859,000 and Horticultural Associations of KShs 724,000.

The trade creditors of Kshs 1,500,038 relates to bookkeeping and accounting issues in the defunct HCDA which was addressed by the streamlining committee as earlier indicated in note 5.1 above.

Similarly, the committee addressed the issue of debit balances in trade and accruals amounting to KShs 5,194,331. The amount of KShs 400,000 audit fee was not provided for in the financial statements of the defunct HCDA. However, the amount was not among the fees invoiced by the OAG and the Authority has now settled to all outstanding audit fees.

Committee Observations and Recommendations

The Committee deliberated on the issue of trade and Other Payables from Exchange Transactions in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

8.0 Lease of Horticultural Produce Handling Facilities

489. The Committee heard that, as previously reported under the defunct Horticultural Crops Development Authority, the Authority signed an agreement with Fresh Produce Exporters Association of Kenya (FPEAK) for the lease of its Horticultural Produce Handling Facilities (HPHF). However, as per the agreement signed in September 2012, FPEAK took over the facilities without any rent/charges payable to the Authority. Further, available information indicates that according to the Ministry of Lands valuation report dated 7 September, 2011, the Authority should have charged total rent of Kshs.3,770,000 per annum for lease of these facilities.

490. Further, considering that the facilities were constructed through a JICA loan to the Government of Kenya and that Treasury is still servicing the loan facility, the agreement between the Authority and FPEAK is not in the best interest of the Government of Kenya and the public. Available information also indicates that at the time of agreement, a member of the Board of Horticultural Crops Development Authority was also an official of the Fresh Produce Exporters Association of Kenya (FPEAK).

Management response

491. The management informed the Committee that, the defunct HCDA entered into a partnership agreement with FPEAK on Horticulture depots utilization for capacity building and market access for smallholder farmers with a common objective to promote and accelerate the progress of practical training of horticulture produce for smallholder farmers.

Therefore, the partnership agreement did not provide for any monetary consideration payable to HCDA by FPEAK. However, FPEAK ceased managing the facilities in 2014 and the cold rooms are currently being run by AFA.

Committee Observations and Recommendations

The Committee deliberated on the issue of lease of Horticultural Produce Handling Facilities in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

9.0 Borrowings

492. The Committee heard that, the statement of financial position as at 30 June 2017 reflects an amount of Kshs.735,230,000 under non-current liabilities and an amount of Kshs.68,933,000 under current portion of borrowings. The total loan balance relates to two amounts advanced to the defunct Coffee Board of Kenya, Kshs.560,000,000 GOK loan and an amount of Kshs.225,000,000 that had been advanced to the defunct Coffee Board of Kenya for onward lending to farmers through KPCU. The GOK loan continues to accrue penalties due to failure to pay the loan installments. The amount of loan outstanding in the account of KPCU amounting to Kshs.131,375,000 also remains outstanding in the books as KPCU has been unable to meet its obligations.

No documents and records have been provided on these loans and consequently, the movement of the loan balances could not be confirmed.

Management response

493. The management informed the Committee that, the National Treasury and Planning letter ref. DGIPE/LOANS/78 dated 15/01/2019 communicated the write off of the principal loan plus interest of KShs 873,816,197 for the GOK loan to Coffee Board of Kenya and to KPCU. The Authority subsequently adjusted its records on the matters relating to the loan in 2017/18 Financial Reports.

Committee Observations and Recommendations

The Committee deliberated on the issue of borrowings in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

10.0 Long Outstanding and Unsupported Balances

494. The Committee heard that, as was also reported in the previous year, the audit of the defunct Horticultural Crops Development Authority for the year ended 31 July 2014 revealed certain balances in the financial statements that were at variance with balances reflected in supporting documents or were not supported at all. No supporting documentation or explanation was provided for payment in respect of security of Kshs.3,779,946, provision of Kshs.11,098,000, export licenses of Kshs.2,946,000, employees' costs variance of Kshs.459,622, and GOK recurrent grant variance of Kshs.20,515,000.00. Further, the surrendered imprest, allowance to farmers, life insurance, tax arears, horticultural research fund prepayments, interest on fixed deposit amounts and depreciation charges, all amounting to Kshs.114,667,000 were not supported with documentary evidence or any other workings. These matters were not resolved in the year under review. Under the circumstances, the accuracy and completeness of the opening balances of the accumulated surplus for the Authority could not be confirmed.

Management response

495. The management informed the Committee that, the security payment of KShs 3,779,946 is herewith supported with a schedule of payments and payment vouchers. The provision of KShs 11,098,000 was a historical provision brought forward in the books of the defunct HCDA which was also addressed by the team commissioned to address bookkeeping and accounting issues. Export licenses of KShs 2,946,000 – Attached ledger entries in support of the income. GOK recurrent grant of KShs 20,515,000 – Relates to receipts from GOK on 11th of July 2014. Schedule of long outstanding payables amounting to KShs 114,667,000 is hereby provided.

Committee Observations and Recommendations

The Committee deliberated on the issue of Long Outstanding and Unsupported Balances in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

11.0 Disbursements to Other Institutions Expense

496. The Committee heard that, the statement of financial performance for the year ended 30 June 2017 reflects an expenditure of Kshs.2,000,000 in respect of disbursements to other institutions and as disclosed under Note 18 to the financial statements. The comparative figure of Kshs.2,210,874,000 is an adjustment from the amount that had been disclosed in the year ended 30 June 2016 of Kshs.2,246,900,000. However, no documentary evidence has been provided to support the expenditure of Kshs2,246,900,000. The resulting adjustment of Kshs.36,026,000 was also not supported with documentary evidence. Consequently, the validity of the amount disclosed of Kshs.2,210,874,000 could not be confirmed.

Management response

497. The management informed the Committee that, the amount disbursed in the year 2015/2016 was Ksh. 2,210,874,000, however, the financial statement for that year carried the erroneous figure of Kshs2,246,900,000 resulting to a difference of Ksh.36,026,000. These adjustments are corrected in the comparative for 2016/2017 FY. A breakdown of the disbursements to other institutions expense amounting KShs. 2,210,874,000 is given here below:

i) **Tea Directorate**: KShs 462,920,188 disbursed to Tea Research Institute and KShs 118,236,026.50 for infrastructure fund in accordance with sharing formulas provided for in the repealed Tea Act. Further Ksh.69,248,619.60 relates to refunds to Tea Traders.

ii) **Sugar Directorate:**

Grant to KESREF, Kshs. 414,589,

Prescribed Reserves (15% of Levy), Kshs. 311,331

Factory Rehabilitation =0.71/4*0.85*levy, Kshs. 313,147

Cane Development =0.66/4*0.85*levy, Kshs. 291,094

Roads Grants=0.29/4*0.85*levy, Kshs. 127,905

Disbursements for Capital Grants, Kshs. 102,403

Total disbursements Kshs. 1,560,469

12.0 Grant Reserves Account

12.1 Expenditure from Grant Reserves

498. The Committee heard that, the statement of changes in net assets reflects an amount of Kshs.4,052,334,000 under grants reserve as at 30 June 2017, which includes a debit of Kshs.1,161,277,000 during the year under review. The latter amount further Includes Kshs.12,764,922 used in the in construction of bridges, Kshs.397,473,383 -for Cane Testing Unit (CTU) in various sugar companies, Kshs.99,327,402 grants to a sugar company, Kshs.548,613,716

loans to five sugar companies. Kshs.100,013,757-fertilizer subsidies and Kshs.3,084,538 for reversal of some prior year receipts. These grants reserve was created from the defunct Sugar Development Fund, and were to be transferred to a Commodities Fund upon commencement of the Crops Act, 2013.

499. The Authority has not explained the reasons for the failure to comply with Section 9 (1) of the Crops Act, 2013 which stipulates that there is established a fund to be known as the Commodities Fund and Section 10(1) of the same Act, which states that the fund shall be used to provide sustainable affordable credit and advances to farmers', as it continues to spend the amount of the grants reserve on loans, grants and other expenditure.

Management response

500. The management informed the Committee that, the loans and the function of giving the loans and advances given through the SDF have since been transferred to the Commodities Fund from 1st March, 2019.

501. The Cane Testing Unit which deals with quality-based payment system however remains with the Authority as it does not relate to loans and advances.

Committee Observations

The Committee observed that–

i) The management did not justify the delay between (2013–2019),it only confirms the transfer occurred in 2019 but does not explain why it took six years to comply with the law.

ii) The management did not clarify on Pre-2019 Expenditures. The response does not address whether the KShs.1.16 billion spent before 2019 was legally justified or aligned with the intended use of the Commodities Fund.

iii) Although the Cane Testing Unit (CTU) remained with the Authority, the management did not clarify why its funding from grant reserves was appropriate under the Crops Act.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer submits to the National Assembly and Auditor-General a comprehensive report supported with documentary evidence on the transfers to commodity Fund and expenditure of Kshs.12,764,922 used in the in construction of bridges, Kshs.397,473,383 -for Cane Testing Unit (CTU) in various sugar companies, Kshs.99,327,402 grants to a sugar company, Kshs.548,613,716 loans to five sugar companies. Kshs.100,013,757-fertilizer subsidies and Kshs.3,084,538 for reversal of some prior year receipts.

12.2 Loans to Sugar Companies

502. The Committee heard that, during the financial year 2014/2015, 2015/2016 and 2016/2017 the Authority disbursed loans amounting to Kshs.1,915,619,021, Kshs.671,182,067 and Kshs.548,613,716, respectively to sugar companies through its Sugar Directorate.

503. Examination of records available indicates that the loans aside from being unsecured, were disbursed without the authority of the Board.

504. In addition, the loans were disbursed from the current grants reserve, which was created from the defunct Sugar Development Fund.

505. It has also not been possible to confirm the amount disbursed to each of the sugar companies. No documentary evidence has been provided to confirm that due diligence was done on the sugar companies before the loans were issued. It is also not clear why the Authority has continued to disburse loans to entities which are known for defaulting in repayments.

506. Further, the amounts disbursed by the Authority in the three years, all totalling Kshs.3,135,414,804 have not been captured in these financial statements, as a result, the accounts receivables as at 30 June 2017, are understated by an amount of Kshs.3,135,414,80.

Management response

507. The management informed the Committee that, an analysis of the amount disbursed to each Sugar Company is provided. An analysis of the amount disbursed to each Sugar Company was provided.

508. The Authority amended the financial statements in 2015/2016 to incorporate loans advanced to Sugar Companies.

509. Securities for the loans given to the government owned sugar mills were secured by floating debentures of the asset of each of the mills. These applied to the loans in question. The Authority did not have a Board of Directors but received all approvals from the Parent Ministry.

Committee Observations

The Committee observed that–

i) The Authority disbursed a total of Kshs.3,135,414,804 in loans to sugar companies between the financial years 2014/2015 and 2016/2017, through its Sugar Directorate.

ii) These loans were issued without board approval and were unsecured, raising concerns about governance and risk management.

iii) The funds originated from the grants reserve created from the defunct Sugar Development Fund, yet there is no documentation confirming the amounts disbursed to individual companies or evidence of due diligence prior to issuance.

iv) Despite a history of defaults by these entities, the Authority continued to extend credit.

v) Although the management submitted that the Authority amended the financial statements in 2015/2016 to incorporate loans advanced to Sugar Companies, yet the auditor reported that the amounts were not reflected in the financial statements, resulting in an understatement of accounts receivable by the same amount as of 30 June 2017.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, EACC should investigate how sugar companies were advanced loans without Board approval, whether the loans were eventually paid and the current status of the loans. The findings should be submitted to the National Assembly and Auditor General for review and reporting in the subsequent audit cycle. Should any officer be found culpable for any loss in public funds, he/she should be held personally liable for the loss, DPP should initiate a legal process to recover the amount so lost with interest from the concerned officer at the prevailing CBK rates.

13.0 Prior Year issues on Revenue

13.1 Fines, Penalties and Levies

510. The Committee heard that, the Note 5 to the financial statements reflects an amount of Kshs.313,058,000 (2016-Kshs 3,563,305,000) in respect of levies, licences, permit, cess and other levies. However, no documentary evidence had been produced for verification to confirm the accuracy of the figure of Kshs.3,563,305,000 relating to the previous year.

Management response

511. The management informed the Committee that, the amount of KShs 3,563,305 comprises mainly of levies, cess, licenses and permit fees realized for the period 1st of August 2014 to 30th June 2015.

Committee Observations and Recommendations

The Committee deliberated on the issue of fines, Penalties and Levies in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

13.2 Loss on Sale of Assets

512. The Committee heard that, Note 20 to the financial statements reflects a nil amount (2016-Kshs.33,000) in respect of a loss on sale of assets. However, no workings have been provided to show how the loss on disposal of assets was arrived at. Consequently, the loss of Kshs.33,000 for the year ended 30 June 2016 could not be confirmed.

Management response

513. The management informed the Committee that the workings for the loss on sale of assets was provided for review.

Committee Observations and Recommendations

The Committee deliberated on the issue of Loss on Sale of Assets in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

13.3 Gain/(Losses) on Foreign Exchange

514. The Committee heard that, Note 21 to the financial statements shows an amount of Kshs.1,203,000 (2016-Kshs.6,767,000) described as gain on foreign exchange transactions. However, no documentary evidence has been produced to show how the gain of Kshs.6,767,000 relating to the previous year was determined.

Management response

515. The management was informed that workings for the gain/loss on foreign exchange was provided for review.

Committee Observations and Recommendations

The Committee deliberated on the issue of Gain/(Losses) on Foreign Exchange in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

13.4 Finance Income External Investments

516. The Committee heard that, the statement of financial performance reflects an amount of Kshs.166,095,000 (2016-Kshs.391,433,000) for the year ended 30 June 2017 under finance income external investments and as disclosed under Note 7 to the financial statements. The amount relates to interest income from Government securities. The management has not provided evidence to show how Kshs.391,433,000 earned in the year 2016 was determined. In the absence of supporting documents or explanation, it is not possible to confirm the accuracy and completeness of Kshs.391,433,000 described as Finance Income - External Investment in 2016.

Management response

517. The management informed the Committee that, the support documents of Kshs. 391,433,000 was provided for review.

Committee Observations and Recommendations

The Committee deliberated on the issue of Finance Income External Investments in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

13.5 Finance Income - Outstanding Receivables

518. The Committee heard that, the statement of financial performance reflects revenue from exchange transactions of Kshs.310,324,000 (2016 Kshs.528,696,000) for the year ended 30 June 2017. The amount relating to the previous year of Kshs.528,696,000, includes an amount of Kshs.20,726,000 described under Note 8 to the financial statements as finance income outstanding receivables. However, no supporting documents or explanations have been provided for the figure. Consequently, its validity could not be ascertained.

Management response

519. The management informed the Committee that, this was interest accrued on short term deposits by Tea and coffee Directorates. The certificate of balance, ledger transactions and journals to support the accrued interest were provided for review.

Committee Observations and Recommendations

The Committee deliberated on the issue of Finance Income - Outstanding Receivables in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

13.6 Other Income

520. The Committee heard that, the statement of financial performance reflects an amount of Kshs.310,324,000 (2016 - Kshs.528,736,000) under revenues from exchange transactions, which in the previous year included other income of Kshs.13,400,000 (revised in the current year to Kshs.13,263,000) as disclosed under Note 9 to the financial statements. However, the management has not supported the figure of Kshs.13,400,000 with verifiable documentary evidence. Consequently, the occurrence, completeness and accuracy of other income of Kshs.13,400,000 for the year ended 30 June 2016 could not be ascertained.

Management response

521. The management informed the Committee that, other incomes in the year 2015/2016 was Ksh. 13,263,000. However, the financial statement for that year carried the erroneous figure of Kshs. 13,400,000 resulting to a difference of Ksh.137,000. These adjustments are corrected in the comparative for 2016/2017 FY. Support documents of KShs. 13,263,000 are hereby attached.

Committee Observations and Recommendations

The Committee deliberated on the issue of Other in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

14.0 Unsupported Expenses

522. The Committee heard that, the statement of financial performance for the year ended 30 June 2015 reflected an amount of Kshs.2,101,525,000 under expenses. A review of available records, however, revealed variances between the figures that were reflected in the financial statements and the figures reflected in the ledger as detailed below:

Item	Sub-Item	Financial statements Kshs	Ledger Kshs	Difference Kshs
Regulation & Compliance	Inspection & Surveillance	19,276,000	19,058,894	217,106
	Development & Review of Standards	5,744,000	-	5,744,000
Technical Advisory	Collaboration & Coordination	22,146,000	18,481,708	(3,664,292)
	Stakeholders Capacity building	45,119,000	-	45,119,000
	Crop Senses	3,663,000	-	3,663,000
Market Research & Development	Market Research & Development	10,036,000	7,677,834	2,358,166
	Value addition & Promotion	35,510,000	-	35,772,000
Repairs and maintenance	Repairs and maintenance	35,510,000	36,996	(1,486,041)
		177,296,000	**82,214,477**	**95,081,513**

523. In view of the above unexplained variances, the accuracy and completeness of surplus brought forward for the year ended 30 June 2017 could not be confirmed.

Management response

524. The management informed the Committee that the report and financial statements as at 30th June 2015 were restated in 2017.

Committee Observations and Recommendations

The Committee deliberated on the issue of unsupported expenses in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

15.0 Operating and Administrative Costs–Security Service Providers

525. The Committee heard that, Note 17 to the financial statements discloses an amount of Kshs.639,325,000 (2016 – Kshs.687,566,000) described as operating/administrative expenses for the year ended 30 June 2017. However, the brought forward balances included an amount of Kshs.5,057,136 paid to a security firm for providing extra security services to HCDA's six depots. However, the management has not provided documentary evidence to date to confirm that the firm was contracted in compliance with Section 29(3) of the Public Procurement and Disposal Act, 2005. In addition, no explanation has been provided for terminating the contract of the previous firm. In the absence of evidence, the Authority was in breach of the law.

Management response

526. The management informed the Committee that, Cobra Security firm was brought in upon the defunct HCDA entering into an agreement with FPEAK to run the 6 depots. Where upon they were awarded the security contract as per award letter and contract attached. M/S Eversafe were providing security services prior to FPEAK occupying the pack houses. The contract of M/S Eversafe was terminated.

Committee Observations and Recommendations

527. The Committee deliberated on the issue of Operating and Administrative Costs–Security Service Providers in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

16.0 Accuracy of the Financial Statements

528. The statement of financial position as at 30 June 2017 reflects a balance of Kshs.7,925,918,000 in respect of total net assets and liabilities. However, it has been noted that corresponding figures as at 30 June 2015 for the items differed with the audited figures in the financial statements for the year ended 30 June 2015.

462. In addition, the statement of financial performance for the year ended 30 June 2016 reflected corresponding figures for 2014/15 that differed from the figures reflected in the comparative financial statements for the year ended 30 June 2015 as detailed below:

463 No adjusting journals were provided for audit review in support of the restated corresponding figures for 2014/15 reflected in the financial statements for 2015/16. In addition, the variances between the balances reflected in the comparative financial statements for 2014/15 and the corresponding figures under 2014/15 in the financial statements for 2015/16 were not explained. Consequently, the accuracy of the balance brought forward in 2016/2017 and the financial statements for the year ended 30 June 2017 could not be confirmed.

Management response

464 The management informed the Committee that, the report and financial statements as at 30th June 2015 were restated in 2017.

Committee Observations and Recommendations

The Committee deliberated on the issue of Accuracy of the Financial Statements in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

17.0 Irregular Renewal of Medical Insurance Cover

465 The Committee heard that, the statement of financial performance reflects an amount of Kshs.707,829,000 under employee costs for the year ended 30 June, 2017, and as disclosed under Note 10 to the financial statements, it includes an amount of Kshs.90,533,000 described as medical expenses. Review of available records indicates that the Authority entered into a one-year contract with an insurance company for provision of medical cover at a cost of Kshs.86,341,029 for the one year. On expiry of the contract period, the Authority renewed the cover without adhering to the procurement process, as stipulated under the Public Procurement and Disposal Act, 2015. It is therefore not clear whether the Authority got value for money upon the renewal of the medical cover.

Management response

466 The management informed the Committee that, the provision for medical services Tender No AFFA/T/83/2014 dated 19th May 2015 envisaged under page 34. 'The contract shall be for one (1) year effective 1st July 2015 renewable at the discretion of the Authority" The Authority renewed the contract for the period of 2016-17 FY.

Committee Observations

The Committee observed that–

i) The Authority entered into a one-year contract with an insurance company for provision of medical cover at a cost of Kshs.86,341,029 for the one year. However, the Authority renewed the cover without adhering to the procurement process, as stipulated under the Public Procurement and Asset Disposal Act, 2015 thus contravening Section 90 (8) of the Act that indicates that a person who in order to avoid open tendering, procures items that ought to be subjected to open tendering as though they were included in the list of classified items commits an offence.

ii) The Authority Cited a clause that allowed it to renew at its discretion contrary to the Public Procurement and Asset Disposal Act, 2015.

Committee Recommendations

The Committee recommended that within three months upon adoption of this report, EACC should investigate whether there was skewed procurement aimed at avoiding open tendering process contrary to Section 90 (8) of the Public Procurement and Asset Disposal Act, 2015. If any officer is found culpable for avoiding adherence to the law, he/she should be held personally liable for the loss, DPP should initiate a legal process to enforce the provisions of Section 177 (a) of the Act that states; 177. A person convicted of an offence under this Act for which no penalty is provided shall be liable upon conviction, if the person is a natural person, to a fine not exceeding four million shillings or to imprisonment for a term not exceeding ten years or to both and the recover the amount due with interest from the concerned officer at the prevailing CBK rates based on the date the breach was perpetuated.

18.0 General Insurance Expenses

467 The Committee heard that, the statement of financial performance reflects operating/administrative expenses of Kshs.639,325,000. Included in this figure are insurance expenses disclosed in Note 17 to the financial statements of Kshs.8,152,000 whose procurement was done through single sourcing contrary to the requirements of the Public Procurement and Disposal Act, 2015. The Authority was therefore in breach of the law.

Management response

468 The management informed the Committee that the authority appointed Ms – Pelican Insurance brokers (K) ltd to assist in sourcing of the motor vehicle insurance services.

Committee Observations

The Authority procured insurance services for Kshs.8,152,000 through single sourcing contrary to the requirements of the Public Procurement and Disposal Act, 2015.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, EACC should investigate whether there was skewed procurement aimed at avoiding open tendering process contrary to Section 90 (8) of the Public Procurement and Asset Disposal Act, 2015. If any officer is found culpable for avoiding adherence to the law, he/she should be held personally liable for the loss thereto, DPP should initiate a legal process to enforce the provisions of Section 177 (a) of the Act that states; a person convicted of an offence under this Act for which no penalty is provided shall be liable upon conviction, if the person is a natural person, to a fine not exceeding four million shillings or to imprisonment for a term not exceeding ten years or to both and the recover the amount due with interest from the concerned officer at the prevailing CBK rates based on the date the breach was perpetuated.

19.0 Transfer of Assets and Liabilities from the Defunct Sugar Development Fund

469 The Committee heard that–

i) The commodities Fund was constituted by merging the Sugar Development Fund and the Coffee Development Fund. The initial investment for the two funds was an amount of Kshs.4,052,300,000 from the defunct Sugar Development Fund and an amount of Kshs.1,178,153,000 from the defunct Coffee Development Fund. It was observed that, while the amount of Kshs.1,178,153,000 was contributed from the Coffee Development Fund, the amount of Kshs.4,052,300,000 that was to be contributed by the Sugar Development Fund was instead taken over by the Sugar Directorate under Agriculture Food Authority (AFA).

ii) Whereas the assets of the former Coffee Development Fund were automatically taken over by the newly formed Commodities Fund, the same did not happen with the assets and liabilities held by the former Sugar Development Fund. There exists no official handover report or any record to show how the assets or liabilities were shared between Agriculture and Food Authority (AFA) and Commodities Fund. Consequently, the completeness and accuracy of the amount of assets and liabilities, disclosed by the Authority could not be confirmed.

Management response

470 The management was informed the Committee that–

i) At the time of the audit, the process of handing over was still ongoing involving the Ministry of Agriculture and Commodities Fund. The process was finally completed and the handing over report was provided for review.

ii) At the time of the audit, the process of handing over was still ongoing involving the Ministry of Agriculture and Commodities Fund. The process was finally completed and the handing over report was provided for review.

Committee Observations and Recommendations

The Committee deliberated on the issue of Financial Statements (under Sugar Arbitration Tribunal assets and liabilities) in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

20.0 Temporary Employees

471 The Committee heard that–

i) After the formation of Agriculture and Food Authority vide the AFA's Act, 2013 and Crops Act, 2013, the Authority was to take up all the Assets and Liabilities of the defunct Authorities/ Boards. As a result, the Authority took over all the employees of the defunct institutions and the staff were put on Interim appointments on 20 August 2014 regardless of their terms with former employers for a period of three months. Since August 2014 and up to the time of audit, the Authority has been extending these appointments for a period of three months for each term. To date the employees are still on Interim Contracts.

ii) It was observed that the Authority is yet to harmonize the staff terms and conditions of service despite the Authority contracting Deloitte & Touche, a consulting firm, to conduct a job evaluation and its request to Salary and Remuneration Commission vide its letter AFA/HRM/28 dated 20 July, 2017, which provided that the Authority be allowed to finalize the process of harmonization of terms and placement of staff within two months from the date of the letter.

Management response

472 The management heard that–

i) The Cabinet Secretary, Ministry of Agriculture. Livestock and Fisheries appointed an Interim Management Committee (IMC) vide Kenya Gazette notice No. 1363 of 28th February 2014 to advise the Ministry on the modalities of operationalization of the AFFA Act and Crops Act and Agriculture and Food Authority (AFA). Their terms of reference included Development of a comprehensive Human Resource Framework for the Authority and its Directorates. The IMC was responsible for ensuring the smooth functioning of AFA until a permanent management structure is in place.

Subsequently, the IMC invited existing staff for interviews and recommended appointment of officers on interim. Upon submitting their report to the Cabinet Secretary, a number of heads of functions including the Interim Director General, were appointed by the Cabinet Secretary to initiate operationalization of AFA.

ii) Upon operationalization of AFA on 1st August 2014, Officers deployed to hold positions proposed in the new structure, to help in setting up systems. These positions were not in existence in the former Boards and Authorities. The Leadership then resolved to appoint additional officers on Interim basis to help in setting up and operationalizing the Authority. The appointments were in line with the proposed AFA structure as per the IMC Report.

The extension of the interim appointments was awaiting the finalization of the job evaluation exercise and development of necessary HR Instruments, which had delayed over the years for lack of approval.

It's worth noting that since inception and up to time of the Audit the Authority had been operating without a substantive Board. This curtailed the efforts of the Authority to get the necessary approved HR Instruments, as the requests were forwarded to the Ministry but no responses received. The staff placement has however, since been undertaken and a substantive Board appointed.

Committee Observations

The Committee observed that–

i) There was no justification provided for why interim contracts persisted for several years despite the IMC's initial recommendations and the existence of a proposed structure. The response lacked a timeline or accountability for resolving the issue earlier.

ii) The response did not explain why the Authority failed to escalate or resolve the issue over the years and the implementation or purpose of the Deloitte's job evaluation report.

iii) There was no evidence, or documentation is referenced to support fair and transparent placement. The response does not address whether staff terms were aligned with public service standards or whether grievances were raised.

iv) There was no mention of follow-up actions, escalation strategies, or interim measures taken to protect staff welfare and legal compliance.

v) The Management did not indicate whether all the affected staff were employed on permanent and pensionable terms or fresh adverts and recruitments were done.

Committee Recommendations

The Committee recommends that, within three months upon adoption of this report, the Accounting officer-AFA to submit a comprehensive report on the staffing levels, the approved established and unfilled positions, the recruitment process that filled the previous acting vacant positions including advertisements, shortlisting and interviewing scores to the National Assembly and the Auditor-General for review and reporting in the subsequent Audit cycle.

FINANCIAL YEAR 2017/ 2018

1.0 Property, Plant and Equipment

1.1. Ownership of Property, Plant and Equipment

473 The Committee heard that, the statement of financial position as at 30 June 2018, reflects a balance of Kshs. 10,827,813,000 under property, plant and equipment, which includes several properties whose ownership has not been established as explained below:

i) The balance of Kshs.10,827,813,000 includes an amount of Kshs.72,000,000 in respect of land measuring 236.35 hectares in Thika, Kiambu County. However, the land measuring 137.2 hectares out of the 236.35 hectares, and which was bought with funds from the defunct Coffee Board of Kenya, is registered in the name of a former Chairman. There is no evidence to indicate whether the former Chairman refunded for the amounts incurred in acquiring the land.

ii) The balance also includes a motor vehicle registration number KBG 517C, which was registered in the name of Coffee Research Foundation. Although management indicates that the value of the vehicle has been removed from the books of account of the Authority, there is no evidence in the records of the Authority to confirm transfer or disposal of the vehicle.

iii)Included also in the property plant and equipment balance of Kshs. 10,827,813,000 is an amount of Kshs. 161,200,000 representing the value of land on which the defunct Horticultural Crops Development Authority depots stand and for which the title deeds had not been obtained. Further, the ownership of Plot L.R No. 209/12490 situated along Mombasa Road, measuring 3.5 hectares and valued at Kshs. 692,000,000 is still in dispute.

Management response

474 The management infomed the Committee that, 236.35 hectares is made of LR No.10084 of 99.15 Ha and LR No.10085 of 137.2 Ha. The value of Kshs. 72,000,000 relates to LR No.10084 only acquired by the defunct Coffee Board of Kenya in 1977.Records indicate that the Board initially wanted to purchase a farm from M/S Azania Investments Co. Ltd for Coffee Research comprising L.R. No.10084 and L.R. No. 10085.

475 However, the Coffee Research Foundation advised that they did not need the entire two parcels and one of them, L.R. No.10084 would be adequate.

476 The Board minutes Min. no 245 of 15th July 1977 also indicate that the then Chairman of the Board, E.N. Kuria, acquired block L.R. No.10085 which was not required for Coffee Research. The same had been paid for by the Board and the then Chairman was to repay as a loan to the Board.

477 Mr. Kuria paid the money on the 16th January 1978 through a banker's cheque forwarded by his advocate M/S Kaplan & Straton Advocates and acknowledgement of receipt communicated vide a letter ADM/2/30C dated 19th January 1978. The Authority is in possession of the title for L.R. No. 10084 for 99. 1Ha.Logbooks of the 2 vehicles are now in the custody of the Authority.

478 The Authority engaged the services of KOMM advocate to follow up on all the land without title documents. The status report as indicated by the advocate vide his report dated 16th September 2024 is as summarized below,

S/NO	DEPOT	REMARKS

1.	MACHAKOS PDP No. 59/96/23-MACHAKOS	This is a 2 acres piece of land currently occupied by the Machakos County Government. As of 3rd June 2024, the advocate is engaging the County Government of Machakos on accessing the land for survey purposes.
2.	LIMURU LIMURU/BIBIRIONI/1010	This is a 6 acres piece of trust land situated in Limuru, Kiambu County. The Authority is pursuing the Kiambu County Government to release the piece of land to the National Land Commission for issuance of a letter of allotment.
3.	MWEA	This is a 2.5 acres piece of land. The Authority wrote a letter dated 31st March 2023 to the National Irrigation Board agreeing to their proposal to enter into a simple agreement. National Irrigation Board has not acquired the title for the entire land yet. The advocate is pursuing the matter.
4.	KIBWEZI	The Authority has already obtained the title deed for the Kibwezi depot, measuring 2 acres LR No. 27422.
5.	SAGANA	This is a 0.74 Ha. of land. From the report of the Authority's advocate, he is pursuing the preparation of a new Part Development Plan as the old one cannot be traced.
6.	MERU No. ABOTHUGUGUCHI/KARIENE/3165.	This is a 0.43-Ha land located in Kariene in Meru County. The Title Deed was successfully processed and Title issued on 12th August, 2024. -Copy attached.
7.	KITHIMANI (YATTA)	This involves 22 plots each measuring 0.03 Ha. for which title deeds have been issued in the name of HCDA on 18th July 2024. The Authority is in the process of transferring them in the name of AFA.

479 The Property was subject of a court case ELC NO. 516 OF 2018 (Formerly High Court Civil Suit No 1205 of 2005) HCDA-VS-Sakir Properties Limited & 2 Others. The Judgment was delivered on 17th December 2020 in favor of the Authority and the land was reverted to the Authority, but vide a Ruling dated 10th February 2022, the Court set aside the Judgment that granted AFA ownership of the land. The Authority has appealed against the judgement. The matter is coming up in court for compliance on 28th May 2025.

480 HCDA was allotted by the commissioner of lands an un-surveyed piece of land LR. No.209/12490 opposite Yana Tyres along Mombasa RD Nairobi measuring 3.5Ha. for a lease term of 99 years

effective 1st February 1987. On or about 2005, HCDA got information that M/S Sakir had been allotted the same land and a tittle deed issued.

481 M/S Sakir claims that they got allocated the property after HCDA surrendered the land back to the government. HCDA maintained that it did not surrender the land back and therefore a legal suit ensured through the then Gachiri Kariuki & Kiai Advocates.M/S Sakir have developed the property by building residential flats.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.2 Valuation of the Property Plant and Equipment

482 The Committee heard that, the statement of financial position's balance of Kshs. 10,827,813,000 includes a piece of land reference No. 209/10537 measuring 8.1 hectares located in Embakasi which was previously owned by the defunct Coffee Board of Kenya since October 1986. The land has, however, remained unutilized and is prone to illegal acquisition by land grabers.

483 The fixed assets register provided for audit review revealed that the Authority had excluded ten acres of land situated in Wundanyi in Taita Taveta that had been allocated to the defunct Kenya Horticultural Development Corporation, which is valued at Kshs. 36,600,000 and a piece of land in Kitui, which had been allocated to the defunct Cotton Board of Kenya and whose acreage had not been determined but valued at Kshs. 4,000,000.

Management response

484 The management informed the Committee that, on utilization of the land, the Authority leased part of the land to Kipevu 3PL Supply Chain Ltd on 13th April 2021. The land is also secured by a stonewall and caveat emptor is in place to protect it from would-be land grabbers.

485 The Authority has not acquired any document of ownership to merit a claim on the two parcels of land to merit inclusions in the fixed asset register.

486 The Authority is still pursuing letters of allotment and once this is acquired the same will be included in the assets register. KOMM Advocate report to the Authority dated 21st February 2025 advised as follows:

i. **Wundanyi** - The Part Development Plan (PDP) needs to be updated to capture contours, shows adjacent parcels, indicate the use of the adjacent parcels land preparation of shape files for the updated PDP which would require placing of advertisements in 2 local dailies (in English and Kiswahili), public participation, preparation of the allotment letter and lease and PDP approval.
ii. **Kitui**- There is a draft PDP that is pending approval, this requires to be updated through advertisement in the newspapers.

Committee Observations and Recommendations

The Committee deliberated on the issue of Valuation of the Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.3 Land in Mtwapa

487. The Committee heard that, the property, plant and equipment balance also excludes seven acres of land in Mtwapa that had been allocated to the defunct Kenya Coconut development Authority by the defunct Kenya Agricultural Research Institute. In addition, the ownership had not been transferred by the Kenya Agricultural Research Institute by the time the Authority ceased to exist upon commencement of the Crops Act, 2013.

488. Additional information shows that as at 30 June 1993, the defunct Cotton Board of Kenya had property, plant and equipment with a net book value of Kshs. 210,759,785 and investments in Meru Ginnery Ltd of Kshs. 13,940,758. The management has, however, not satisfactorily explained how these property, plant and equipment were accounted for upon the creation of the defunct Cotton Development Authority.

Management response

489. The management informed the Committee that, the land in question had been reserved for the defunct Kenya Agricultural Research Institute (KARI). The defunct Kenya Coconut Development Authority applied for the parcel of land from KARI through the Ministry of Agriculture for the purpose of constructing a Headquarters at Mtwapa. Kenya Agricultural Research Institute vide their letter REF. KARI/4/023C/VOL.XIV dated 2nd July 2012 informed the defunct Authority that the Board of Directors had resolved in their 98th meeting to allocate 7 Acres of land to KCDA. However, the defunct KARI now KALRO have not acquired title documents to enable transfer of the same to the Authority due to an ongoing court case. The land is also invaded by squatters as per the restraining order of the environment and land court, Mombasa ELC petition no 29 of 2019.

490. The value of the parcel can therefore not be included in the books of the Authority.

491. As per The Cotton (Amendment) Act 2006, there was no provision for transfer of Property, Plant and Equipment from the defunct Cotton Board of Kenya to Cotton Development Authority. At the formation of AFA, Cotton Development Authority did not have ownership documents for the Meru ginnery. The Property had been sold by the former Cotton Board of Kenya to offset a bank loan as per a taskforce report.

The matter has been referred to the Ministry of Agriculture & Livestock Development for further advice.

Committee Observations and Recommendations

The Committee deliberated on the issue of land in Mtwapa in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds

the observations and recommendations therein.

1.4 Property with a Court Case

492. The Committee heard that, the property, plant and equipment balance of Kshs.10,827,813,000 as at 30 June 2018 excludes the value of Riverside Estate property L.R. No. 209/4389/3 where the defunct Cotton Development Authority's head office was located. According to information available, the property belonged to the defunct Cotton Board of Kenya and was charged against a bank loan that the Board failed to service. The bank subsequently sold the property for Kshs.21.5 million through a public auction held in November 2000. Further, records show that the purchaser of the property paid the bank an amount of Kshs.8,375,000 representing the balance of the outstanding loan, whereupon the bank released the documents relating to the property to the purchaser. The purchaser thereafter, and before clearing the balance of Kshs.13,125,000 sought to transfer the title to the property in his name. The Board, however, declined to execute the transfer documents and as a result and shortly thereafter, the purchaser filed a case in the High Court in November 2008. Although the case was determined on 25 September 2015, the Authority has not obtained the title deed to the property and consequently the ownership cannot be confirmed.

Management response

493. The management heard that the case has since been concluded and the Authority is in possession of ownership document.

Committee Observations and Recommendations

The Committee deliberated on the issue of Property with a Court Case in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.5 Old and Idle Motor Vehicles and Cycles

494. The Committee heard that, disclosed in Note 36 to the financial statements is a balance of Kshs.208,857,000 in respect of net book value of automobiles. The net book Value includes amounts of Kshs. 1,710,000 and Kshs. 1,350,000 relating to five motor vehicles and five motorcycles, respectively that are grounded. No reasons have been given for the failure to repairs and use the vehicles and motorcycles or dispose them off.

Management response

495. The grounded motor vehicles and motorcycles were awaiting the process of disposal. These motor vehicles and motorcycles among others similarly identified were disposed of in 2020-2021 FY.

Committee Observations and Recommendations

The Committee deliberated on the issue of idle equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

2.0 Investment in Subsidiary

496. The Committee head that, as previously reported, the statement of financial position as at 30 June 2018 similarly reflects a balance of Kshs. 389,000 under investments, which as disclosed in Note 34 to the financial statements relates to investments on coffee exchange shares. However, the investment in the subsidiary of Kshs. 389,000 differs with the amount of Kshs.148,200 reflected in the share certificates resulting in an unexplained difference of Kshs. 240,800. In the circumstances, the value of investments disclosed in the financial statements cannot be confirmed.

Management response

497. The investment of Kshs. 389,000 relates to the total shares value on a number of share certificates at Kenya Coffee Auctions Limited issued over a number of years. The Kshs. 148,200 related to Share Certificate No. 14 dated 29/09/1997 for 7,410 shares of Kshs. 20 each. Two more share certificates are attached, Certificate No. 7 for 1,938 shares issued on 11/12/1969 and No. 10 for 532 shares issued on 20/08/1980. The three share certificates total to 9,880 shares valued at Kshs. 197,600 as evidenced by letter Ref. CR13. C.3335 dated 15 April 2016 from the Registrar General. Moreover, a letter from the defunct CBK Ref. ADM/2/45/1C dated 3rd March 2006 to Inspector General State Corporations, confirms that the Board owned 65% of issued share capital of the company. According to the financial report of the company for the year ended 30th June 2002 the issued shares were 15,200 out of which the board owned 9,880 shares valued at Kshs. 197,600. Earlier Financial statements of the Defunct CBK still carry the investment at Kshs. 389,000. From this analysis, the Authority can only confirm 9,880 shares valued at Kshs. 197,600. The Authority has commenced the process of winding up of the company which is not operational and this will determine the residual values.

Committee Observations and Recommendations

The Committee deliberated on the issue of Investment in Subsidiary in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

3.0 Cash and cash equivalents

3.1 Unsupported Previous Year's Balances

498. The Committee heard that, the statement of financial position as at 30 June 2018 reflects a balance of Kshs. 3,311,549,000 under cash and cash equivalents, which includes, as disclosed under Note 24 to the financial statements, cash on hand and in transit, short-term deposits, and collateral

deposits. As reported in the year 2014/2015, the financial statements cash and cash equivalents balance for the year 2013/2014 differed with the supporting documents by Kshs. 14,621,665.

499. Although management has since passed a prior year adjustment to clear the amount from the cashbook, no supporting documents have been provided to explain how the amount was written off. The same cash and cash equivalents was net of a negative petty cash balance of Kshs. 249,000 that had not been explained at the year end. In addition, cash in hand and imprest of Kshs. 2,003,000 and Kshs. 49,000 as at 30 June 2015, respectively have not been supported by any verifiable documentary evidence to date.

500. As reported in the previous year, included in the cash and cash equivalents balance of Kshs. 3,311,549,000 as at 30 June 2018 are bank account balances relating to the previous years' whose supporting documents have not been provided for audit review as analyzed below:

Directorate	Account Name	Account No.	Account Balance Kshs.
Sugar Directorate	Euro Bank	Not Provided	52,237,000

Management response

501. The management informed the Committee that, the cash and cash equivalent differences between the financial statements and the support documents under the defunct Horticulture Crop Development Authority FY 2013/14 were identified by management among other ledger differences leading to a formation of a special committee whose mandate included: -

i) Revisit the accounting issues raised in the external audit report

ii) Identify the weaknesses of internal controls and together with the ICT department institute measures to streamline and strengthen them.

iii) Carry out reconciliations of long outstanding ledger balances, cash and bank, account payable, account receivable and assets

iv) Pass necessary journals

v) Transitioning from old Navision system to the current Microsoft Dynamics under AFA

vi) Capacity builds the finance team and other staff at the directorate and address any financial management challenge on use of the ERP that they may be experiencing

502. The committee undertook the assignment, and necessary journals were made in the financial statement for 2020-2021 FY. The differences in opening balances amounting to Kshs. 14,621,655 relates to 3 bank accounts operated by the defunct Horticulture Development Authority, attached herewith find the analysis of the cash book entries. A reconciliation of the opening balances in the ledgers was done

503. The amount of Ksh. 249,000 reflected as cash was a result of misposting of three imprest warrants in 2012/2013 FY of Ksh. **6,810.05,** imprest warrants No. 3972 in financial year 2013/2014 of Ksh. **118,614.00** and imprest warrant No 4852 in the FY 2014-15 of **Ksh. 123,575.95**, that were not posted in the petty cash ledger rather were posted in the officer's imprest account.

504. The Kshs. 2,003,000.00 relates to balances of receipts from clients from the period years FY 2012/13, 2013/2014 and July 2014 were posted in the cash in hand ledger instead of posting to the bank ledger. Debtor balances between the old system and the new system were reconciled and necessary adjustments made including posting receipts and invoices as per the attached report.

505. In regard to Kshs. 49,000.00 the amount related to branch office petty cash reimbursement vide PV No 02876 dated 27th July 2014. This relates to petty cash imprest for Kajiado Station. Expenses in the ERP system that has since been addressed and the account has been cleared.

i) Differences in Cash and Cash Equivalent Balance- The financial statement for the year 2015/2016 was restated and the bank balance for cash and cash equivalents of the restated account is Ksh. 3,975,544,000. This however differs with the amount verified by the auditor of Ksh. 3,959,737,000 owing to the restatement of the financial statement as explained here below:

Directorate	Amount reported	Restated amount	Difference
	Kshs. 000'	Kshs. 000'	Kshs. 000'
HQ	11,399.86	11,399.86	-
TEA	1,555,739	1,555,371	367
COFFEE	623,709	616,711	6,998
SUGAR	1,573,499	1,557,586	15,913
HCD	142,500	140,932	1,568
FIBRE	73,744	74,355	(611)
NUTS	18,724	18,724	-
FOOD	420	464	(44)
CONSOLIDATED	**3,999,735**	**3,975,544**	**24,191**

The Differences are explained below.

1) Tea Directorate- Kshs. 368,000

The account of fixed deposit for Tea Directorate was understated by Kshs.364, 000 on one deposit that was under lien, Further, the foreign exchange rate difference applied on the financial statements of 2014/15 were overstated and were adjusted by Kshs. 3,000 hence affecting the opening balances by a total of Kshs. 367,000. This has since been adjusted to reflect the correct position as per 2015/16 financial statements.

2) Coffee Directorate Kshs. 6,998,000

The difference of Kshs. 6,998,000 was due to exchange rate used at the close of 2014/15 financial year. The amount therefore adjusted affected the opening balance of 2015/16 financial statements.

3) **Sugar Directorate Ksh. 15,913,000**

In the 2014/15 financial statement we reversed the amount of bank deposit held on behalf of BOCO traders amounting Kshs. 5,000,000 and amounts of Kshs. 10,913,000 call deposit that related to Chemelil sugar. The journal was passed to the ledger accounts and posted correctly.

4) **Horticulture Directorate Ksh. 1,568,000**

The difference related station imprests return that were eventually expensed and the necessary journals forwarded to audit officers.

5) **Fiber Directorate Ksh. (611,293)**

The difference of Kshs. 611,293 was adjusted and a JV attached herewith.

6) **Food Crops Directorate Ksh.44,000**

487. The difference arose due to adjustment of the closing bank statement that was different from the provisional statement used to reconcile the account. The call deposit of Ksh.50M was placed on 15th March 2002.The bank is under liquidation and the Kenya Deposit Insurance Corporation (KDIC) who have been paying dividends as and when the funds are available is managing the assets.

Committee Observations and Recommendations

The Committee deliberated on the issue of Opening Balances and Accuracy of Cash and Cash Equivalents in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

3.2 Short Term Deposits

488. The Committee heard that, the short-term deposits of Kshs. 1,927,980,000 as at 30 June 2018 as disclosed in Note 24 to the financial statements, includes an amount of Kshs. 52,237,000 in respect of deposits that had been placed in Euro Bank, which was placed under receivership in the 1990s. Although full provision has been made in these financial statements for the deposits in Euro Bank, the Authority is yet to recover any money from the receiver manager of the bank.

489. In view of the circumstances noted above, the accuracy and completeness of cash and cash equivalents balance of Kshs. 3,311,549,000 cannot be confirmed.

Management response

490. The management informed the Committee that, the bank is under liquidation and the Kenya Deposit Insurance Corporation (KDIC) who have been paying dividends as and when the funds are available is managing the assets.

Committee Observations and Recommendations

The Committee deliberated on the issue of short-term deposits in its report for the financial year 2015/2016, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

4.0 Receivables from Exchange Transactions

491. The Committee heard that, the statement of financial position as at 30 June 2018 and as disclosed under Note 25 to the financial statements reflects a balance of Kshs. 3,340,855,000, (2017 - Kshs. 3,335,913,000) under receivables from exchange transactions. As reported in the previous years, the defunct Sugar Development Fund and Horticultural Crops Development Authority balances of receivables from exchange transactions amounted to Kshs. 148,166,000 and Kshs. 92,506,000 respectively. Although a provision had been made for the long outstanding amount of Kshs. 148,166,000, it still remained uncollected as at 30 June 2018.

492. In addition, the amount of Kshs. 92,506,000 outstanding in the books of the defunct Horticultural Crops Development Authority included trade debtors totaling Kshs. 63,540,000 which were not reconciled to the supporting documents figure of Kshs. 63,156,493. The trade debtors also included unexplained credit balances totaling Kshs. 6,097,068. Further, the trade receivables for the defunct Coffee Board of Kenya amounting to Kshs. 2,569,375,479 had been written off in 2010/2011 without necessary approvals from the Parent Ministry and the National Treasury.

493. In addition, included in the trade and other receivables from exchange transactions balance of Kshs. 3,340,855, 000 as at 30 June 2018 and as disclosed under Note 25 to the financial statements is an amount of Kshs. 3,314,704,000 relating to trade debtors (levy arrears) as at 30 June 2018, which has been outstanding for a long time. Although a specific provision of Kshs. 126,417,000 has been made in these financial statements in respect of the levies, no action is being taken to recover the levy arrears. In addition, the management has not explained why the liability was not transferred to the Commodities Fund on operationalization of the Crops Act, of 2013.

494. As also reported in the previous year, the trade debtors balance for 2014/2015 included an amount of Kshs. 69,352,000 in respect of Horticultural Crop Directorate, while the ledger showed a balance of Kshs. 63,540,000 resulting in a difference of Kshs. 5,812,000. Similarly, in 2014/2015, the trade debtors balance also included an amount of Kshs. 13,340,000 in respect of Tea Directorate while the ledger reflected Kshs. 15,599,103, resulting in a difference of Kshs. 2,259,103. Although management has effected journal entries to equate the two balances, no supporting documentation or reconciliations have been provided to confirm how the decision to equate the balances was arrived at.

495. The trade and other receivables from exchange transactions in the year 2015/2016 included prepayments balance of Kshs. 15,959,000. However, a balance of Kshs. 5,569,000 in respect of Horticultural Crop Directorate relating to the previous year lacks verifiable documentary evidence. Although management has proposed journal entries to write off the prepayments, no documentary evidence has been provided to indicate the nature of the prepayment or the reasons for its being written off.

496. As reported in the previous year, the financial statements for the year ended 30 June 2014 of the defunct Coffee Board of Kenya, Sugar Development Fund and Kenya Sugar Board reflected amounts of Kshs. 17,194,000, Kshs. 1,837,694,000, and Kshs. 35,130,000 respectively relating to receivables from non-exchange transactions. The amounts had been outstanding for a long time and further, could not be reconciled to supporting documents. In addition, the provision for bad debts made on these balances was inadequate. This matter has remained unresolved to date.

Management response

497. The management informed the Committee that, the amount of Kshs. 148,166,000 relates to levy arrears owed by state owned Sugar mills to the defunct Sugar Board that has been long outstanding. The mills have been facing severe financial constraints and have therefore not been able to settle the amounts. The National Assembly vide Certificate (No. 039/13th /2023) of 14th September 2023 approved the action plan to revive and commercialize state owned sugar companies.

498. In the certificate, approval was given to write off liabilities amounting to Kshs. 65,778,448,646 owed to Government of Kenya, defunct Kenya Sugar Board and Commodities Fund. It is envisaged that upon verification by the Auditor General as indicated in the certificate, the full amount of Kshs. 148,166,000 will be written off. The difference between the trade debtors of Ksh 63,540,000, the supporting schedules of Kshs. 63,156,493 and the credit balances of Ksh.6,097,068 were caused by errors in the ledgers of the defunct HCDA.The Authority noted the errors in the accounts receivables of the Directorate and made adjustments in the account receivables ledger. The issue was resolved in the FY 2018/19.

499. **Defunct Coffee Board of Kenya** - The treatment of the trade receivables in 2010/2011 was correction of accounting errors and not a write off. Coffee Board of Kenya underwent restructuring in the years 2002 and 2009 whereby most of the employees were either retrenched or retired. Due to restructuring, the Board lacked the capacity to prepare Annual financial statements for the seven (7) years period starting from FY 2003/04 thus creating a backlog.

500. The Board of Directors engaged an accounting firm to undertake preparations of Coffee Board of Kenya financial statements for the seven (7) years starting the FY 2003/04 to 2009/10. This was completed and certificates issued by the Kenya National Audit Office for the years that were in arrears.

501. The amount that relates to levy arrears and Loans owed by state owned Sugar mills to the defunct Sugar Board has been long outstanding. The mills have been facing severe financial constraints and have therefore not been able to settle the same. The National Assembly vide Certificate (No. 039/13th /2023) of 14th September 2023 approved the action plan to revive and commercialize state owned sugar companies.

502. In the certificate, approval was given to write off liabilities amounting to Kshs. 65,778,448,646 owed to Government of Kenya, defunct Kenya Sugar Board and Commodities Fund. It is envisaged that upon verification by the Auditor General as indicated in the certificate, the full amount of the levy arrears will be written off.

503. The increase in the trade debtors amount between the FY 2014/15 and 2015/16 relates to loans given by the Sugar Directorate to sugar Mills.The loans were given through the SDF have since been transferred to the Commodities Fund.

ii) The ledger balance for HCD of Kshs. 63,540,000 relates to the FY 2013/14, Note 14 receivables from exchange transactions. The ledger balance for AFA the FY 2014/15 was Kshs. 69,352,000 as per note 24 on receivables from exchange transactions for FY 2014/15 and the supporting schedule.

The correct ledger balance for Tea Directorate of Kshs. 15,599,103.30.

These are long outstanding prepayments as per the attached summary and support for the same. They were:

a) Advance to farmers 2013/14 Kshs. 35,000

b) Life Insurance 2013/14 Kshs. 2,000

c) Deposits for utilities Kshs. 2,250,623

d) General prepayments Kshs. 3,280,549

504. **Coffee Directorate-** The balance at Coffee Directorate of Kshs. 17,194,000 related to Ad valorem levies of Kshs. 15,693,000 that has since been recovered over the years except for Meru County Coffee Marketing with a balance of Kshs. 1,236,245.85. This will be addressed through the BOD for write off. Resolved in 2018/2019 FY.Staff imprests reduced from Kshs. 3,685,000 in 2012/13 to Kshs. 1,502,000 in 2014/15 attributable to normal operations, which have since been surrendered.

505. **Sugar Directorate** - The amount of Kshs. 1,837,694,000 relates to levy arrears owed by state owned Sugar mills to the defunct Sugar Board that has been long outstanding. The mills have been facing severe financial constraints and have therefore not been able to settle the amounts. The National Assembly vide Certificate (No. 039/13th /2023) of 14th September 2023 approved the action plan to revive and commercialize state owned sugar companies.

506. In the certificate, approval was given to write off liabilities amounting to Kshs. 65,778,448,646 owed to Government of Kenya, defunct Kenya Sugar Board and Commodities Fund. It is envisaged that upon verification by the Auditor General as indicated in the certificate, the full amount will be written off.

507. A comparison of the receivables from non-exchange transactions for the FY 2012/13 and 2013/14 increased from a net of Kshs. 4,503,000 to Kshs. 35,130,000. The increase was attributed to:

1) Debt from SDF rose from zero to Kshs. 16,397,000. This was an accrual of the administrative component of the sugar levy payable to the defunct Sugar Board which was subsequently received.

2) Imprests from Kshs. 281,000 to Kshs. 2,048,000 attributed to normal operations.

3) Staff advances reduced from Kshs. 3,564,000 to Kshs. 2,858,000.

4) Debts owed by former staff reduced from Kshs. 2,628,000 to Kshs. 2,599,000.

5) Other debtors increased from Kshs. 1,173,000 to Kshs. 14,040,000.

6) The provision for doubtful debts as rightly pointed out by the Auditor remained at Kshs. 3,143,000 between the two years.

Committee Observations and Recommendations

The Committee deliberated on the issue of Receivables from Exchange Transactions in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

5.0 Receivables from Non-Exchange Transactions

508. The Committee heard that, the statement of financial position as at 30 June 2018 reflects an amount of Kshs. 19,604,000 under receivables from non-exchange transactions, which includes staff debtors amounting to Kshs. 10,278,000 as disclosed under Note 24 to the financial statements. The latter includes un- surrendered staff imprests from the defunct Coffee Board of Kenya amounting to Kshs. 2,270,769 which have been outstanding since 2013 contrary to the provisions of Section 71(4) of the Public Finance Management Act, 2012 on cash advanced as imprest.

509. As reported in 2014/2015, the receivables from non- exchange transactions balance for 2014/15 included an amount of Kshs. 22,215, 000 disclosed as staff advances out of which an amount of Kshs. 1,271,000 relating to the Horticultural Crop Directorate lacked verifiable supporting documents.

510. Consequently, the completeness and accuracy of receivables from non-exchange transactions balance as at 30 June 2018 cannot be confirmed.

Management response

511. The management informed the Committee that, the list of Coffee Board staff imprests outstanding as at 30th June 2014 and action taken on each is attached.

512. The list of HCD staff advances outstanding as at 30th June 2014 and action taken on each is attached.

Committee Observations and Recommendations

The Committee deliberated on the issue of Receivables from Non-Exchange Transactions in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

6.0 Trade and Other Payables from Exchange Transactions

513. The Committee heard that, the statement of financial position as at 30 June 2018 reflects a balance of Kshs. 724,084,000 under trade and other payables from exchange transactions. As disclosed under Note 27 to the financial statements, this balance comprises trade payables, payments received in advance, third party payables, other payables and overdrawn bank accounts. In

addition, an amount of Kshs. 2,636,872,172 relating to the defunct Coffee Board of Kenya had been written off as an old balance on the recommendation of a contracted consultant.

514. However, approval for the write-off from both the Parent Ministry and the Treasury have to date not provided for audit review. Therefore, the propriety of the write-offs effected in the 2010/2011 financial year can still not be confirmed. review. Therefore, the propriety of the write-offs effected in the 2010/2011 financial year can still not be confirmed.

515. In addition, the trade and other payables from exchange transactions balance of Kshs. 724,084,000 includes trade and other payables amounting to Kshs. 106,740, 000 brought forward from the books of the defunct Horticultural Crops Development Authority. The latter amount differed with the supporting schedules balance of Kshs. 96,156,448 resulting in un-reconciled variance of Kshs. 10,583,552. In addition, a balance of Kshs. 1,500,038 has remained outstanding for more than five years.

516. Further, the trade and accruals balance in 2015/2016 included an amount of Kshs. 5,194,331 relating to debit balances which were netted off contrary to the International Public Sector Accounting Standards (IPSAS) No.1, which states that assets and liabilities, and revenue and expenses may not be offset unless off setting is permitted or required by another IPSAS. The creditors balance also excluded an amount of Kshs. 400,000 being audit fee owing to the Office of the Auditor-General.

517. Consequently, the accuracy and completeness of the trade and other payables from exchange transactions balance of Kshs. 724,084,000 cannot be confirmed.

Management response

518. The management informed the Committee that, the treatment of Kshs. 2,636,872,172 in 2010/2011 was correction of accounting errors and not a write off. Coffee Board of Kenya underwent restructuring in the years 2002 and 2009 whereby most of the employees were either retrenched or retired. Due to restructuring, the Board lacked the capacity to prepare Annual financial statements for a period of seven (7) years starting the FY 2003/04 creating a backlog.

519. The Board of Directors engaged an accounting firm to undertake preparations of Coffee Board of Kenya financial statements for the seven (7) years starting the FY 2003/04 to 2009/10. This was completed and certificates issued by the Kenya National Audit Office for the years that were in arrears. Due to the amounts involved management forwarded a letter to PS MOA for concurrence.

520. The Audited 2013/14 financial statements of the defunct HDCA note 17 indicates that the Trade and other payables amounted to Kshs. 106,740,000 comprising of Trade payables of Kshs. 96,156,000, Sundry creditors of Kshs. 9,859,000 and Horticultural Associations of Kshs. 724,000.

521. The trade creditors of Kshs. 1,500,038 relates to bookkeeping and accounting issues in the defunct HCDA which was addressed by the streamlining committee as earlier indicated in note 5.1 above. Similarly, the committee addressed the issue of debit balances in trade and accruals amounting to Kshs. 5,194,331.

522. The amount of Kshs. 400,000 audit fee was not provided for in the financial statements of the defunct HCDA. However, the amount was not among the fees invoiced by the OAG and the Authority has now settled to all outstanding audit fees.

Committee Observations and Recommendations

The Committee deliberated on the issue of Trade and Other Payables from Exchange Transactions in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

7.0 Lease of Horticultural Produce Handling Facilities

523. The Committee heard that, as previously reported under the defunct Horticultural Crops Development Authority, the Authority signed an agreement with Fresh Produce Exporters Association of Kenya (FPEAK) for the lease of its Horticultural Produce Handling Facilities (HPHF). However, as per the agreement signed in September 2012, FPEAK took over the facilities without any rent/charges payable to the Authority. Further, available information indicates that according to the Ministry of Lands valuation report dated 7 September 2011, the Authority should have charged a total rent of Kshs. 3,770,000 per annum for lease of these facilities.

524. Further, information available indicates that the Authority managed to repossess all the cold rooms from FPEAK, and it is already leasing them and generating income. The Authority has also made demands for recoveries of the rent payable for the period the facilities were occupied by FPEAK. However, no recoveries have been made for the period when the facilities were under the use of FPEAK.

Management response

525. The management informed the Committee that, the defunct HCDA entered into a partnership agreement with FPEAK on Horticulture depots utilization for capacity building and market access for smallholder farmers with a common objective to promote and accelerate the progress of practical training of horticulture produce for smallholder farmers. Therefore, the partnership agreement did not provide for any monetary consideration payable to HCDA by FPEAK. However, FPEAK ceased managing the facilities in 2014 and the cold rooms are currently being run by AFA.

Committee Observations and Recommendations

The Committee deliberated on the issue of Lease of Horticultural Produce Handling Facilities in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

8.0 Irregular Payment on Capacity Building

526. The Committee heard that, the statement of financial performance reflects an amount of Kshs. 621,773,000 under operating/administrative expenses and as disclosed in Note 20 to the financial statements includes expenses totalling Kshs. 60,077,000 described as trainings, seminar, retreats and workshops and conferences. Included in the expenditure of Kshs. 60,077,000 is an amount of Kshs. 15,076,032 paid to the Institute of Packaging Professionals Kenya on 23 April 2018 vide

contract No. AFA/LM/CON/94/2017-2018; in respect of provision of Capacity Building Initiatives for Packaging and Branding for Stakeholders in AFA.

527. The consultant was to perform the services for a period of six months from 19 April 2018 to 22 October 2018 or any other period agreed by the parties in writing. The payments for the consultancy were made as follows:

Date	Payment Voucher No.	Amount Kshs.
15.05.2018	PV04257	3,015,206.40
08.06.2018	PV04402	3,015,206.40
28.08.2018	PV04788	3,769,008.00
18.09.2018	PV04920	5,276,611.00
Total		**15,076,031.80**

528. However, a review of the available records indicates that the expenditure on capacity building initiatives for packaging and branding for stakeholders in AFA had not been budgeted for. Further, the Contractor was the only bidder. In addition, although the contract stated that the consultant was to perform the services for a period of six months, and the consultants were to be paid at a monthly rate, the report writing was done within two months and the final payment settled in June 2018.

529. No evidence has been provided to indicate whether the scope and timing had been revised. It is, therefore, not clear whether the terms of the contract were addressed and whether the whole expenditure of Kshs. 15,076,032 was a proper charge to public funds.

Management response

530. The management informed the Committee that, the Agriculture and Food Authority (AFA) invited tenders for the provision of Capacity Building Initiatives for Packaging and Branding for Stakeholders under TENDER NO: AFA/T/07/2017-2018.

- **Advertisement Date:** Tuesday, 6th February 2018
- **Publication Platforms namely, the** Government Publication, AFA Website: and GOK Tenders Website
- **Closing and Opening Date:** Wednesday, 21st February 2018 at 11:30 AM.

531. Upon the tender's opening, only one bid was received from the Institute of Packaging Professionals Kenya (IPPK). Following evaluation and negotiations, the contract was awarded to IPPK at a total discounted cost of Kshs. 15,076,032 (Fifteen Million, Seventy-Six Thousand, Thirty-Two Shillings Only), inclusive of all taxes.

532. The contract was for two Months however it was erroneously the dates were indicated as 19 April 2018 to 22 October 2018.Unbudgeted Expenditure- The Authority received an extra amount of Kshs. 700 Million (Seven hundred million shillings only) to fund its core technical activities.

533. The amount was received after the budgeting period and procurement plan completed. The IDG guided the various key technical departments – marketing, Technical and Regulations and Compliance to come up with key joint activities to be conducted which would make impact especially at county level.

534. It was against this backdrop that the marketing team (Cacus from all marketing departments in AFA) came up with a proposal and budget that was adopted and approved.

535. Overpayment of Kshs. 6,489,600- Section3.2.1 on approach and methodology for the assignment as per the RFP which was part of the contract stipulated the methodology as follows:

i) Phase 1: Two days' workshop for each of the sectors with the details of the areas of focus.

ii) Phase 2 – Benchmarking for competitive packaging and international branding for the different directorates in selected international destinations.

536. During the period of the assignment, the consultant conducted a total of ten (10) workshops had initial stakeholder's engagement as well as facilitated international bench-markings during the month of July. The activity for benchmarking was moved to July due to delay in clearance for state officers by Office of the President.

537. The billing as presented was brought to the attention of AFA as man months and not Physical months – which when computed cumulatively and based on the number of hours input into the project translate to the number of man months. During the contract negotiations AFA was informed that this computation is advised as per the EU international standards for consultancies.

Committee Observations

The Committee observed that–

i) There were Procurement Irregularities where only one bid was received and there was no evidence of Re-tendering or market revalidation to ensure competitiveness or justification for proceeding with a single-source award.

ii) There was Budgeting and Planning Weakness where the management claimed that there was post-budget Kshs. 700M allocation to justify the unbudgeted activity. However, no evidence of revised procurement plan or formal budget reallocation approval was provided. In Essence there was no linkage between the new funds and the specific contract.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the EACC to investigate how the Authority received an extra amount of Kshs. 700 Million (Seven hundred million shillings only) after the budgeting period, the source and the intended purpose with a view to establishing it regularity and whether it was utilized for the intended purposes. Further, investigate the basis of the Overpayment of Kshs. 6,489,600 to ascertain its propriety. If any officer

is found culpable for an irregularity, DPP should initiate a legal action to enforce the penalties prescribed for the offence at hand.

9. 0 Rental Income

538. The Committee heard that, the statement of financial performance reflects an amount of Kshs. 132,475,000 under rental revenue from facilities and equipment. A physical verification of some of the coffee directorate properties comprising of a fifteen-storied commercial development with two penthouses on 14th floor, office space on 13th floor, warehouses/storage spaces from 1st to 12th floor, platform with two railway tracks and sixty parking bays on ground floor revealed that the property is underutilized.

539. A review of documents provided for audit revealed that the Coffee Directorate should collect an amount of Kshs. 37,476,000 and Kshs. 55,824,480 from rent on space at Kahawa House and Coffee Plaza, respectively all totaling Kshs. 93,300,480. However, currently, the Directorate collects an amount of Kshs. 87,192,367 per annum for the same resulting to under collected rental income of Kshs. 6,108,113.

540. During the year under review, the management had planned to spend an amount Kshs. 54,650,000 for major renovations, electrical repairs, and refurbishment of washrooms and interior painting of Kahawa House. However, no funds were expended in the renovation of the house and a physical verification revealed that no such work had taken place. No reason has been given for having not refurbished the said building.

541. It has been noted that Kahawa house has a gross leasable area of approximately 215,995 square feet however only 39,000 square feet have been let out resulting to under-use of 176,995 square feet. Rent at Kahawa is charged at Kshs. 600 per square feet, therefore the un-used 176,995 square feet should be earning the Coffee Directorate Kshs. 8,849,750 per month or Kshs. 106,197,000 per annum.

Management response

542. The management informed the Committee that, the Kahawa House was designed as a coffee warehouse with close columns for sturdiness and short floor to ceiling clearance. It also has chutes instead of lifts for coffee conveyors. There is also no adequate ventilation and external lighting because of lack of windows. In its present state it is unattractive to tenants for the fourteen (14) floors of the warehouse.

543. The buildings are located at exchange lane of Haile Selassie Avenue. Fresh produce trucks and handcarts have for a long time occupied the lane and the road behind it thus making access to the buildings difficult for potential tenants. It is therefore not possible to have full occupancy like easily accessible buildings in CBD.

544. Kahawa House was designed as a coffee warehouse with close columns for sturdiness and short floor to ceiling clearance. It also has chutes instead of lifts for coffee conveyors. There is also no adequate ventilation and external lighting because of lack of windows. In its present state it is unattractive to tenants for the fourteen (14) floors of the warehouse. Change of use of the building would entail demolishing it and building it afresh or major refurbishments to reduce the number of pillars and reduce the number of floors to create more heights per floor. It was realized that the budgeted amount could not be enough to do any of the above.

545. Kahawa House was designed as a coffee warehouse with close columns for sturdiness and short floor to ceiling clearance. It also has chutes instead of lifts for coffee conveyors. There is also no adequate ventilation and external lighting because of lack of windows. In its present state it is unattractive to tenants for the fourteen (14) floors of the warehouse.

Committee Observations

The Committee observed that–

i) The Authority lacked Strategic Planning since no alternative strategies proposed to improve occupancy or repurpose unused space and the efforts to market the property, offer incentives, or explore partial renovations.

ii) Although, Kshs. 54.65M was allocated for renovations, no funds were spent and no explanation on why the budget was not utilized or reallocated. Further, no documentation of procurement delays, contractor issues, or internal approvals.

iii) In addition, the Revenue Shortfall was not addressed, the Kshs. 6.1M under-collection was acknowledged but not explained.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer to submit to the National Assembly and Auditor-General for review and reporting in the subsequent audit cycle a comprehensive report on the alternative strategies proposed to improve occupancy or repurpose unused space and the efforts to market the property, any incentives offered, and the current occupancy. The report should also include on annual comparative basis the revenue collected.

10.0 Disbursements to Pyrethrum Processing Company

546. The Committee heard that, the statement of financial performance reflects a total expenditure of Kshs. 2,673,044,000, which includes an amount of Kshs. 114,104,000 indicated to have been disbursed to the Pyrethrum Processing Company of Kenya. This amount had not been budgeted for and was instead charged under various directorates vote heads. Although management has indicated that the amount was disbursed on directives from the Parent Ministry and the National Treasury, no documentary evidence has been produced in support of the said directive. Consequently, the validity of the disbursements of Kshs. 114,104,000 cannot be ascertained.

Management response

547. The management informed the Committee that at the merger, the component of regulation in the pyrethrum industry was to be part of AFA's mandate. The Authority therefore paid salaries for the PPCK staff until the Pyrethrum and Miraa Directorate was formed as part of AFA, therefore, separating the regulatory component from the commercial component. The funds were expected to be paid back to the Authority, but PPCK was undergoing financial challenges. The Principal Secretary State Department of Crops sanctioned each payment.

Committee Observations

The Committee observed that–

i) No written directives, approvals, or correspondence from the Parent Ministry or National Treasury were provided to support the disbursement.

ii) Absence of documentation undermines the legitimacy and auditability of the payments.

11.0 Unoccupied Offices in Kericho

548. The Committee heard that, the statement of financial performance reflects an amount of Kshs. 621,773,000 under operating/administrative expenses, which, as disclosed under Note 20 to the financial statements includes an expenditure of Kshs. 24,646,000 incurred on rent and rates. Included in the expenditure on rent and rates is an amount of Kshs. 517,175 incurred in the lease of a 1000 square feet rentable space at the National Bank of Kenya Building in Kericho that has not been occupied. No justification has been given for this nugatory expenditure.

Management response

549. The management informed the Committee that, the lease was entered into in March 2018; however, the Legal Department negotiated with National Bank of Kenya and the lease was to be effective from 1st July 2018 to give room to the Authority to undertake partitioning.

550. AFA entered into a contract with National Bank of Kenya on 19th February 2018 for lease of 1000 square feet at a cost of Kshs. 80 per square foot for six years. The lease was to start on 1st March 2018.Even though the lease was to start on March 2018, this did not happen as the document was under review by the Legal Department and the letter of offer was signed in May 2018.

551. The property agreement was 'as is where is' therefore the tenant was to do partitioning and other repairs as deemed necessary. In December 2018, the Authority commenced the process of partitioning the building and undertaking other works to make the office habitable. However, the cost of partitioning, repairs and rent was found to be too high. It was therefore decided that the Kericho one-stop shop to host all the Authority's staff scattered in other buildings situated at the already existing rented premise at Ndege Chai Building in Kericho town.

Irregular Renewal of Medical Insurance Cover

552. The Committee heard that, the statement of financial performance reflects an amount of Kshs. 1,039,305,000 (2017 - Kshs. 707,829,000) under employee costs for the year ended 30 June 2018. As disclosed under Note 13 to the financial statements, the costs include an amount of Kshs. 95,592,000 described as medical expenses.

553. A review of available records indicates that the Authority entered into a one-year contract with an insurance company for provision of medical cover at a cost of Kshs. 83,203,236 for the one year. On expiry of the contract period, the Authority renewed the cover without adhering to the

procurement process, as stipulated under the Public Procurement and Disposal Act, 2015. It is therefore not clear whether the Authority got value for money upon the renewal of the medical cover.

Management response

554. The management informed the Committee that, the contract was advertised through an Invitation o Tender REF. NO.AFA/T/15/2016-2017. Closing date for the advert was 31st May, 2017.Evaluation was done by the Tender Processing Committee and report submitted on 21st June, 2017.

555. The contract was signed on the 24th August, 2017 - Contract AFA/LM/CON/82/2017.

556. The renewal of the contract of 2018/2019 was an integral part of the tender document under clause 1.1. "The effective period is from 1st July 2017 to 30th June 2018 renewable subject to review based on performance and subsequent approval".

Temporary Employees

557. The Committee heard that, the employee costs figure of Kshs. 1,039,305,000 reflected in the statement of financial performance for the year ended 30 June 2018 includes salaries and wages totaling Kshs. 839,789,000. The following unsatisfactory matters have, however, been noted:

558. After the formation of Agriculture and Food Authority vide the AFA's Act, 2013 and Crops Act, 2013, the Authority was to take up all the assets and liabilities of the defunct Authorities/ Boards. As a result, the Authority took over all the employees of the defunct institutions and the staff were put on interim appointments on 20 August2014 regardless of their terms with former employers for a period of three months. Since August 2014 and up to the time of audit, the Authority has been extending these appointments for a period of three months for each term. To date the employees are still on interim contracts.

559. It has been observed that the Authority is yet to harmonize the staff's terms and conditions of service despite the Authority contracting a consulting firm, to conduct a job evaluation and its request to Salary and Remuneration

Management response

560. The management informed the Committee that, upon the commencement of the AFA Act, 2013 and Crops Act, 2013 all staff of defunct institutions were placed on Interim positions awaiting the development and approval of the Human Resource instruments. However, the process of finalizing the human resource instrument and harmonizing the terms of service of staff was affected by the delay in appointment of the board members. In 2020, the harmonization of terms of service of staff was undertaken and all staff that were in interim position were placed and remunerated as per the approved salary structure.

1.0 Unresolved Prior Year Issues

1.1 Disbursements to Other Institutions

561. The Committee observed that –several matters raised in the previous years audit had remained unresolved as listed below;

i. Disbursements to Other Institutions
ii. Grant Reserves Account
iii. Loans to Sugar Companies
iv. Transfer of Assets and Liabilities from Defunct Sugar Development Fund
v. Loss on Foreign Exchange
vi. Finance income - External Investments
vii. Finance Income — Outstanding Receivables
viii. Other Income
ix. Unsupported Expenses
x. Operating and Administrative Costs - Security Service Providers
xi. Accuracy of the Financial Statements
xii. Long Outstanding and Unsupported Balances

Committee Observations

The Committee observed that –unresolved prior year issues were not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board hence the Management did not provide the reasons for the delay in resolving them contrary to Section 68 (2) (l) of the PFM Act CAP 412A that requires accounting Officer to take appropriate measures to resolve any issues arising from audit which may remain outstanding.

Committee Recommendations

The Committee reprimands the then Accounting officer for dereliction of duties and recommends that the Accounting Officer, as a preliminary step, submit a report to the Parliament and the Auditor-General for review, on how it has addressed the recommendation made in respect of this report within three months upon adoption of this report.

1.0 Unsupported Variation in the Contract Price

562. The Committee heard that, the Authority Contracted M/S Twiga Construction Company for Construction of an office Building, for the Tea Board of Kenya (Now Tea Directorate) at a contract price of Kshs. 343,000,000.00 on 18 December, 2012. The form of agreement indicated that the contract would be for building and civil works and the duration of the contract would be Sixty-Five (65) weeks from 17 January, 2013 to 18 April, 2014

563. Further, the addendum to the contract was not signed by the contractor and hence the revised contract sums of Kshs. 399,858,465 to Kshs. 422,300,450 as indicated in the penultimate No 22 was not supported by a valid agreement. The actual amount of the revised Contract Sum is therefore not clear

Management response

564. The management informed the Committee that, the defunct Tea Board of Kenya (Now Tea Directorate under AFA) entered into a contract with M/S Twiga Construction Company Ltd for construction of the office Building, phase II on 18th December, 2012. The 1st addendum was issued extending the period due to changes in the scope of work from partitioning 2 floors to partitioning 6 floors. The contractor completed most of the civil works in 2014 and was issued Certificate of Sectional Completion on 28th November 2014 and the defect liability period was to expire on 28th May 2015. However, before the completion of this period and attendance of other snag issues, there were changes in the scope of works and brief of partitioning, design works after formation of AFA in 2014.

565. The 1st brief was to partition 2 floors to be occupied by the Tea Board of Kenya, which was changed through the 2nd addendum, in order to partitioning the entire building i.e., 6 floors. This meant that there were new designs and costs estimates. The works were eventually done and a Certificate of Practical Completion was issued on 30th May 2016. The Authority moved into the new building in March 2016 after the fit out works and supply of furniture were completed.

566. The original contract price was Kshs. 343 million. After variation of works referred to above, the contract sum was varied with a total of Kshs. 83,898,465.08. The net addition to the contract after incorporating the provisional sum for interior partitioning and all services works in the Bills of Quantities (Kshs. 27,040,000) was Kshs. 56,858,465.08 thus bringing the total sum to Kshs. 399,858,465.08. The project has since been completed and the final account has been settled.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Unsupported Variation in the Contract Price under the paragraph on delayed completion of project in its report for the Financial Year 2016/2017, observed and made recommendations. Consequently, the committee upholds the observations and recommendations therein.

2.0 Construction of Cane Testing Units

567. The Committee heard that, the statement of financial performance reflects an amount of Kshs. 277,591,000 on repairs and maintenance, which includes, as disclosed in Note 16 to the financial statements, an amount of Kshs. 245,140,000 incurred on the repairs of plant and equipment. The expenditure on repairs and maintenance includes an amount of Kshs. 240,578,631 incurred on the maintenance of Cane Testing Units. A review of available records reveals the following weaknesses in respect of Cane Testing Units.

2.1 The First Pilot Cane Testing Units

568. The Committee heard that, the idea of Cane Testing Units was embraced by the defunct Kenya Sugar Board in the financial year 2012/2013 and this was taken over by the Authority in succeeding years. By the time the Board was merged with other entities that form the Agriculture and Food Authority, an amount of Kshs. 308,121,170 had been incurred in piloting the Cane Testing Units (CTUs) in both Nzoia Sugar Company and Sony Sugar Company.

569. The pilot project of setting up the Cane Testing Unit was started in Nzoia Sugar Company in the year 2012/2013. The budget for the project was Kshs. 121,893,028. The contract to carry out the pilot project was awarded to Bosch Projects Limited of Durban South Africa, which had bid presented a bid of Kshs. 137,095,735. There was additional cost to the project amounting to Kshs. 29,025,435, which had not been factored in the cost of machinery bringing the total cost of the project to Kshs. 166,121,170, an increase of Kshs. 44,228,142. No reason was given for the failure to have the cost of installation being part of the tender amount.

570. The defunct Board involved its local experts comprising of civil engineer, mechanical engineer and electrical engineer. The Project was to be a turnkey project and was handed over to the defunct Kenya Sugar Board on 16 November 2012. However, field visit on 14 March 2019 revealed that the cane testing unit was not in use. On enquiry, it was stated that the cane testing unit had some manual interventions which were due for upgrade to remove the manual intervention.

571. Under the circumstances, it has not been possible to confirm that the value for money was obtained in respect of the expenditure incurred on the Nzoia Sugar cane testing unit project.

Management response

572. The objective of the pilot projects was to generate technical information on cane testing that would guide establishment of quality cane payment system. The project achieved its objective as follows which informed decision making:

i. 1,354 samples were analyzed and used to build the calibration model.
ii. Cane analysis has been undertaken with recommendations that there is need to establish an independent wet laboratory for confirmatory results (A proposal for this upgrade has been made.
iii. A report is enclosed which indicates the correlation between field parameters and the cane quality data obtained from the CTU
iv. Stakeholder sensitizations were held to disseminate the information on quality cane payment system bringing out stakeholders concerns on the change
v. Monitoring reports are enclosed

573. The Nzoia pilot CTU is awaiting upgrade to be at the same level with the other nine CTUs.

2.2 The Second Pilot Cane Testing Units

574. The Committee heard that, the second pilot project on Cane Testing Unit was established through a grant by the European Union's Sugar Reform Support Programme. The EU contracted Ducray Renoir of Mauritius at a cost of Kshs. 142,000,000. Under the terms of agreement between the EU and the Sugar Directorate, under Agriculture and Food Authority, upon provisional handover of the facility and expiry of warrants, all maintenance requirements and obligations were to be taken over by the beneficiary. The following have been observed: -

i) The project was completed in the year 2014 and a completion certificate DCI/SUCRE/2013/319-835 issued.

ii) The defunct Sugar Board did not involve the Department of Public Works but engaged an independent consultant.

iii) The cane testing unit appear not to be integrated to the payment system as had been envisaged and a calibration model for cane quality prediction is required for further refinement to reach an acceptable status.

iv) The equipment is rare in Kenya and therefore the expertise to repair it can only be found with the Supplier whose representative is in South Africa. This makes it expensive to maintain.

v) Although the CTU was handed over to the Sugar Directorate in 2014, it has never been used in an industrial way as it is always grounded.

vi) The technology in Sony Sugar is different from the technology installed in Nzoia Sugar and the other nine projects.

Management response

575. The management informed the Committee that, the second pilot cane testing unit was funded by European Union and therefore the procurement process of the equipment and the consultant was undertaken by them in line with their procedures

576. The Sony CTU pilot is fully integrated to the Sony sugar payment system however it is awaiting upgrade to be at the same level with the other nine CTUs. The unit maintenance cost will be cheaper if the Authority upgrade all CTUs at the same level. The Sony and the Nzoia CTUs were both pilots so the technology were different. The nine CTUs were through open tender.

2.3 Additional Cane Testing Units in Nine Sugar Mills

577. The Committee heard that, the pilot projects informed the design taken in the additional nine projects. The Authority went ahead and on December 5, 2014 contracted a company to construct additional testing units in nine sugar companies, which included, Mumias, Kibos, Muhoroni. Chemilil, Sukari, Transmara, Butali, Kiscolkwale and West Kenya. The contract was to run between December 2014 to July 2017. The following matters have been observed: -

i) The project included contract for design, supply, delivery, installation, testing, training, commissioning and handing over of nine cane testing units vide contract No. AFFA/T/04/2014 on 5 December 2014. It also included Construction of nine laboratories in the cane testing units.

ii) The scope of works included core sampling equipment, dry laboratory cane analysis equipment, information capture and management system, wet laboratory equipment, general training, specialist training and consultancy.

iii) The Authority did not involve the Department of Public Works or their own experts to supervise, monitor and ensure that the Bill of Quantities are followed to the end

iv) The Authority is expected to pay annual maintenance fee of Kshs. 240,578,631 for the Cane Testing Units and Kshs. 36,757,152 in laboratory license fees which appear to be expensive.

v) The total cost for constructing the nine cane testing units amounted to Kshs. 1,807,171,706 as at 30 June 2018 besides an additional amount of Kshs. 240,578,631 incurred on maintenance costs.

vi) The project has not been operationalized at an industrial level and therefore the benefits of the cane testing units have not been realized seven years since their initial launch.

vii) In addition, it is not clear whether the cane testing units were useful to the sugar mills considering that up to date the sugar mills have not fully embraced payment of farmers based on sucrose content as envisaged when the project was initiated.

Management response

578. The management informed the Committee that, the use of internal experts to supervise, monitor and ensure that the bill of quantities was followed to the end was on the understanding that with internal capacity the Authority was not required to outsource.The Authority commits to look into ways to reduce maintenance cost where possible

579. The operationalization of the project to an industrial level has been hampered challenges facing the sugar industry which include;

i) The delay in gazzettment of sugar industry regulations

ii) Lack of funds for upgrade of the two pilot CTUs and for forming a company to run the CTUs. This has since been upgraded

iii) Lack of funds for research and cane development

580. The CTUs will be useful to the farmer as it will be payment based on quality thus encouraging farmers to take care of their crops. Quality payment system is a COMESA requirement.

Committee Observations

The Committee with respect to the above three issues on construction of Cane Testing Units(CTU) namely; The First Pilot Cane Testing Units, The Second Pilot Cane Testing Units and Additional Cane Testing Units in Nine Sugar Mills observed that;

i) The Authority incurred Kshs 240,578,631 on the maintenance of Cane Testing Units (CTUs) although they had not been operationalized at an industrial level, despite having been launched eight years earlier. As a result, the expected benefits of a Quality-Based Sugarcane Payment System (QBSPS) had not been realized.

ii) Most sugar mills have not fully adopted sucrose-based payment, raising concerns about the usefulness and return on investment of the CTUs.

iii) The management stated that significant steps had been undertaken—including deployment of technical staff, calibration activities, sensitization of stakeholders,

development of operational manuals, and preparation of draft QBSPS Regulations (2023). However, these initiatives do not adequately explain why full operationalization delayed and thus undermined the project's viability resulting in substantial public investment remaining underutilized. This gap raises concerns over value-for-money, project governance, and long-term sustainability of the CTUs.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer to provide to the National Assembly and the Auditor-General for review a well-documented work plan on how the Authority plans to fast-track the full operationalization of all Cane Testing Units by coordinating with the Ministry, sugar mills, and the Agriculture and Food Authority to ensure prompt enactment and gazettement of the Crops (Sugar) (Quality-Based Sugarcane Payment System) Regulations, 2023.

1.0 Lack of Substantive Board Members

581. The Committee heard that, the term of the interim members expired and as a result, the Authority functioned without a substantive board from 7 November 2017 to close of the financial year under review (30 June 2018).

Management response

582. The management informed the Committee that, the Board of Directors was constituted vide gazette notice N0.69 Vol.CXXV dated 24th March 2023.

Committee Observations

The Committee observed that–

The absence of a substantive Board Members negatively affected the institutional capacity to adhere to good governance as enshrined in the Mwongozo Code of Governance for State Corporations

Committee Recommendations

The Committee recommends that the appointing Authority should at all times ensure that vacant positions in the board are the filled-on time.

2.0 Lack of Detailed Board Members' Profile

583. The Committee heard that, the Audit examination of the interim board of director's profile revealed that the bio data was not exhaustive to include details as stipulated in the Mwongozo Code such as work experience

Management response

584. The management informed the Committee that, the anomaly was noted and but has since been corrected in the subsequent appointment of the Board

Committee Observations

The Committee observed that, in the board of director's profile, the bio data was not exhaustive as stipulated in the Mwongozo Code of Governance.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure full disclosure of directors' bio data in their profile.

3.0 Board Minutes

585. The Committee heard that, the Interim Board of Directors for the Authority held several meetings for the different committees namely Finance and Strategy, Human Resource, Audit and Governance and Technical, during the year under review. An audit examination of the board expense revealed unsigned board minutes, which could not be authenticated and hence the Authority cannot rely on the deliberations as passed by the various committees.

Management response

586. The management informed the Committee that the observation of the auditor is correct. Upon expiry of the term of the Board some minutes remain unsigned.

Committee Observations

The Committee observed that –the minutes drawn during the Board and committee meetings were not signed and therefore authenticity could not be confirmed contrary to the provisions of section 8 (e) of the Mwongozo Code of Governance for State Corporations.

Committee Recommendations

The Committee recommends that the Accounting Officer and the Board should at all times ensure that–

i) The minutes are circulated to the Board members as soon as possible after the meeting.

ii) Upon confirmation, the minutes should be signed by the Chairperson and added tothe records of the organization.

FINANCIAL YEAR 2018/2019

1.0 Property, Plant and Equipment

1.1 Property, Plant and Equipment whose Ownership is not confirmed.

587. The Committee heard that, Land measuring 137.2 hectares out of the 236.35 hectares in Thika, Kiambu County, was registered in the name of a former Chairman of the defunct Coffee Research Foundation. No evidence of refund or transfer of ownership.

Management response:

588. The management informed the Committee that when the Authority took over, it inherited a title deed LR No 10084 with 99.15 Hectares. In 2016 the Authority carried out a revaluation of the same parcel of land. The current value in AFA's books is only for this particular parcel of land. As per the documents in the Board purchased two parcels of land measuring 236.35 (584 Acres). Only one parcel measuring 99.15 Hectares (245 acres) was handed over by the defunct Coffee Board of Kenya to the Authority as per the attached title documents. The title for the remaining parcel was not handed over to the Authority.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

i. The Committee heard that, Ownership documents for land valued Land valued at Kshs.161,200,000 in the books of the Authority where the defunct Horticultural Crops Development Authority (HCDA) depots are situated not provided.

Management response

589. The management informed the Committee that, the defunct Horticultural Cops Development Authority owned seven (7) satellite pre-cooling facilities funded by both the Government of Kenya and Japan Bank for International Co-operation (JIBC)

590. The Authority appraised the committee of the Current status as follows;

i. **Machakos:** Pursuing allocation of Machakos plot PDP No 56/94/25
ii. **Limuru:**Pursuing allocation of Plot Limuru/Bibirioni/No 1010
iii. **Mwea:**Pursuing transfer of ownership of the Mwea depot land
iv. **Kibwezi:** Obtained title deed for Kibwezi depot Land Reference No. 209/27422.
v. **Sagana:**Pursuing the allocation of Sagana Plot No. CKR22/91/1
vi. **Meru:** Pursuing ownership of Meru Plot PDP 278/99/1

vii. **Kithimani:** A sale agreement of 22 plots LR 3813-3834 at Kithendu, Kithimani Yatta each measuring 50 by 100 ft between Joel Mutiso Muasya and the former HCDA.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

ii. The Committee heard that, two parcels of land valued at Kshs 1,280,000,000 relating to the former Horticultural Crops Development Authority did not have ownership documents. 3.5 hectares plot situated along Mombasa Road, valued at Kshs. 692,000,000 which was allocated to a private developer even though the Authority holds an allotment letter. Although a ruling by the National Land Commission (NLC) was in favor of the Authority, the private developer had not vacated the land as at the date of the report. Further, Parcel of land at the Jomo Kenyatta International Airport (JKIA) valued at Kshs 588,000,000 where the Horticultural Crops Directorate (HCD) is located.

Management response

591. The management informed the Committee that, the Property was subject of a court case ELC NO. 516 OF 2018 (FORMERLY HIGH COURT CIVIL SUIT NO 1205 OF 2005) HCDA =VS= SAKIR PROPERTIES LIMITED & 2 OTHERS. The Judgment was delivered on 17th December 2020 in favor of the Authority and the land was reverted to the Authority but vide a Ruling dated 10th February 2022, the Court set aside the Judgment that granted AFA ownership of the land. The Authority is in the process of appealing the ruling. Further, the defunct Horticultural Crops Development Authority (HCDA) was issued with a letter offer by Kenya Airport Authority (KAA) to occupy land for 45 years on a build operate and transfer basis. HCDA accepted the letter of offer as per the attachment.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

iii. The Committee heard that, Horticultural Crops Directorate depot in Machakos which was fully equipped with a cooling system - funded by the Japanese Government through a loan to the government of Kenya, is currently occupied by the County Government of Machakos; thus, denying the authority the use of the facility and revenue from the same. The county government has occupied the facility since 2014 in the absence of a signed lease agreement with the Authority and has refused to honor demands for rent payments.

Management response

592. The management informed the Committee that, the Authority has made numerous efforts to get back the facility, however these efforts have not borne fruit. The matter was referred to the Ministry of Agriculture, Livestock. Fisheries and Cooperatives for further intervention without success. Correspondences from AFA to the Parent Ministry and from the Ministry to the County Government of Machakos.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

iv. The Committee heard that, land measuring 8.1 hectares valued at Kshs 1,600,000,000 located in Embakasi, previously owned by the defunct Coffee Board of Kenya from October 1986 has remained unutilized and is prone to illegal acquisition by informal settlers. Additional information indicated that a private Developer also claimed to have acquired the parcel on 03 July, 2009. It was not clear how the Company came to own the parcel of land.

Management response

593. The management informed the Committee that, the case was concluded in February 2022 after the Judgment was delivered in favor of AFA and the land was reverted to the Authority. The property is currently being utilized by the Authority.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

Un-disclosed Non-Current Assets

594. The Committee heard that, reported property, plant and equipment balance excluded the following assets;

iv) Ten (10) acres of land situated in Wundanyi, Taveta and one hundred and twenty-seven (127) acres situated in Kitui valued at Kshs 36,600,000 and Kshs 4,000,000 and allocated to the defunct Horticultural Crops Development Authority and the defunct Cotton Board of Kenya respectively.

Management response

595. The management informed the Committee that, the process of obtaining ownership documents is ongoing at the Department of Physical Planning at Wundanyi Sub-County, therefore, the Authority will include the property in the Assets Register after the approval of Part Development Plan and

issuance of letter of allotment to justify allocation and ownership. The Kitui land is 0.5 acres and not 127 acres as reported.

596. The process of obtaining ownership documents is ongoing at the Department of Physical Planning in Kitui County therefore, the Authority will include the property in the Assets Register after the approval of Part Development Plan and issuance of letter of allotment to justify allocation and ownership.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

v) The Committee heard that, Plant and equipment balance exclude seven acres of land in Mtwapa that had been allocated to the defunct Kenya Coconut Development Authority by the defunct Kenya Agricultural Research Institute. In addition, the ownership had not been transferred by the Kenya Agricultural Research Institute by the time the Authority ceased to exist upon the commencement of the Crops Act, 2013.

Management response

597. The management informed the Committee that, this land is a subject of a court case after KALRO moved to the Environment and Land court at Mombasa on 23rd July 2019 and contest and filed case No. ELC. PETITION NO. 29 OF 2019 between KENYA AGRICULTURAL AND LIVESTOCK RESEARCH ORGANIZATION =VS= EDSON SONJE TAURA, FAUD SAID, MASHA MRAMBA AND JOSHUA KATANA under certificate of urgency to seek eviction order after the squatters had settled on the land. The Authority made a follow up at Mombasa Court Registry and the following status was established:

i) The ruling was delivered on 17th June 2021 against KALRO.

ii) The Petition was struck out because the orders that were being sought cannot be granted in a petition.

iii) The Advocate on record for KALRO was advised to file a normal suit and seek the said orders.

598. On 23rd June 2020 the Cabinet Secretary Ministry of Agriculture wrote to the Director General KALRO instructing him to conclude the transfer process between KALRO and AFA. The matter is still pending at the Environment and Lands Court at Mombasa.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

iii) The Committee heard that, the defunct Cotton Board of Kenya had property, plant and equipment with a net book value of Kshs. 210,759,785 and investments of Kshs 13,940,758 in Meru Ginnery Ltd as at 30th June, 1993. However, the management did not satisfactorily explain how these property, plant and equipment were accounted for upon the creation of the defunct Cotton Development Authority.

Management response

599. The management informed the Committee that, at formation of AFA, Cotton Development Authority did not have ownership documents for the Meru ginnery. The Property had been sold by the former Cotton Board of Kenya to offset a bank loan as per the taskforce report

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

vi) The Committee heard that, the value of motor vehicle registration number KBG 517C, which was registered in the name of Coffee Research Foundation was removed from the books of accounts of the Authority under unclear circumstances.

Management response

600. The management informed the Committee that, the Coffee Research Foundation (CRF) had signed the transfer documents to AFA and the Authority had commenced the transfer process at NTSA waiting for the issuance of new logbook. The process is ongoing. The vehicle was not included in AFA's asset register because it was registered in the name of CRF.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

vii) The Committee heard that, the reported Property, Plant and Equipment balance excludes capital expenditure totaling Kshs 2,289,347,764 incurred on the acquisition of the Cane Testing Units and Laboratories in the years 2014 up to 2018.

Management response

601. The management informed the Committee that, the Assets related to CTU have not been included as AFA 's due to the nature of the project as it was envisaged as a grant to the Sugar Industry as a grant which would be run by a separate body (Cane pricing committee) once completed as indicated in the draft Crops (Sugar)(General) Regulations 2020 Part IV clause 23 and 24. The need was to pay farmers using cane quality as opposed to weight only. The source of funds for the project was from the Sugar Development levy, Grant component; which except for Sony CTU which was funded by the European Union. The laboratories are not constructed on land under the ownership of the Authority, rather it is owned by the mills.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

viii) The Committee heard that, the property in Riverside Estate where the defunct Cotton Development Authority's Head Office was located was charged against a bank loan that the Board failed to service and was subsequently auctioned at Kshs.21.5 million in November 2000.The purchaser of the property paid the bank an amount of Kshs. 8,375,000 representing the balance of the outstanding loan, upon which the bank released the documents relating to the property to the purchaser.

The purchaser sought to transfer the title to the property in his name before clearing the balance of Kshs 13,125,000 to which the Board, however declined to execute the transfer documents and the purchaser filed a case in the High Court in November, 2008. Although the case was determined on 25 September, 2015, the Authority has not obtained the title deed to the property and consequently the ownership could not be confirmed.

Management response

602. The management informed the Committee that, the Authority had engaged M/S. Munyao, Muthama and Kashindi Advocates to recover the missing Title Deed after conclusion of the Court case and transfer it to AFA and/ or write to the Land Registrar reporting the missing Title and recommend for the application of a Provisional Certificate of the same.

Committee Observations and Recommendations

The Committee deliberated on the issue of Property with a Court Case in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.0 Investments in Subsidiary

603. The Committee heard that, the Investments in Subsidiary Statement of financial position reflects Kshs. 389,000 under investments related to coffee exchange shares. However, share certificate shows Kshs. 148,200 — unexplained difference of Kshs. 240,800.

Management response

604. The management informed the Committee that, the investment of Kshs. 389,000 relates to the total amount the defunct Coffee Board of Kenya incurred in the establishment of the Kenya Coffee Auctions Limited before liberalization of the coffee industry in 2007. After liberalization the National Treasury granted approval for the winding up of the coffee exchange. The winding up process is ongoing.

Committee Observations and Recommendations

The Committee deliberated on the issue of Investment in Subsidiary in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

2.0 Inaccurate Bank Reconciliation Statement

605. The Committee heard that, the Inaccurate Bank Reconciliation Statement Sugar Farmers Arrears Account Co-op No. 01141588031600 showed NIL payment in bank-not-in-cash book. However, bank records show Kshs 8,110,540 rejected payments. The difference was not explained.

Management response:

606. The Management Informed the Committee that, the mount rejected by bank due to various reasons and the same amounts were repaid back to the farmers within the period under review thereby net effect is zero. The Bank Reconciliation Statement Copies of Bank Statement were provided for review.

Committee Observations

The Committee observed that–

i) The evidence of when they were subsequently paid had not been provided.

ii) The accuracy of the records maintained by the Authority could not be guaranteed and might have been used to siphon public funds.

iii) The amount in question is significant and its omission in the Authority's records ought to have been detected in good time. This is a pointer to weak internal controls in the Authority.

Committee Recommendations

The Committee reprimands the then Accounting officer for dereliction of duties and recommends that evidence of settlement be furnished to the auditors for audit review within three months upon adoption of this report.

3.0 Authority to operate Bank Accounts

607. The Committee heard that, Operation of eighteen bank accounts which were ordered for closure under the National Treasury Circular Ref:AG.3/88/1/33 dated 17 May, 2018. Further, the following two accounts under the sugar directorate that were ordered closed were still operational. i)NBK Ac No. 1001009339300 and NCBA Ac no.1001419222

Management response

608. The management informed the Committee that, the two bank accounts for Sugar Directorate Account No 1001009339300 and 1001419222 have since been closed as per the attached correspondences to the bank. We confirm that all the 12 bank accounts within AFA that were to be closed have been closed. The remaining 6 bank accounts relate to the Tea Board of Kenya.

Committee Observations

The Committee observed that –the evidence provided for the closure related to only five bank accounts as ordered namely; Co-op 114122628500, Co-op 1136098625200, NBK 1023061132700, NBK 1001009339300 and NCBA 1001419222. Therefore, the transactions effected in the other accounts were not disclosed to the auditors.

Committee Recommendations

The Committee reprimands the then Accounting officer for dereliction of duties and recommends that evidence of closure and the amounts transferred to the Authorities existing bank accounts be furnished to the National Assembly and the Auditor-General for review within three months upon adoption of this report.

4.0 Undisclosed balances

609. The Committee heard that there were undisclosed bank balance in Barclays Bank of Kenya of Kshs 3,042,697 as at 30 June, 2019 and bank reconciliation statements were not prepared

Management response

610. The management Informed the Committee that the financial statements were amended by adjusting the cash and cash equivalent which was less the Kshs 3,042,697. The reconciliation statement was then availed for audit review. The said bank which was a dormant cooperative bank account has since been closed and the Bank Reconciliation Statement as well as Correspondences provided for audit review.

Committee Observations

The Committee observed that –the bank reconciliation statement had been reviewed. However, no evidence of inclusion of balance in the 2019-2020 certificate was been provided. This is a pointer to weak internal controls in the Authority that may result to loss of public funds.

Committee Recommendations

The Committee reprimands the then Accounting officer for dereliction of duties and recommends that evidence of closure and the amounts transferred to the Authorities existing bank accounts be furnished to the Auditor-General for audit review within three months upon adoption of this report.

5. Dormant, Inactive and Overdrawn Accounts

611. The Committee heard that, the Examination of bank reconciliation statements and cashbooks of the Authority revealed that the following bank accounts were either dormant or overdrawn.

Directorate	Account	Amount (KShs)	Status
Sugar Directorate	NIC-Account 100141922	254,895	Dormant
Sugar Directorate	NBK-Account 1001032736101	313	Dormant
Sugar Directorate	NBK-Account 1281088502500	464	Dormant
Sugar Directorate	NBK-Account 1001009339300	512,437	Dormant
Nuts and Oils	Co-op-Bank Account 1141226285000	(17,380)	Overdrawn

612. The Authority incurred bank charges on accounts which were dormant. In addition, authority to overdraw the bank account was not provided

Management response

613. The management informed the Committee that, the Account Nos. 01001032736101 and 01281088502500 were held by former Sugar Arbitration Tribunal and not AFA. The overdrawn Co-op Bank- Account 1141226285000 was wrongly stated in the reconciliation; actual balance was not overdrawn as evidenced with the bank statement attached. The Correspondences to the bank were provided.

Committee Observations

The Committee observed that–

i) There was no evidence as to who between the Sugar Arbitration Tribunal and AFA do the two accounts reported belong to.

ii) The Authority had overdrawn the cooperative cashbook leading to an unsecured overdraft without the Board approval.

Committee Recommendations

The Committee recommends that within three months, the Accounting Officer should provide evidence of closure and transfer of the available funds in the dormant Accounts to the National Assembly and the Auditor-General for review and reporting in the subsequent Audit Cycle.

6.0 Unexplained Opening Bank Balance Adjustment

614. The Committee heard that, the June 2019 bank reconciliation statement for the National Bank of Kenya Account No.1001031599900 reflected a reconciled cashbook balance of KShs 230,013,392. However, included in the unpresented cheques was KShs 16,025,011 described as opening balance adjustment dated 01 July, 2016 and for which supporting documents were not provided.

Management response

615. The management informed the Committee that, the bank reconciliation presented the amount of KShs 16,025,011 among the unpresented cheques since it had no representation in the bank statement. The balance indicated related to NBK car loan deposit security which was double posted when migrating from the previous accounting system, Pastel, to the new Navision ERP in July 2016. One entry was posted in the Car Loan collateral account while the other in the NBK current account cashbook. The error has since been corrected.

Committee Observations

The Committee observed that –the adjustment of Kshs 16,025,011 related to the collateral for the car loan fund which was reported twice as both current account and collateral account thus an indication of weak internal controls, incompetence or deliberate manipulation of records on the part of the head of finance unit.

Committee Recommendations

The committee reprimands the then Accounting officer and recommends that the Accounting Officer submits a report on the administrative measures taken to enhance internal controls.

7.0 Escrow Account

616. The Committee heard that, the Authority holds an escrow bank account at the Kenya Commercial Bank which had a balance of Kshs 8,581,797 as at 30 June, 2019. Although the Management clarified that the case for which the amount was held, was determined and a ruling issued, documentation on the determination of the case and payments made were not provided. Consequently, the validity of the escrow account could not be established.

Management response

617. The management informed the Committee heard that, the case was concluded vide court ruling CIVIL 26D on 8th November 2017. The court ruling order releasing the money to the judgement creditor was attached together with the other correspondences from Rachier & Amollo Advocates Ltd.

Committee Observations

The Committee observed that–

i) Despite the court ruling CIVIL 26D on 8th November 2017 on releasing the money to the judgement creditor, the amount was still held by AFA over two years since the ruling implying contempt and could attract further charges.

ii) There was no authority to create the escrow account by the AFA Board and the beneficiaries of the Kshs. 8,581,797 was not disclosed.

iii) There was no evidence of drawing funds from the escrow account and acknowledgement of receipt by the court ordered beneficiaries or their appointed agents.

Committee Recommendations

The Committee recommends that the Accounting Officer submits a report with evidence on how the court ruling was effected and the escrow account closed.

8.0 Lost Investment in Euro Bank

618. The Committee heard that as disclosed in Note 24 to the financial statements, included in the cash and cash equivalents balance of KShs 3,358,668,000 are the short-term deposits of KShs 1,631,929,000. As previously reported, the short-term deposits include an amount of KShs. 52,237,374 in respect of deposits placed in Euro Bank, which was placed under receivership in the 1990s. Although the deposits were provided for in full, the Authority has not provided evidence of the efforts made to recover the deposits. In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of KShs 3,358,668,000 as at 30 June 2019 could not be confirmed.

Management response

619. The management informed the Committee that the KShs. 52,237,374 invested in Euro Bank, the Authority wrote to the Liquidator in 2019 following which the Liquidator gave a status report which includes dividends so far paid on the deposit. Further the Liquidator advised that subsequent payment of dividends would be pegged on availability of sufficient funds and the communication of the same shall be through public media.

Committee Observations and Recommendations

The Committee deliberated on the issue of short term deposits in its report for the financial year 2015/2016, observed and made recommendations therein. Consequently, the committee upholds

the observations and recommendations therein.

9.0 Long Outstanding Receivables

620. The Committee heard that the Trade debtors of Kshs 229,121,575.89 relating to Sugar Development Fund together with other receivables under AFA headquarters of Kshs 199,519,415.40 relating to Pyrethrum Processing Company have been long outstanding.

Management response

621. The management informed the Committee that they were long outstanding receivables. The Authority has not been able to retrieve the records on the rebates and VAT refunds on sugar exports therefore not able to make claims. Having been outstanding for almost 20 years, these may be considered bad debts.

622. The Authority will therefore seek approval to write them off once the AFA Board of Directors is in place. The amount of KShs 41.49m and 199.51 million relates to approvals by the Principal Secretary, Ministry of Agriculture, Livestock and Fisheries for AFA to advance the Pyrethrum Processing Company of Kenya Ltd (PPCK). Attached is the Statement and the correspondences from the Parent Ministry. The Authority will demand refund of the funds once the situation of flower production to generate revenue has improved and upon receipt of adequate exchequer grants. The Correspondences from Parent Ministry were provided.

Committee Observations and Recommendations

The Committee deliberated on the issue of Receivables from Exchange Transactions in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

10.0 Long Outstanding Levy Arrears

623. The Committee heard that the trade debtors - levy arrears of Kshs 2,897,023,170 (83% of total receivables) from 13 sugar companies, one jaggeries and the KNTC has been long outstanding. The Management has not explained the measures put in place to recover the amounts detailed below:-

Customer No.	Company	Amount (KShs)
CUST0027	Sundry Importers	25,170,544
CUST0028	South Nyanza Sugar Company	346,801,943
CUST0029	Miwani Sugar Company	121,057,793

	(In Receivership)	
CUST0030	Mumias Sugar Company	495,023,752
CUST0031	West Kenya Sugar Company	15,502,135
CUST0032	Nzoia Sugar Company	831,890,653
CUST0033	Muhoroni Sugar Company (In Receivership)	439,443,502
CUST0034	Chemelil Sugar Company	459,799,716
CUST0035	Kibos Sugar and Allied Industries	123,664,679
CUST0036	Soin Sugar Company	6,334,448
CUST0037	Butali Sugar Company	17,583,067
CUST0038	Transmara Sugar Company	8,443,624
CUST0039	Sukari Industries Ltd	99,684
CUST0040	Jaggeries	848,831
CUST0041	Kenya National Trading Corporation	5,358,800
	Total	**2,897,023,170**

Management response

624. The management informed the Committee that the Government degazetted collection of the Sugar Development Levy (SDL) in 2016. Following this degazettment, millers who had outstanding levy arrears have been reluctant to pay. The Authority has however been following up on the arrears on the levy from the Sugar mills as per the demand letters provided for review.

Committee Observations

The Committee observed that –the amount involved of Kshs 2,897,023,170 relating to 13 sugar companies, one jaggeries and the KNTC has been long outstanding may be irrecoverable following the degazettment, while the millers who had outstanding levy arrears have been reluctant to pay.

Committee Recommendations

The Committee recommended that within three months upon adoption of this report, the Accounting Officer should seek approval from The National Treasury and write-off the irrecoverable amounts.

11.0 Unsupported Rent Debtors

625. The Committee heard that the receivables from exchange transactions balance of KShs 3,491,148,000 as disclosed under Note 25 to the financial statements, includes rent debtors totaling KShs 31,161,000. Included in the rent debtors are amounts of KShs 6,668,230 and KShs 24,162,356 relating to the Sugar and Horticultural Crops Directorates respectively. However, the Authority did not provide documentary evidence to support the balances. Further, the schedule of rent debtors reflected an amount of KShs 6,093,169 against Coffee Directorate which differs with the amount of KShs 7,747,265 confirmed by the service provider. The resulting variance of KShs 1,654,096 was not explained.

Management response

626. The management informed the Committee that an amount of KShs 6,668,230 relates to Sugar debtors which are long outstanding receivables as per the attached schedule including debtors owed by staff who left the organization either due to summary dismissal or death. For the KShs 24,162,356 relating to Horticultural Crops Directorates an Accounts receivable analysis has been provided as well as demand letters to exporters for the outstanding balances. Most of the then outstanding balances have been received and prepayments utilized. These were rent debtors relating to the year of audit which were not accounted for by the time of audit but were posted through a journal within the same year. Jv030 (2018/19), posted for a total of Kshs. 12,146,743.81 being Kshs. 7,747,264.81 for Coffee Plaza tenants and Kshs. 4,399,479.00 for Kahawa house tenants.

Committee Observations

The Committee observed that –the Authority did not provide documentary evidence to support rent debtors amounts of KShs 6,668,230 and KShs 24,162,356 relating to the Sugar and Horticultural Crops Directorates respectively as well as the variance of KShs 1,654,096 on Coffee Directorate thus their existence could not be verified.

Committee Recommendations

The Committee recommended that within three months upon adoption of this report, the Accounting Officer should submit a status report on recovery of all rents and leases on the Authorities properties to the National Assembly and the Auditor-General for audit review.

12.0 Lease of Horticultural Produce Handling Facilities

627. The Committee heard that as previously reported under the defunct Horticultural Crops Development Authority, the Authority signed an agreement with Fresh Produce Exporters Association of Kenya (FPEAK) for the lease of its Horticultural Produce Handling Facilities (HPHF). However, as per the agreement signed in September, 2012, FPEAK took over the

facilities without any rent or charges payable to the Authority. Further, available information indicates that according to the valuation report dated 07 September, 2011 from the Ministry of Lands, the Authority should have charged a total rent of KShs 3,770,000 per annum for lease of these facilities.

628. Further, information available indicates that the Authority managed to repossess all the cold rooms from FPEAK and it is already leasing them and generating income. The Authority has also made demands for recoveries of the rent payable for the period the facilities were occupied by FPEAK. However, no recoveries have been made for the period when the facilities were under the use of FPEAK. In the circumstances, the accuracy, completeness and full recoverability of receivables from exchange transactions balance of KShs 3,491,148,000 could not be confirmed.

Management response

629. The management informed the Committee that the defunct HCDA entered into a partnership agreement with FPEAK on Horticulture depots utilization for capacity building and market access for smallholder farmers with a common objective to promote and accelerate the progress of practical training of horticulture produce for smallholder farmers. The partnership agreement did not provide for any monetary consideration payable to HCDA.

Committee Observations and Recommendations

The Committee deliberated on the issue of Lease of Horticultural Produce Handling Facilities in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.0 Trade and Other Payables from Exchange Transactions

1.1 Long Outstanding Payables

630. The Committee heard that the statement of financial position reflects a balance of KShs 698,861,000 under trade and other payables from exchange transactions which as disclosed in Note 27 to the financial statements, includes an amount of KShs 676,727,000 related to trade payables. However, trade payables amounting to KShs 536,048,131 or (79%) were long outstanding, with some dating back to the year 2011 as detailed below:

Vendor ID	Payee/Name	Directorate	Amount (KShs)
VEND0059	Munyao Muthama and Kashindi Advocates	Sugar	929,000
VEND0311	Bifuel for Kenya (norad)	Sugar	926,000
VEND0184	Sugar Research Levy	Sugar	444,776,697

VEND0015	Controller and Auditor General	Sugar	6,838,000
VEND0066	Ndungu Gathinji	Sugar	5,679,113
	Sub-Total		**459,148,809**
VEND00001	Kenya Airports Authority	Horticulture	66,788,067
VEND00004	Cortec System and Solutions Ltd	Horticulture	3,789,588
VEND00005	Kenya Shell Ltd	Horticulture	2,804,228
VEND00006	Shelcon Tech Services	Horticulture	2,017,401
VEND00009	Sundry Creditors	Horticulture	1,500,039
			76,899,322
			536,048,131

No reason has been provided for the failure to settle the long outstanding payables.

Management response

631. The management informed the Committee that the Explanations to each of the vendor is detailed below;

Payee/Name	Amount (KShs)	Response
Munyao Muthama and Kashindi Advocates	929,000	This relates to the following cases. 1. No. 112 of 2012 Mat International Ltd VS KRA and Kenya sugar Board ksh. 687,000 2. No.463 of 2012 Raghbir Sing Chathe vs Kenya Sugar Board & 2 others ksh. 696,000 3. JR Application No. 42 of 2014 R vs KSB (ex parte Mjengo Ltd) ksh. 420,000 4. 583 of 2013 Mumias Sugar Co. vs Kenya Sugar Board ksh. 475,000 50% down payments were made and taxes paid. The cases are still ongoing. The outstanding balance of 50% is payable after the determination of the cases. The lawyers have confirmed this position vide their letter Ref. GK/GEN/2023 dated 22nd March 2023
Biofuel for Kenya (norad)	926,000	The amount of KShs. 926,000 owed to Biofuel4kenya had not been settled pending the completion of the project funded by Norwegian Agency for Development Co-operation. The

		project was completed in October 2022 and the amount fully settled the same month.
Sugar Research Levy	444,776,697	The outstanding amount of KShs. 444,776,697 owed to the former Kenya Sugar Research Foundation, KESREF, (Now KALRO) was a provision made in the books payable to the Foundation out of the sugar development levy. It was a component of the sugar development levy collectable from millers and payable to KESREF. The amounts will be paid to KESREF when the sugar millers settle the outstanding levy arrears
Controller and Auditor General	6,838,000	The management acknowledges the liability and undertakes to settle by 30 June 2023
Ndungu Gathinji	5,679,113	The amount of KShs 5,679,113 relates to the matter of Nairobi HCCC 559 of 2005 Kenya Sugar Board Vs Ndugu Gathinji for which the Escrow Account had been opened. The closure of the Escrow account will settle the outstanding amount
Sub-Total	**459,148,809**	
Kenya Airports Authority (KAA)	66,788,067	Kshs 66,788,067 owed to Kenya Airports Authority (KAA) relates to outstanding land rent for the HCD HQ offices. The directorate has been negotiating for waiver of the rent with KAA which so far has not been granted.
Cortec System and Solutions Ltd	3,789,588	Cortec System and Solutions Ltd were paid Kshs 3,789,588 but the customer subsidiary ledger had not been updated. This has since been corrected. Attached is the correct balances as per current aged analysis as at 30th June 2022 See JV
Kenya Shell Ltd	2,804,228	The Kshs 2,804,228 payable to Kenya Shell Ltd were paid but the customer subsidiary ledger had not been updated. This has since been corrected. Attached is the correct balances as per current aged analysis as at 30th June 2022 See JV
Shelcon Tech Services	2,017,401	Shelcon Tech Services were paid Kshs 2,017,401 but the customer subsidiary ledger had not been updated. This has since been corrected. Attached is the correct balances as per current aged analysis as at 30th June 2022 See JV

Sundry Creditors	1,500,039	Similarly, Kshs 1,500,039 Sundry Creditors were settled but the customer subsidiary ledger had not been updated. This has since been corrected. Attached is the correct balances as per current aged analysis as at 30th June 2022 See JV
	76,899,322	
	536,048,131	

Committee Observations

The Committee observed that –trade payables amounting to KShs 536,048,131 had been long outstanding, with some dating back to the year 2011thus their existence and genuineness may not be verifiable.

Committee Recommendations

The Committee recommended that within three months upon adoption of this report, the Accounting Officer should submit a status report on the settlement of all the outlined payables to the National Assembly and the Auditor-General for audit review.

1.0 Unapproved Write -Off of Trade and Other Payables

632. The Committee heard that trade and other payables from exchange transactions balance of KShs 698,861,000 excludes payables of KShs 2,636,872,172 relating to the defunct Coffee Board of Kenya, which had written off as an old balance on the recommendation of a consultant. However, approvals for the write –off from both the Parent Ministry and The National Treasury have not been provided for audit review. In the circumstances, the accuracy and completeness of the trade and other payables balance of KShs 698,861,000 as at 30 June, 2019 could not be confirmed.

Management response

633. The management informed the Committee that the treatment of KShs. 2,636,872,172 in 2010/2011 was correction of accounting errors and not a write off. Prior to the year 2002, the Coffee Board of Kenya (CBK) was the sole coffee marketer operating under Cap. 333. In 2002, Cap. 333 was repealed and the Coffee Act 9 of 2001 came into force leading to the privatization of CBK marketing function. Coffee Board of Kenya then underwent restructuring in the years 2002 and 2009 whereby most of the employees were either retrenched or retired. The Board had not prepared financial statements for a period of seven (7) years starting the FY 2003/04 creating a backlog.

634. The Board of Directors deemed it fit to engage an accounting firm to help clear the backlog. This was completed and certificates issued by the Kenya National Audit Office for the years that were in arrears. Due to the amounts involved and in the absence of a Board of Directors, management forwarded a letter to PS MOA for concurrence.

Committee Observations

The Committee observed that–

i) Payables of KShs 2,636,872,172 relating to the defunct Coffee Board of Kenya, had been written off as an old balance on the recommendation of a consultant. However, approvals for the write –off from both the Parent Ministry and The National Treasury have not been provided for audit review.

ii) The submission that the treatment of KShs. 2,636,872,172 in 2010/2011 was correction of accounting errors and not a write off was not supported by any evidence and the correction could have just been a mere bookkeeping clean-up.

Committee Recommendations

The Committee recommended that within three months upon adoption of this report, the Accounting Officer should submit evidence of the alleged correction of accounting errors and status report outlining the mechanisms put in place to trace the long outstanding payables for settlement to the National Assembly and the Auditor-General for audit review.

1.0 Unsupported Capital Grant Reserve Utilization

635. The Committee heard that the statement of changes in net assets reflects amounts of KShs 31,824,000 and KShs 3,325,000 under grants reserves and retained earnings respectively described as capital/development grant utilized during the year. The amount under grant reserves was attributed to grants to Sugar Companies during the year. However, no documentary evidence was provided to support the disbursements to the Sugar Companies in support of the amount of KShs 3,325,000 under retained earnings. Consequently, the accuracy and validity of the amounts could not be confirmed.

Management response

636. The management informed the Committee that the amount of Kshs 3,325,000 relates to prior year adjustments as detailed below;

Directorate	Reference	Amount	Remarks
Coffee	JV 28	742,767	Prior year adjustment to correct double posted invoices
Coffee	JV 29	2,537,100	Prior year adjustment to correct double posted invoices
Fibre Crops	SINV00303	6,300	Prior year adjustment to recognise revenue earned
Fibre Crops	BRCPT548	24,150	Prior year adjustment to recognise revenue earned

Fibre Crops	BRCPT528	14,118	Prior year adjustment to recognise revenue earned
Total		**3,324,435**	

Committee Observations

The Committee observed that –there was no documentary evidence provided to support the Kshs. 3,325,000 Capital Grant Reserve disbursements to the Sugar Companies under retained earnings.

Committee Recommendations

The Committee recommended that within three months upon adoption of this report, the Accounting Officer should submit evidence to support the Kshs. 3,325,000 Capital Grant Reserve disbursements to the Sugar Companies to the National Assembly and the Auditor-General for audit review.

2.0 Revenue from Exchange Transactions

637. The Committee heard that the statement of financial performance reflects rental revenue totaling KShs. 152,277,000 which as disclosed in Note 9 to the financial statements, includes rental income from buildings amounting to KShs 123,921,000. A review of available records revealed the following:

i. Irregular Property Management Services and Reduced Rental Charges

The lease agreements were drawn between the tenants and the property management company instead of the Landlord (AFA) in spite of the fact that the agency agreement had not authorized the agent to enter into lease agreements with tenants. Furthermore, the agent had reviewed the rent charges downwards for some tenants without the approval of the Authority as shown below:

Tenant Name	Space Leased (Sq. Ft)	Date of Lease Renewal	Old Lease Quarterly Rates (KShs)	New Lease Quarterly Rates (KShs)
Kenya Quarry & Mines Workers Union	510	17/12/2018	121,176	84,150
Winalight Company Limited	350	09/01/2020	83,160	57,750
Pankim Office Supplies	964	21/01/2020	229,047	159,060

No explanation was provided for the reduced rental charges.

Management response

638. The management informed the Committee that on the issue of lease agreements being drawn between the tenants and the property management company instead of the Landlord (AFA), the then Coffee Board of Kenya was a defendant in court case no. HCCC No. 1068 of 1998, Thika Coffee Mills VS Coffee Board of Kenya, which had placed a court order on the title document of the building and thus could not execute any leases. The Board then resorted to signing letters of offer for lease renewal between tenants and the management agent. The location of the building off Haile Selassie was not attracting tenants due to encroachment by traders from the fresh produce market (Wakulima). The existing tenants were therefore threatening to leave, making it unrealistic for the board to escalate the rent amount as per the lease agreements. Further the situation prevailed to the renewal of the leases which affected the three tenants. The Authority has put in place a committee with a mandate to review the tenancy. The leases have been regularized and currently the leases are being signed between AFA and the tenants.

Committee Observations

The Committee observed that–

i) The Lease agreements were executed between tenants and the property management company rather than the landlord (AFA), despite the agency agreement not authorizing the agent to enter leases on AFA's behalf. However, a historical court matter (HCCC No. 1068 of 1998, Thika Coffee Mills vs Coffee Board of Kenya) placed an encumbrance on the title, allegedly preventing AFA from executing leases. As a workaround, the Board/Agent issued "letters of offer" with the agent.

ii) The Rent was reduced for specific tenants without Authority approval for some tenants while changes to rent (pricing/discounts/concessions) require prior documented approval per AFA's delegation of authority and lease policy.

iii) There was no market analysis, board/committee minutes, or formal waiver records to support the specific rate reductions or clear approval log or sign-off trail (workflow).

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer to prepare and submit to the National Assembly and the Auditor-General for review, a comprehensive report detailing all the leased/rented properties, related rent schedules, lease agreements, and service provider statements which should also include details of the mechanisms put in place to ensure comprehensive documentation.

1.0 Unsupported Rental Lease Agreements at the Coffee Directorate

639. The Committee heard that reported rental income from buildings totaling KShs 123,921,000 includes an amount of KShs 93,416,027 earned by the Coffee Directorate for Kahawa House and Coffee Plaza. Examination of schedules provided for audit revealed that the Coffee Directorate had a rental space of 48,418 square feet, 9 No. parking bays at Coffee Plaza and 155,170 square

feet rental space with 30 No. parking bays at Kahawa House. The Directorate provided a list of tenants numbering eight (8) for Kahawa House, seventy-five (75) for Coffee Plaza and twenty (20) parking bays. However, although Kahawa House was fully let out, lease agreements with two (2) tenants occupying 21,000 square feet were not provided.

Management response

640. The management informed the Committee that, the Authority has noted the issues raised by the auditor and regrets the failure to provide the lease agreements during the audit. Provided here below are clarifications for each of them.

i) The two tenants at Kahawa House, Jesus Teaching Ministry on 2nd floor occupying 10,000sq feet and Volcanic Plumbing occupying 11,000sq feet on ground floor had lease agreements copies of which were attached for review.

ii) The Lease agreements for the five tenants at Coffee Plaza listed here below who occupied an area of 2,425 square feet are provided and copies of the same are attached

1) 606 Bahati Mushroom Self Help Group

2) KAHII Self Help Group

3) 509 Kamax Plumbing

4) 505 Kenya Quarry & Mine Workers Union

5) King'ori Kariuki & Co. Advocates

iii) The twelve Tenants listed below who did not appear in the database were either new, having occupied space after 30th June 2019 or who had vacated the premises at the time of audit as attached and listed below;

a. Nyambene Coffee Mills Limited They were no longer tenants. Auctioneer notices attached.
They are no longer tenants. Termination letter attached dated 20th December 2018.

b. Ragos Valuers – Notification of Termination letter attached

c. Menya & Company Associates – Vacation notice issued

d. Jedhacom Logistics Limited. This is an existing tenant. Letter of offer attached. This was a new tenant starting 1st June 2019.

e. ITF- Public Transport Sacco This is a new tenant who took up space in 2019. Copy of offer of lease attached.

f. IDS Business College

g. They are no longer tenants. Auctioneer notices was provided for review

h. Tech-hub - They are no longer tenants. Auctioneer notices was provided for review

i. Cintric Systems - They were not tenants in this period and do not appear in the list of tenants.

j. Magnet Investments - Auctioneer proclamation attached.

k. Alexa Stationers – These are new tenants who took up space in January 2020 and they were not in the list of tenants as at June 2019. Copy of offer of lease was provided.

l. Brico Chemicals- These are new tenants who took up space in April 2020 and they are in the list of tenants. Copy of offer of lease was provided.

m. Marafiki land Investment Co. Ltd

Committee Observations

The Committee observed that –the Authority was in breach, the accounting officers did not avail the supporting accounting records/documentation in time for audit review and verification during the audit exercise leading to unnecessary queries. This is contrary to the provisions of Article 226 of the Constitution and Section 68(2) of the PFM Act 2012 which requires that the financial and accounting records are presented within three (3) months after the close of the financial year. Section 62 of the public Audit Act of 2015 obligates accounting officers to provide required documents for audit failure to which they be sanctioned.

Committee Recommendations

The Committee recommended that–

i) Accounting officers should comply with the provisions of Section 68(2) of the Public Finance Management Act of 2012 by submitting all the required information for audit within the stipulated timelines.

ii) The Accounting Officer who fails to provide required information for audit pursuant to Section 62(1) of the Public Audit Act, 2015 should be prosecuted for the offence pursuant to Section 62(2) of the Public Audit Act of 2015.

1.0 Unconfirmed Value Added Tax Charged on Rental Income from buildings

641. The committee heard that according to the schedules provided for audit, the Coffee Directorate paid Value Added Tax (VAT) amounting to KShs 9,245,580 on rental income. However, a scrutiny of the schedules and VAT monthly rent sheets provided by the service provider revealed that rental income on all properties was not subject to VAT as provided by the lease agreements. Further, the Management applied VAT on the rent remitted by the service provider after deducting fees from the rent collected. Under the circumstances, the accuracy and completeness of the rental income earned and VAT paid thereon could not be confirmed.

Management response

642. The management informed the Committee that as correctly observed by the auditors rental income on all properties are subject to VAT as provided in the Lease Agreements. An analysis of the total rent collected from both Kahawa house and Coffee Plaza indicating the gross amount and the VAT charged and remitted to KRA for the year was Kshs. 10,038,787.28 which was attached together with support statements for the monthly rent collected. Also, the copies of client's statements for Coffee Plaza and Kahawa house for July 2018 to June 2019 and VAT charged were provided for review.

Committee Observations

The Committee observed that–

i) There was an unconfirmed VAT Application with an amount of KShs 9,245,580 paid on rental income, yet lease agreements indicated rental income was not subject to VAT raising doubts about compliance with contractual terms and tax law.
ii) The VAT was applied on net rent (after deducting service provider fees) instead of gross rent, which may have led to understatement of VAT liability.
iii) The schedules and monthly rent sheets provided by the service provider did not reconcile with the VAT charged, creating uncertainty about the completeness and accuracy of rental income and VAT remittances.
iv) While management provided reconciliations, the initial audit evidence suggested discrepancies between contractual terms, rent schedules, and VAT treatment. This indicates weaknesses in documentation and reconciliation processes.

Committee Recommendations

The Committee recommended that–

i) Within three months upon adoption of this report, the Accounting Officer to prepare and submit to the National Assembly and the Auditor-General for review, a comprehensive report detailing all the leased properties, related rent schedules, lease agreements, VAT returns, and service provider statements reconciled monthly to confirm accuracy and completeness for the financial year preceding this report. Further, the report should include details of the mechanisms put in place to ensure comprehensive documentation.

ii) Within three months upon adoption of this report, the Accounting Officer to submit to the National Assembly and the Auditor-General for review a risk management and Governance strategy approved by the Board to ensure that the Authority strengthens it Governance including, Instituting periodic internal audits or compliance reviews to confirm adherence to laws, Regulations and policies.

1.0 Sub-Letting of Premises by the Tenants

643. The Committee heard that, according to the lease agreements, the tenant was not permitted to transfer, assign, sublet or part with possession of the premises or part of it to any third party at any time during the course of the lease. Upon breach of the covenant, the Landlord may re-enter

the premises and thereupon, the lease shall be terminated absolutely. However, audit inspection of Coffee Plaza on 27 April, 2020 revealed that three (3) tenants had sublet the premises without any approval or knowledge of the Management. Further, rental income from the subleasing was not accounted for or reflected in the AFA records and no action had been taken to terminate the leases.

Management response

644. The management informed the Committee that they appreciate the observation made by the auditor, which had not been brought forth by the service provider. Following this exposure, AFA management has set up a committee on rent collection whose terms of reference include identifying offices that have been sub-let to other parties as per the attached memo for appropriate actions.

Committee Observations

i) The Management did not inspect its properties leading to breach of Lease Agreements. There were three tenants who had sublet premises at Coffee Plaza without approval, contrary to lease covenants that explicitly prohibited subletting, assignment, or transfer. However, despite the Management being made aware of the breach, there was delayed Corrective Action by way of terminating the leases or enforce penalties as stipulated in the agreements.

ii) There were unaccounted Rental Incomes arising from the sub-leased premises which was not recorded in AFA's financial records, indicating possible revenue leakage and weak monitoring of tenancy agreements.

iii) The Management was reactive rather than proactive by acknowledging the issue only after audit exposure but has since set up a rent collection committee to identify sublet offices and recommend appropriate actions.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer should carry out a monitoring exercise aimed at mapping the rental properties, their conditions, occupancy and lease terms including the level of compliance with the lease agreements, prepare and submit a comprehensive report to the National Assembly and the Auditor-General for review

1.0 Non-Accountability of Deposits and Late Payments by Tenants

645. The Committee heard that, the lease agreements provided for three (3) months security deposits from tenants to be retained by the Landlord as security for the performance under the lease. However, only two deposits were accounted for in the financial statements. The accounted for deposits include an amount of KShs 1,710,000 and legal cost of KShs 100,000 paid by the Equity Bank but not remitted to the service provider. Further, the lease agreements did not provide for penalty for late payment of rent.

Management response

646. The management informed the Committee that, as provided in the lease agreements and correctly noted by the auditor, three months' security deposits collected by the service provider are to be remitted to the Landlord, AFA, for performance under the lease. Management acknowledged the omission and subsequently wrote to the property agent to surrender the deposits. Management now confirms that all the security deposits from the tenants have been surrendered to the Landlord as per the attached documents. The Equity Deposit was accounted for in the financial reports since it was remitted in the year of audit.

647. The management acknowledges that there was no penalty provided for in the old leases. However, the revised lease agreement has introduced a clause on penalty upon default by tenants.

Committee Observations

The Committee observed that–

i) There was incomplete accountability of Deposits where only two tenant deposits were initially reflected in the financial statements, despite lease agreements requiring three months' security deposits. This indicated weak controls over deposit collection and remittance.

ii) The property agent failed to remit all deposits to the landlord (AFA) as required, highlighting lapses in oversight and monitoring of the agent's compliance.

iii) The lease agreements did not contain a Penalty Clause for penalties on late rent payments, exposing the landlord to risks of delayed cash flows without deterrent measures.

Committee Recommendations

The Committee recommended that–

i) Within three months the Accounting Officer should come up and document mechanisms to strengthen Deposit Controls that ensures that all tenant deposits are promptly remitted by the service provider and recorded in AFA's books at the time of collection to avoid omissions or delays.

ii) Within three months upon adoption of this report, the Accounting Officer should come up with an approved rental Policy that stipulates Enforcement mechanisms for rental payments, adherence to lease terms, periodic revision of leases, penalties for late payments to safeguard revenue streams and discourage tenant defaults.

iii) The Management should always carry out Reconciliation preferably monthly between deposits collected, deposits remitted, and deposits recorded in financial statements to confirm completeness and accuracy. The report culminating from this should always be submitted to the Auditor-General during the normal compliance audits for review and reporting.

1.0 Dilapidated Kahawa House

648. The Committee heard that, as previously reported, Management had planned to spend an amount of KShs 54,650,000 for major renovations, electrical repairs, refurbishment of washrooms and interior painting of Kahawa House. Examination of the procurement plan for financial year 2018/19 revealed a provision for renovation of Kahawa House. However, no such works had taken place during the financial year and no explanation was provided for non-rehabilitation of the building. Further, Kahawa House has a gross leasable area of approximately 155,170 square feet but only an area of 75,170 square feet had been let out resulting in under-utilization of the building by 80,000 square feet. Rent was charged at KShs 600 per square foot translating into lost rental income amounting to KShs 48,000,000 per month or KShs 576,000,000 per annum.

Management response

649. The management informed the Committee that, the amount allocated in the procurement plan for 2018/2019 was to renovate both the Kahawa house and coffee plaza. However, the budget allocated was not sufficient to renovate the two buildings at the same time. The 54,650,000.00 Allocated was used to renovate Coffee Plaza at a total cost of Kshs.27,300,880.00. The planned refurbishment of Kahawa House was intended to make the building more attractive for maximization of the uptake of the rentable space. The rent per square foot for Kahawa House is currently at KShs. 55. The management wishes to clarify that in the year of audit was at the same rate.

Committee Observations and Recommendations

The Committee observed that –the matter on Rehabilitation of Kahawa house in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.0 Disbursements to Sugar Farmers

650. The Committee heard that, the statement of financial performance reflects disbursement to farmers' arrears of KShs 2,085,430,000 which, as disclosed in Note 15 to the financial statements, relates to disbursements to farmers through five (5) Sugar companies. Review of documents and records revealed the following:

i. Variances between Financial Statements figures and Bank Payments

The balances disclosed in the financial statements differed with the balances reflected in the bank statements as detailed below:

Sugar Company	Financial Statements Balance (KShs)	Bank Statements Payments (KShs)	Difference (KShs)
Mumias Farmers	754,441,000	745,437,702	9,003,298
Sony Farmers	397,638,000	383,379,281	14,258,719
Muhoroni Farmers	374,350,000	372,732,276	1,617,724

Nzoia Farmers	425,845,000	447,240,137	(21,395,137)
Chemelil Farmers	133,156,000	142,053,209	(8,897,209)
	2,085,430,000	2,090,842,605	(5,412,605)

No reconciliation or explanation has been provided for these variances.

Management response

651. The management informed the Committee that, the Authority received KShs 2,102,120,935 from The National Treasury with approved list of sugar cane farmers for payment to them directly. As of 30th June 2019, the Authority had paid a total of 2,085,418,000 leaving a balance of Kshs 16,685,765. This figure corresponds with the bank statement balance and the bank reconciliation statement provided for review.

Sugar Company	Financial Statements Balance (KShs)	Bank Statements Payments (KShs)	Difference (KShs)
Mumias	754,441,217.00	754,441,217.00	-
Sony	397,638,419.00	397,638,419.00	-
Muhoroni	374,350,137.00	374,350,137.00	-
Nzoia	425,844,678.00	425,844,678.00	-
Chemelil	133,155,919.00	133,155,919.00	-
Total	2,085,430,370.00	2,085,414,370.00	-

Committee Observations

The Committee observed that –there were discrepancies between financial statement balances and bank statement payments across several sugar companies, with variances totaling KShs 5,412,605. However, no reconciliation or explanation was provided for the differences, raising concerns about accuracy, completeness, and reliability of reported figures. The variances implied that there were control weakness in ensuring timely reconciliation and reporting processes.

Committee Recommendations

The Committee recommended that within three months the Accounting Officer should come up with mechanisms and document them to ensure timely Bank Reconciliation, strengthening Financial Reporting Controls, audit Trail Maintenance and submit the report to the National Assembly and the Auditor-General for review. Further, in the same report the Management should provide documented evidence of Capacity Building for finance staff, periodic independent reviews of reconciliations by internal audit or oversight committees to confirm accuracy and completeness

of reported balances and continuous Monitoring mechanism to ensure that funds received from the National Treasury are fully accounted for and disbursed in line with approved farmer lists.

1.0 Long Outstanding Payables

652. The Committee heard that, the statement of financial position reflects a balance of KShs 698,861,000 under trade and other payables from exchange transactions which as disclosed in Note 27 to the financial statements, includes an amount of KShs 676,727,000 related to trade payables. However, trade payables amounting to KShs 536,048,131 or (79%) were long outstanding, with some dating back to the year 2011 as detailed below:

Vendor ID	Payee/Name	Directorate	Amount (KShs)
VEND0059	Munyao Muthama and Kashindi Advocates	Sugar	929,000
VEND0311	Bifuel for Kenya (norad)	Sugar	926,000
VEND0184	Sugar Research Levy	Sugar	444,776,697
VEND0015	Controller and Auditor General	Sugar	6,838,000
VEND0066	Ndungu Gathinji	Sugar	5,679,113
	Sub-Total		**459,148,809**
VEND00001	Kenya Airports Authority	Horticulture	66,788,067
VEND00004	Cortec System and Solutions Ltd	Horticulture	3,789,588
VEND00005	Kenya Shell Ltd	Horticulture	2,804,228
VEND00006	Shelcon Tech Services	Horticulture	2,017,401
VEND00009	Sundry Creditors	Horticulture	1,500,039
			76,899,322
			536,048,131

No reason has been provided for the failure to settle the long outstanding payables.

Management response:

The management informed the Committee that, the explanations to each of the vendor is detailed below;

Payee/Name	Amount (KShs)	Response
Munyao Muthama and Kashindi Advocates	929,000	This relates to the following cases. 1. No. 112 of 2012 Mat International Ltd VS KRA and Kenya sugar Board ksh. 687,000 2. No.463 of 2012 Raghbir Sing Chathe vs Kenya Sugar Board & 2 others ksh. 696,000 3. JR Application No. 42 of 2014 R vs KSB (ex parte Mjengo Ltd) ksh. 420,000 4. 583 of 2013 Mumias Sugar Co. vs Kenya Sugar Board ksh. 475,000 50% down payments were made and taxes paid. The cases are still ongoing. The outstanding balance of 50% is payable after the determination of the cases. The lawyers have confirmed this position vide their letter Ref. GK/GEN/2023 dated 22nd March 2023
Bifuel for Kenya (norad)	926,000	The amount of KShs. 926,000 owed to Biofuel4kenya had not been settled pending the completion of the project funded by Norwegian Agency for Development Co-operation. The project was completed in October 2022 and the amount fully settled the same month. See attached ledger and PV
Sugar Research Levy	444,776,697	The outstanding amount of KShs. 444,776,697 owed to the former Kenya Sugar Research Foundation, KESREF, (Now KALRO) was a provision made in the books payable to the Foundation out of the sugar development levy. It was a component of the sugar development levy collectable from millers and payable to KESREF. The amounts will be paid to KESREF when the sugar millers settle the outstanding levy arrears
Controller and Auditor General	6,838,000	The management acknowledges the liability and undertakes to settle by 30 June 2023
Ndungu Gathinji	5,679,113	The amount of KShs 5,679,113 relates to the matter of Nairobi HCCC 559 of 2005 Kenya Sugar Board Vs Ndugu Gathinji for which the Escrow Account had been opened. The closure of the Escrow account will settle the outstanding amount
Sub-Total	**459,148,809**	
Kenya Airports Authority (KAA)	66,788,067	Kshs 66,788,067 owed to Kenya Airports Authority (KAA) relates to outstanding land rent for the HCD HQ offices. The directorate has been negotiating for waiver of the rent with KAA which so far has not been granted.
Cortec System and Solutions Ltd	3,789,588	Cortec System and Solutions Ltd were paid Kshs 3,789,588 but the customer subsidiary ledger had not been updated. This has since been corrected.

		Attached is the correct balances as per current aged analysis as at 30th June 2022 See JV
Kenya Shell Ltd	2,804,228	The Kshs 2,804,228 payable to Kenya Shell Ltd were paid but the customer subsidiary ledger had not been updated. This has since been corrected. Attached is the correct balances as per current aged analysis as at 30th June 2022 See JV
Shelcon Tech Services	2,017,401	Shelcon Tech Services were paid Kshs 2,017,401 but the customer subsidiary ledger had not been updated. This has since been corrected. Attached is the correct balances as per current aged analysis as at 30th June 2022 See JV
Sundry Creditors	1,500,039	Similarly, Kshs 1,500,039 Sundry Creditors were settled but the customer subsidiary ledger had not been updated. This has since been corrected. Attached is the correct balances as per current aged analysis as at 30th June 2022 See JV
	76,899,322	
	536,048,131	

Committee Observations

The Committee observed that –although the Authority management had subsequently provided explanations, there were systemic issues that remained evident as follows:

i) Weak creditor management and monitoring mechanisms, resulting in liabilities remaining open for many years.

ii) Poor reconciliation processes, where payments made were not posted to respective vendor accounts in a timely manner.

iii) Dependence on external events (court determinations, levy collections, rent waivers) without clear timelines or escalation mechanisms.

iv) Potential misstatement risk, as aged debts may represent overstated liabilities or inaccurately recorded obligations.

These weaknesses undermine the accuracy of financial reporting and may expose the Authority to legal or reputational risks.

Recommendations

i) Within three months upon adoption of this report, the Accounting Officer should document and submit a report to National Assembly and Auditor-General for review on mechanisms put in place to Strengthen Creditor Reconciliation and Ledger Update Controls and Ensure all payments are immediately and accurately posted to the subsidiary ledgers to avoid long-outstanding balances that have already been settled.

ii) Within three months upon adoption of this report, the Accounting Officer should Conduct a Comprehensive Review and Clean-up of Aged Payables, to identify obsolete, duplicated, or no-longer-valid liabilities, seek approval for write-backs, settlements, or reclassifications where appropriate and submit such a report.

1.0 Unconfirmed Disbursement of Farmers Arrears to Companies, SACCOs and Shares Accounts by Farmers

653. The Committee heard that, the payment details indicate that sugar companies were paid a total amount of KShs 267,162,688 for farmer's arrears through the bank accounts detailed below:

Bank Account No	Name	Total (KShs)
1120054662900	Chemelil Sugar Company Ltd	1,003,368
1120054662901	Chemelil Sugar Company Ltd	83,267,922
102029114100	Miwani Sugar (In Receivership)	182,891,378
		267,162,668

654. Further, an amount of KShs 234,190,618 was paid to SACCOs on behalf of farmers. In addition, analysis of bank payments made included unconfirmed payments of KShs 163,402,739 to 4,782 farmers sharing the same bank accounts as follows:

Bank Account No	Sum of total (KShs)	Count of Name
1104121573	139,854,210	4,326
1009055044400	14,416,884	337
1112021760	1,938,892	46
1120012311900	2,970,966	40
1108069169	1,903,706	27
1104064421	2,318,081	6
	163,402,739	**4,782**

655. No returns and analysis of the farmers sharing the same account were provided by the sugar companies and SACCOs to confirm that the farmers actually received the money. From the foregoing the validity, accuracy and completeness of disbursement to farmer's arrears of KShs 2,085,430,000 could not be confirmed.

Management response

656. The management informed the Committee that, the Authority submits that all payments were made to farmers and institutions whether Sugar companies or SACCOs through the banks accounts provided for each without any alteration as per the lists given by the Ministry of Agriculture.

Farmers sharing the same accounts are largely those whose funds were remitted to SACCOs and Sugar companies including the 4,782 farmers reported by the Auditor

657. The funding was exact on the amounts payable as per the lists provided and therefore no budget to follow up on the SACCOs to confirm that the farmers actually received the money. Furthermore, no such obligation was placed on the Authority

658. Chemilil Sugar and Muhoroni have confirmed that they have contracts with SACCOs for their cane delivery. They do not have individual contracts with farmers within the SACCOs. They also confirm that no farmer has complained for non-payment.

Committee Observations

The Committee observed that–

i) The Authority disbursed KShs 267,162,668 to sugar companies, KShs 234,190,618 to SACCOs, and an additional KShs 163,402,739 to 4,782 farmers sharing bank accounts. However, the sugar companies and SACCOs did not provide returns or supporting schedules confirming that the farmers actually received the payments.

ii) The lack of farmer-level confirmations, compounded by thousands of beneficiaries sharing the same bank accounts, undermined the reliability of the disbursement records and raised concerns about potential payments to ineligible, unintended, or non-existent beneficiaries.

iii) Although management attributed the shared accounts to SACCO and sugar company arrangements, the explanation did not provide adequate assurance over the traceability of funds or the authenticity of final beneficiaries. The absence of a structured accountability mechanism or confirmations from intermediary institutions exposed the disbursement process to significant financial and operational risks.

Committee Recommendations

The Committee recommended that, within three months of this Report's adoption, the Accounting Officer submit to the National Assembly and the Auditor-General a clear policy or mandatory verification framework requiring sugar companies and SACCOs to provide signed beneficiary distribution schedules, bank confirmations, or individual farmer acknowledgements. The framework should also outline explicit accountability obligations for intermediary institutions receiving funds, including maintaining complete and auditable beneficiary records.

1.0 Un-Adopted Job Evaluation Report and Pending Harmonization of Staff Salaries

659. The Committee heard that, the statement of financial performance and Note 13 to the financial statements reflect employee costs totaling KShs 1,001,976,000. The Authority was formed vide the Agriculture and Food Authority Act, 2013 and Crops Act, 2013 to take over all assets and liabilities of the defunct Authorities and Boards under the Ministry of Agriculture. As a result, the Authority took over all the employees of the defunct Institutions and the staff were put on interim appointments on 20 August, 2014. As previously reported, the employees were still on interim contracts.

660. In addition, the Authority was yet to harmonize the staff's terms and conditions of service despite the Authority contracting a consulting firm to conduct a job evaluation and its request to the Salary

and Remuneration Commission vide its letter AFS/JRM/28 dated 20 July, 2017, which provided that the Authority be allowed to finalize the process of harmonization of terms and placement of staff within two months from the date of the letter.

Management responses

661. The management informed the Committee that, the Authority initiated a process of job evaluation which was concluded and submitted in 2017. Subsequently the Authority received approval from the Salaries and Remuneration Commission on implementation of job evaluation results: basic salary structure for AFA as communicated vide letter Ref. No. SRC/TS/JE/SRSC/3/33/4 Vol VI (34) dated 2nd May 2018. The Authority thereafter submitted the job evaluation result to the Cabinet Secretary, Ministry of Agriculture, Livestock, Fisheries and Irrigation seeking concurrence for implementation vide letter dated 4th October 2018. No response was received.

662. The Authority thereafter sought to undertake harmonization of staff salaries and received a second approval from the Salaries and Remuneration Commission vide letter Ref. No. SRC/TS/JE/SRSC/3/33/4 Vol. IX (106) dated 19th August 2020 granting approval for implementation of the Basic Salary, the Authority has implemented the same through placement of staff and alignment of salaries.

663. The Authority has sought SCAC's guidance to develop Human Resource Instruments, which will culminate in a reviewed organization structure, staff establishment, grading, career guidelines and Human Resource Policy and Regulations manual so as to address emerging challenges.

Committee Observations

The Committee observed that–

i) The Committee observed that –although the Authority initiated job evaluation exercise and obtained approvals from the Salaries and Remuneration Commission (SRC) in 2018 and again in 2020 for implementation of the evaluated salary structure, the Authority had not fully finalized the harmonization of staff terms and conditions of service. This delay persists even though SRC had earlier directed, through correspondence in 2017, that the harmonization and staff placement process should be completed within two months.

ii) Further, while management indicated that the job evaluation report was submitted to the Cabinet Secretary in 2018 for concurrence, no evidence was provided to confirm follow-up action or escalation to ensure adoption and implementation.

iii) The Authority stated that it had partially implemented the basic salary structure and initiated the development of HR instruments through SCAC, the absence of an approved human resource framework, updated organizational structure, and clear grading and career progression guidelines continues to expose the institution to human resource inconsistencies, potential inequity in remuneration, and legal or industrial-relations risks associated with prolonged interim appointments.

Committee Recommendations

The Committee recommends that–

i) Within three months upon adoption of this report, the Accounting Officer prepare and submit a comprehensive report and evidence of execution on full adoption and implementation of the job evaluation report and finalization of the harmonized staff terms and salaries to the National assembly and Auditor-General for review.

ii) Within three months upon adoption of this report, the Accounting Officer should ensure that all prerequisite HR instruments including organizational structure, staff establishment, grading system, career progression guidelines, and HR policies are completed in collaboration with the State Corporations Advisory Committee (SCAC) and approved by the relevant authorities and submit evidence of compliance to the National assembly and Auditor-General for review.

iii) Within three months upon adoption of this report, the Accounting Officer should provide to the National assembly and Auditor-General for review documented mechanism for periodic follow-up with oversight bodies such as the SRC and the Ministry to prevent prolonged delays in approving key HR reforms.

1.0 Construction of Cane Testing Units

664. The Committee heard that, the statement of financial performance reflects an expenditure of KShs 281,499,000 on repairs and maintenance. As disclosed in Note 17 to the financial statements, an amount of KShs 243,932,000 was incurred on repairs of plant and equipment of which KShs 240,500,016 related to maintenance of cane testing units. However, as previously reported, the Projects had not been operationalized at an industrial level and therefore the benefits of the cane testing units had not been realized eight (8) years after their initial launch. Further, it was not clear whether the cane testing units were useful to the sugar mills considering that the sugar mills had not fully embraced payment of farmers based on sucrose content as envisaged when the project was initiated

Management responses

665. The management informed the Committee that, Kshs. 240,500,016 was payment for Laboratory Information Management System (LIMS) software licenses and maintenance of 9 Cane Testing Units (CTUs). The project begun with installation of 2 pilot CTUs at Nzoia Sugar Company and South Nyanza Sugar Company with the objective of generating technical information on cane testing that would guide establishment of Quality-Based Cane Payment System. Subsequent to the 2 pilot projects, 9 additional CTUs were installed at 9 sugar mills and commissioned in July 2017. The 2 pilot units were upgraded in 2021 to bring them to the same operational level as the 9 installed later.

666. To support the operationalization, the following have been undertaken:

i. A manual containing Methods and Procedures for management of Cane Testing Services has been developed.

ii. Technical staff have been deployed at the 11 units to calibrate the quality measurement technology.

iii. Data collection and analysis has been ongoing at the nine CTUs. Cane quality results have been used for calibration to determine the suitability of the model to predict new samples.

iv. Sensitization of stakeholders has been ongoing to enlighten the affected parties on the proposed changes.

v. Draft Crops (Sugar)(Quality-Based Sugarcane Payment System) Regulations, 2023 have been developed. These await public participation prior to gazetment. Once gazetted, the Regulations will guide the operationalization of the CTUs and make it mandatory for all the sugar factories to use Quality-Based Sugarcane Payment System (QBSPS) to pay farmers.

Committee Observations

i) The Committee observed that –the Authority incurred KShs 240,500,016 on the maintenance of Cane Testing Units (CTUs) although they had not been operationalized at an industrial level, despite having been launched eight years earlier. As a result, the expected benefits of a Quality-Based Sugarcane Payment System (QBSPS) had not been realized.

ii) Most sugar mills have not fully adopted sucrose-based payment, raising concerns about the usefulness and return on investment of the CTUs.

iii)The management stated that significant steps had been undertaken—including deployment of technical staff, calibration activities, sensitization of stakeholders, development of operational manuals, and preparation of draft QBSPS Regulations (2023). However, these initiatives do not adequately explain why full operationalization delayed and thus undermined the project's viability resulting in substantial public investment remaining underutilized. This gap raises concerns over value-for-money, project governance, and long-term sustainability of the CTUs.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer provide a well-documented work plan on how the Authority plans to fast-track the full operationalization of all Cane Testing Units by coordinating with the Ministry, sugar mills, and the Agriculture and Food Authority to ensure prompt enactment and gazettement of the Crops (Sugar) (Quality-Based Sugarcane Payment System) Regulations, 2023.

1.0 Payments Processed without Purchase Orders

667. The Committee heard that, Section 108(5)(a) and (b) of the Public Procurement and Asset Disposal Act,2015 requires a procuring entity to place a purchase order with the person submitting the successful quotation who should confirm the purchase order in writing. However, instances were noted where vendor invoices were processed for payments without an official contract in form of purchase orders as summarized below:

Directorate	Amount (KShs)

Coffee	9,403,998
Fibre	713,800
Food	1,153,914
Horticulture	8,715,389
Headquarters	595,210,768
Nuts and Oils	199,922
POID	2,056,601
Sugar	10,331,192
Tea	40,161,033
Total	**667,946,556**

668. In the circumstances, the regularity of the payments could not be confirmed. The audit was conducted in accordance with ISSAI 4000.The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Management response

The management informed the Committee that, the Authority has established that the Payments under the reference of the Kshs. 667,946,556 comprise items with LPOs, Contracts, Lease Agreements and Direct Payments as classified in the table below: -

Directorate	**Payments supported by contacts and LPOs**	**Direct Payments**	**Amount Kshs**
Coffee	697,729.30	8,706,208.41	**9,403,998**
Fibre	713,800.00	-	**713,800**
Food	1,053,714.43	100,200.00	**1,153,914**
Horticulture	6,259,286.71	2,534,053.83	**8,715,389**
Headquarters	566,316,109.23	28,894,658.38	**595,210,768**
NOCD	199,922.06	-	**199,922**

POID	653,375.56	1,403,225	**2,056,601**
Sugar	6,204,809.23	4,048,430.24	**10,331,192**
Tea	34,349,276.37	5,811,756.73	**40,161,033**
Total	616,448,022.89	51,498,532.59	**667,946,556**

669. Payments with LPOs, lease agreements and contracts amounting to KShs. 616,448,022.89 as provided. Direct Payments, which include utility bills, training as per the approved training plan, subscription fees payable to the professional bodies amounting to Kshs 51,498,532.59.

Committee Observations

i) The Committee observed that –payments totaling KShs 667,946,556 were processed across various Directorates without the support of purchase orders (POs) or formal contracts, as required by Section 108(5)(a) and (b) of the Public Procurement and Asset Disposal Act, 2015, which mandates that a procuring entity issue an official purchase order to the successful vendor and obtain written confirmation. However, Invoices were processed and paid in the absence of such documentation, raising concerns regarding the regularity, transparency, and legality of the procurement process.

ii) The management provided a breakdown indicating that KShs 616,448,022.89 related to payments supported by LPOs, contracts, or lease agreements and KShs 51,498,532.59 represented direct payments such as utilities, subscriptions, and training expenses, the Committee noted that this documentation was supplied retrospectively and did not fully explain why the payments were initially recorded as unsupported.

iii) The Authority made substantial payments without the required procurement documentation points to weak internal controls, inadequate procurement planning, and non-compliance with procurement procedures exposing it to risks of irregular expenditure, inflated invoices, unauthorized commitments, and potential loss of public funds.

Committee Recommendations

The committee recommended that within three months upon adoption of this report, the Accounting Officer should provide a documented strategy on how the Authority would fully enforce compliance with the Public Procurement and Asset Disposal Act by ensuring that

procurements are supported by duly approved purchase orders, contracts, or framework agreements before goods or services are delivered.

1.0 Lack of Substantive Board Members

670. The Committee heard that, as previously reported, the Authority functioned without a substantive Board of Directors from 07 November, 2017 when the term of the interim Board Members lapsed. There was therefore, no support to the Accounting Officer with regard to responsibilities for issues of risk, control and governance and associated assurance and follow up on implementation of recommendations of internal and external auditors as envisaged under Regulation 175 of the Public Finance Management (National Government) Regulations, 2015.

Management response

671. The management informed the Committee that, as required under Section 5 of the AFA Act, 2013 the Ministry commenced the process of appointing a substantive Board for the Authority under a competitive process. The Board has been constituted via gazette notice dated 23rd March 2023.

Committee Observations

The Committee observed that–

i) The Authority operated without a substantive Board of Directors following the lapse of the interim Board's term. As a result, the Authority remained without a formally constituted governing body for an extended period, contrary to expectations for effective institutional stewardship.

ii) The Committee further noted that, during this period, the Authority lacked the governance oversight necessary to guide and support the Accounting Officer. In the absence of a Board, key strategic, policy, and operational decisions requiring Board approval may have been delayed, inadequately reviewed, or implemented without the requisite level of scrutiny, thereby exposing the Authority to significant governance and operational risks.

iii) Additionally, the Committee found that the Authority did not maintain a functional mechanism for monitoring and following up on the implementation of internal and external audit recommendations, in violation of Regulation 175 of the Public Finance Management (National Government) Regulations, 2015. This regulatory non-compliance undermined accountability and weakened assurance processes within the Authority.

iv) The Committee also observed that, although management indicated that the process of appointing a substantive Board had commenced in accordance with Section 5 of the AFA Act, 2013, the governance vacuum persisted for over five years. This prolonged period without a Board negatively affected institutional accountability and hindered compliance with statutory governance requirements.

Committee Recommendations

The Committee recommends that, within three months of the adoption of this Report, the Accounting Officer should submit to the National Assembly and the Auditor-General a documented strategy that aligns with the Mwongozo Code of Governance and outlines mechanisms for ensuring continuity of governance. This strategy should include measures for initiating and concluding the appointment or renewal of Board members well in advance of the expiry of existing terms. Further, the strategy should incorporate a comprehensive Board Succession and Appointment Management Plan detailing clear timelines, triggers for initiating Board appointment processes, and the specific units responsible for implementation, to ensure full compliance with the AFA Act, 2013.

1.0 Information Technology (IT) internal Controls

1.1 IT Governance Gaps

672. The Committee heard that, the Authority had not instituted an ICT Strategic Committee or an IT Steering Committee. In addition, a formal, documented and tested emergency procedure for use in the event of an unforeseen occurrence had not been established neither did the Authority have an approved Disaster Recovery Plan.

1.2 ICT Infrastructure Weaknesses

673. The Authority uses an ERP (Enterprise Resource Planning) Solution system with various modules, namely, Finance, Customer Relationship Management, and Human Resource Management. All the directorates are linked through the system. However, the Authority had not received full connectivity and integration between the Headquarters and its Directorates. System generated financial records could thus not be accessed on demand from the Headquarters.
674. In addition, the Horticulture Directorate implemented an upgrade to the ERP system while simultaneously running an older version of the ERP. The accounts receivables module which entails cash management, receipting and invoicing was maintained in the older/earlier version and the data was subsequently transferred manually to the upgraded system leaving room for human error. Use of two systems with the same capability may compromise the data of the Horticulture Directorate.
675. Further, the Authority has an Information Management System that provides for official communication, through staff emails operated within a secure domain. However, the staff used personal emails for official communication posing a risk to data security.

Management response

676. **The management informed the Committee that–**

i) **IT Strategic Committee**

The Government ICT Standard, ICTA.5.002:2019, Appendix 9 on IT Governing Committees stipulates that membership of the IT Strategic Committee should be comprised of Board members and specialist non board members. As at the time of the audit the Authority did not have a Board

of Directors. AFA's Board of Directors was appointed in March 2023 and will be in a position to form the IT Strategic Committee.

ii) **IT Steering committee**

The Authority has constituted a 7-member IT steering committee to define the IT mission and goals aligned with the strategic direction of the organization. This is according to IT governance standards by ICT Authority.

iii) **Disaster recovery plan**

The Authority has developed a draft Disaster Recovery Plan (DRP) which is awaiting Board approval.

677. At the formation of AFA the Directorates had independent systems. During the period under review AFA was in the process of implementing the Navision ERP system to integrate operations under one platform. Currently the system has attained full connectivity and integration between the Headquarter and the Directorates.

678. The issue of two systems running concurrently is the common practice in the IT field during system change over. This is normally done to help a company to have a fall back plan in case of any eventuality. The use of the two ERP systems concurrently by HCD was to ensure a smooth transition and data migration. Currently the Horticulture Directorate is using one system (ERP).The official email domain was in the setup stage in the year under review and thus was not fully functional. The management has fully enforced the use of official emails.Further, the Authority has an Information Management System that provides for official communication, through staff emails operated within a secure domain. However, the staff used personal emails for official communication posing a risk to data security.

Committee Observations

i) The Committee observed that –the Authority had not established an ICT Strategic Committee or an IT Steering Committee during the period under review, contrary to best practices outlined in the Government ICT Standards (ICTA 5.002:2019) which require ICT governance structures for oversight, alignment of ICT initiatives with institutional strategy, and assurance on risk management.

ii) The Committee further noted that the Authority had no formal, documented, and tested emergency procedures to guide ICT response in the event of system disruptions or unforeseen incidents. In addition, a Disaster Recovery Plan (DRP) was not in place or approved, exposing the Authority to extended downtime, loss of information assets, and business continuity risks.

iii) Although the Authority uses an ERP system (Navision) to integrate functions across Finance, CRM, and HR modules, there was no full connectivity or integration between the Headquarters and all Directorates. This hindered real-time access to system-generated financial data, limiting operational efficiency and effective oversight.

iv) The Horticulture Directorate ran two ERP versions concurrently during system upgrades. Critical functions such as receipting, invoicing, and cash management remained on the older version before manual data transfer to the upgraded ERP. This parallel-run

arrangement heightened risks of data inconsistencies, human error, and compromised data integrity, especially where financial information was concerned.

v) The Committee found that despite the Authority having an Information Management System and an official secure email domain, staff were using personal email accounts for official communication. This practice exposed the Authority to significant data security risks, including unauthorized disclosure, loss of sensitive information, and non-compliance with government ICT security protocols.

Committee Recommendations

The Committee recommends that within three months of adoption of this Report, the Accounting Officer should submit to the National Assembly and Auditor-General for review documentary evidence of: -

i) The establishment and operationalization of an ICT Strategic Committee in line with the Government ICT Standards (ICTA 5.002:2019).

ii) The Disaster Recovery Plan (DRP), including periodic drills and updates to guarantee readiness in case of disruptions as well as formal ICT emergency procedures aligned with best practices in business continuity management.

iii) Policy governing system upgrade and migration processes, including controls to minimize risks associated with running parallel systems and manual data transfers. Future transitions should incorporate documented processes for validation, reconciliation, and data integrity assurance.

iv) ICT security controls, staff sensitization, and monitoring mechanisms put in place to ensure adherence and mitigate risks of data breaches and unauthorized disclosure.

2.2 Sub-modules not Secured and Integrated

679. The Committee heard that, AFA maintains its financial information through an ERP system which integrates all functional departments of the Authority namely: human resource, procurement, administration, finance and accounts through sub-modules. A review of the data on payables revealed that the sub-modules were not properly secured and integrated because the vendor payment would be processed by keying in the vendor details instead of the system picking the vendor automatically from the vendor list. Hence, vendors would appear severally with different name formats. Consequently, there is a risk of the ERP system being manipulated to process unauthorized transaction and the reports generated from the system may not reflect the true position of the account balances.

Management response

680. The management informed the Committee that, challenges of payables module not being properly secured and integrated were noted during the implementation of the ERP system and the following actions were taken:

i. Use of KRA PIN as a mandatory unique ID for vendors to avoid creation of same vendor multiple times.

ii. Only specific officers are given the system rights to create vendors for accountability purposes.

iii. The system has been configured to allows users to only pick vendors from a list in the system.

Committee Observations

The Committee observed that–

i. The Authority's ERP system, which is intended to integrate all functional areas including human resource, procurement, administration, finance, and accounts had sub-modules that were not properly secured or fully integrated.

ii. The system permitted manual entry of vendor details, vendors appeared multiple times with varying name formats, resulting in inconsistencies in the vendor master file. This lack of standardization increased the risk of data anomalies, duplicate records, and errors within the financial management system.

iii. The absence of secured and automated linkages between the vendor master list and the payables sub-module exposed the ERP system to potential manipulation. Manual vendor entry created opportunities for staff to process unauthorized, fictitious, or fraudulent transactions, undermining the integrity, reliability, and completeness of system-generated financial reports. Consequently, the account balances generated from the ERP could not be fully relied upon to represent the true financial position of the Authority.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer should prepare and submit a Comprehensive report to the National Assembly and Auditor-General on the developed system milestones achieved and the controls in place to ensure that the ERP system is configured to restrict manual entry of vendor details in the payables module, all vendor data is automatically populated from a single, approved, and centrally managed vendor master list to prevent inconsistencies and duplication.

FINANCIAL YEAR 2019/2020

1.0 Property, Plant and Equipment

1.1 Unconfirmed Ownership of Property, Plant and Equipment

681. The Committee heard that, the statement of financial position reflects a balance of Kshs 10,470,889,000 under property, plant and equipment which, as previously reported, includes several properties whose ownership had not been established as explained below:

i. The balance includes an amount of Kshs 72,000,000 in respect of land measuring 236.35 hectares in Thika, Kiambu County. However, land measuring 137.2 hectares out of the 236.5 hectares bought with funds from the defunct Coffee Board of Kenya, was registered in the name of a former chairman. No evidence was provided that the former Chairman refunded the amount incurred in acquiring the land.

ii. The reported property plant and equipment balance included an amount of Kshs 161,200,000 representing the value of land on which the defunct Horticultural Crops Development Authority (HCDA) depots stand and for which title deeds had not been obtained.

iii. Included in the reported property, plant and equipment balance is an amount of Kshs 1,280,000,000 in respect of two parcels of land relating to the former Horticultural Crops Development Authority for which the organization did not have ownership documents. The parcels include a plot situated along Mombasa Road, measuring 3.5 hectares valued at Kshs 692,000,000 which was allocated to a private developer even although the Authority holds an allotment letter. Although a ruling by the National Land Commission (NLC) was in favour of the Authority, the private developer had not vacated the land as at the date of the report.

iv. As previously reported, in the year 2000,Horticultural Crops Directorate constructed a depot in Machakos at a cost of Kshs 55,677,000.The depot was one of the seven satellite depots meant for Horticultural Produce Handling Facilities (HPHF).Although the facility's sole purpose was to pre –cool horticultural produce and provide market access support for smallholders, the facility is currently occupied by the County Government of Machakos .No evidence was provided that the County Government had signed a lease agreement with the Authority for use of the facility as at the date of this report.

v. The reported property, plant and equipment balance includes a piece of land measuring 8.1 hectares valued at Kshs 1,600,000,000 located in Embakasi which was previously owned by the Coffee Board of Kenya from October,1986. However, the land remained unutilized and may be prone to illegal acquisition by informal squatters.

Additional information indicated that a Development Company also claimed to have acquired the parcel on 03 July,2009. It was not clear how the Company came to own the parcel of land.

Management response

682. The Management informed the Committee that 236.35 hectares is made of LR No.10084 of 99.15 Ha and LR No.10085 of 137.2 Ha. The value of KShs. 72,000,000 relates to LR No.10084 only acquired by the defunct Coffee Board of Kenya in 1977. Records indicate that the Board initially wanted to purchase a farm from M/S Azania Investments Co. Ltd for Coffee Research comprising. No.10084 and L.R. No. 10085.

683. However, the Coffee Research Foundation advised that they did not need the entire two parcels and one of them, L.R. No.10084 would be adequate. The Board minutes Min. no 245 of 15th July 1977 also indicate that the then Chairman of the Board, E.N. Kuria, acquired block L.R. No.10085 which was not required for Coffee Research. The same had been paid for by the Board and the then Chairman was to repay as a loan to the Board. Mr. Kuria paid the money on the 16th January 1978 through a banker's cheque forwarded by his advocate M/S Kaplan & Straton Advocates and acknowledgement of receipt communicated vide a letter ADM/2/30C dated 19th January 1978.

684. The Authority is in possession of the title for L.R. No. 10084 for 99.1Ha.

685. The Authority engaged the services of KOMM advocate to follow up on all the land without title documents. The status report as indicated by the advocate vide his report dated 16th September 2024 is as summarized below: -

S/NO	DEPOT	REMARKS
1.	MACHAKOS PDP No. 59/96/23-MACHAKOS	This is a 2 acres piece of land currently occupied by the Machakos County Government. As of 3rd June 2024, the advocate is engaging the County Government of Machakos on accessing the land for survey purposes.
2.	LIMURU LIMURU/BIBIRIONI/1010	This is a 6 acres piece of trust land situated in Limuru, Kiambu County. The Authority is pursuing the Kiambu County Government to release the piece of land to the National Land Commission for issuance of a letter of allotment.
3.	MWEA	This is a 2.5 acres piece of land. The Authority wrote a letter dated 31st March 2023 to the National Irrigation Board agreeing to their proposal to enter into a simple agreement. National Irrigation Board has not acquired the title for the entire land yet. The advocate is pursuing the matter.
4.	KIBWEZI	The Authority has already obtained the title deed for the Kibwezi depot, measuring 2 acres LR No. 27422.
5.	SAGANA	This is a 0.74 Ha. of land. From the report of the Authority's advocate, he is pursuing the preparation of a new Part Development Plan as the old one cannot be traced.

6.	MERU No. ABOTHUGUGUCHI/KARIENE/3165.	This is a 0.43-Ha land located in Kariene in Meru County. The Title Deed was successfully processed and Title issued on 12th August, 2024.
7.	KITHIMANI (YATTA)	This involves 22 plots each measuring 0.03 Ha. for which title deeds have been issued in the name of HCDA on 18th July 2024. The Authority is in the process of transferring them in the name of AFA.

iii) The Property was subject of a court case ELC NO. 516 OF 2018 (Formerly High Court Civil Suit No 1205 of 2005) HCDA =VS= Sakir Properties Limited & 2 Others. The Judgment was delivered on 17th December 2020 in favor of the Authority and the land was reverted to the Authority, but vide a Ruling dated 10th February 2022, the Court set aside the Judgment that granted AFA ownership of the land. The Authority has appealed against the judgement. The matter is coming up in court for compliance on 28th May, 2025.

686. HCDA was allotted by the commissioner of lands an unsurveyed piece of land LR. No.209/12490 opposite Yana Tyres along Mombasa RD Nairobi measuring 3.5Ha. for a lease term of 99 years effective 1st February 1987. On or about 2005, HCDA got information that M/S Sakir had been allotted the same land and a tittle deed issued

687. M/S Sakir claims that they got allocated the property after HCDA surrendered the land back to the government. HCDA maintained that it did not surrender the land back and therefore a legal suit ensured through the then Gachiri Kariuki & Kiai Advocates.M/S Sakir have developed the property by building residential flats.

688. The land was allocated to the defunct HCDA on request from the Ministry and National treasury. A letter of offer dated 15th May, 2000 signed for acceptance by then Managing Director of HCDA. The letter of letter stipulated rent payable quarterly. The lease between the HCDA and KAA was never executed.

689. On 3rd of April, 2023 the Authority wrote a letter to KAA requesting them to submit a lease agreement for the 5 acre piece of land. KAA has not availed the requested drafted lease agreement for consideration and execution. HCDA has occupied this land where it has constructed headquarters and pack houses.

690. The defunct HCDA entered into a partnership agreement with FPEAK on Horticulture depots utilization for capacity building and market access for smallholder farmers with a common objective to promote and accelerate the progress of practical training of horticulture produce for smallholder farmers.

691. Therefore, the partnership agreement did not provide for any monetary consideration payable to HCDA by FPEAK. However, FPEAK ceased managing the facilities in 2014/15 and the cold rooms are currently being run by AFA.

692. On utilization of the land, the Authority leased part of the land to Kipevu 3PL Supply Chain Ltd on 13th April 2021. The land is also secured by stone wall and caveat emptor is in place to protect it from would-be land grabbers.

693. This matter was before the environment and land court in Nairobi ELC case No 108 of 2010. The judgement was delivered in favor the defunct Coffee Board on 9th February 2022

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.2 Un-disclosed Non-Current Assets

694. The Committee heard that, as previously reported, the reported proper ty, plant and equipment balance excluded the value of various assets as explained below:

i) The fixed assets register provided for audit revealed that the Authority had excluded ten (10) acres of land situated in Wundanyi, Taveta and one hundred and twenty-seven (127) acres situated in Kitui valued at Kshs 36,600,000 and Kshs 4,000,000 and allocated to the defunct Horticultural Crops Development Authority and the defunct Cotton Board of Kenya, respectively. No explanation was provided for the failure to include the two pieces of land in the assets register and the financial statements of the Authority.

ii) The reported property, plant and equipment balance excludes seven acres of land in Mtwapa that had been allocated to the defunct Kenya Coconut Development Authority by the defunct Kenya Agricultural Research Institute. In addition, the ownership had not been transferred by the Kenya Agricultural Research Institute by the time the Authority ceased to exist upon the commencement of the Crops Act,2013.

iii) The defunct Cotton Board of Kenya had property, plant and equipment with a net book value of Kshs 210,759,785 and investments of Kshs 13,940,758 in Meru Ginnery Limited as at 30th June,1993. However, the Management has not satisfactorily explained how these property, plant and equipment were accounted for upon the creation of the defunct Cotton Development Authority.

iv) The value of motor vehicle registration number KBG 517C, which was registered in the name of Coffee Research Foundation was removed from the books of accounts of the Authority under unclear circumstances.

v) The reported property, plant and equipment balance excludes capital expenditure totaling Ksh 2,289,347,764 was incurred on the acquisition of the Cane Testing Units and Laboratories in the years 2014 to 2018.

vi) The property, plant and equipment balance of Kshs 10,470,889,000 excludes the value of a property in Riverside Estate where the defunct Cotton Development Authority's head office was located. Information available indicates that the property belonged to the defunct Cotton Board of Kenya and was charged against a bank loan that the Board failed to service. The

bank subsequently sold the property for Kshs 21.5million through a public auction held in November,2000.

Further, records show that the purchaser of the property paid the bank an amount of Kshs 8,375,000 representing the balance of the outstanding loan, upon which the bank released the documents relating to the property to the purchaser. The purchaser thereafter sought to transfer the title to the property in his name before clearing the balance of KShs 13,125,000. The Board, however, declined to execute the transfer documents and the purchaser filed a case in the High Court in November, 2008. Although the case was determined on 25 September,2015, the Authority has not obtained the title deed to the property and consequently the ownership could not be confirmed.

Management response

695. The Management informed the Committee that the Authority has not acquired any document of ownership to merit a claim on the two parcels of land to merit inclusions in the fixed asset register. The Authority is still pursuing letters of allotment and once this is acquired the same will be included in the assets register. KOMM Advocate report to the Authority dated 21st February 2025 advised as follows: -

i. Wundanyi

The Part Development Plan (PDP) needs to be updated to capture contours, shows adjacent parcels, indicate the use of the adjacent parcels land preparation of shape files for the updated PDP which would require placing of advertisements in 2 local dailies (in English and Kiswahili), public participation, preparation of the allotment letter and lease and PDP approval.

The Authority is pursuing the processing of the documentation of ownership and will record this asset as soon as it receives the letter of Allotment.

ii. Kitui

This land is valued at Kshs. 4,000,000 and not Kshs 36,600,000 and relates to the defunct Cotton Board of Kenya. The acreage is 0.5acres and not 127 acres.

Documents of ownership of this land are presently very weak as it is at the draft PDP stage, which is still pending approval. This requires to be updated through advertisement in the newspapers.

The Authority is pursuing the processing of the documentation of ownership and will record this asset as soon as it receives the letter of Allotment.

i) The land in question had been reserved for the defunct Kenya Agricultural Research Institute (KARI). The defunct Kenya Coconut Development Authority applied for the parcel of land from KARI through the Ministry of Agriculture for the purpose of constructing a Headquarters at Mtwapa. Kenya Agricultural Research Institute vide their letter REF. KARI/4/023C/VOL.XIV dated 2nd July 2012 informed the defunct Authority that the Board of Directors had resolved in their 98th meeting to allocate 7 Acres of land to KCDA. However, the defunct KARI now KALRO have not acquired title documents to enable transfer of the same to the Authority due to an ongoing court case. The land is also invaded by squatters as per the restraining order of the environment and land court, Mombasa

ELC petition no 29 of 2019. The value of the parcel can therefore not be included in the books of the Authority.

ii) As per The Cotton (Amendment) Act 2006, there was no provision for transfer of Property, Plant and Equipment from the defunct Cotton Board of Kenya to Cotton Development Authority.

iii) At the formation of AFA, Cotton Development Authority did not have ownership documents for the Meru ginnery. The Property had been sold by the former Cotton Board of Kenya to offset a bank loan as per a taskforce report.

iv) The matter has been referred to the Ministry of Agriculture & Livestock Development for further advice.

v) Logbook of this vehicle is now in the custody of the Authority.

vi) The Cane Testing Unit which were work in progress were capitalized in the year 2022/2023 FY.

vii) The case has since been concluded and the Authority is in possession of ownership document.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.3 Fleet Management

696. The statement of financial position reflects a net book value of Kshs 10,470889,000 under property plant and equipment which as disclosed in Note 31 to the financial statements, includes an amount of Kshs 75,449,000 relating to automobiles. However, a review of motor vehicle records held by the Authority revealed the following:-

1.3.1 Documents of ownership not in custody of the Authority

697. The Committee heard that, with the formation of Agriculture and Food Authority in 2014 through the Crops Act 2013, various regulatory institutions emerged and centralized with some of their functions performed at Head Office. Among these functions is management of the motor vehicle fleet. All the ownership documents were to be held at the Head Office by the Legal Department. However, it was observed that after the merger, Management failed to secure all the ownership documents and did not have custody of logbooks for forty (40) motor vehicles.

Management response

698. The management informed the Committee that, all 40 motor vehicle logbooks are now in the custody of Legal Department

Committee Observations

The Committee observed that–

i) After the establishment of the Agriculture and Food Authority (AFA) in 2014 under the Crops Act, 2013, motor vehicle fleet management was centralized and the Legal Department was mandated to hold all motor vehicle logbooks. However, Management did not comply with the requirement to centrally maintain motor vehicle and asset ownership documents for control purposes.

ii) Decentralized custody of logbooks increases the risk of unauthorized disposal or transfer of vehicles and exposes the Authority during insurance claims, police verification, or asset audits due to the inability to promptly prove ownership. This lapse indicates a systemic control weakness requiring structural corrective action.

Committee Recommendations

The Committee recommended that–

Within three months of adoption of this report, the Accounting Officer submits to the National Assembly and the Auditor-General a secure, up-to-date digital and physical register capturing vehicle details, logbook serial numbers, custody locations, and movement history. The submission should also outline documented mechanisms ensuring logbooks are stored in fire-proof, access-controlled cabinets, with access limited to designated Legal officers and supported by an auditable access log.

1.3.2 Logbooks in the Name of Defunct Institutions and Boards

699. The Committee heard that, on commencement of the Crops Act,2013 on 01st August,2014, the former regulatory institutions in the Agriculture Sector were merged into Directorates under the Authority. However, the ownership documents of seventeen (17) motor vehicles were still registered in the defunct institutions' names. Evidence of Management effort to register the vehicles in the Authority's name was not provided.

Management response

700. The Management informed the Committee that, at the time of the audit seventeen (17) motor vehicles were still registered in the defunct institutions' names. The process was ongoing at the National Transport and Safety Authority (NTSA). Before the merger the defunct institutions had their respective Transport Integrated Management System (TIMS) under the management of one transport officer to enable them to access NTSA Portal. After the formation of AFA everything changed because some services were centralized and staff transferred to various Directorates which disoriented some of the functions.

701. AFA wrote to NTSA applying for the transfer of the said logbooks and in their response they requested us to meet the following requirements for Government Bodies Vehicles:

- Request for change of phone numbers

• Former institutions now Directorates under AFA to appoint somebody who will be in charge of the phone number to enable him/her to access the NTSA Portal.

• The Directors of respective Directorates should swear Affidavit indicating the full names of the person, ID number and KRA PINnumber who has been authorized to transact on behalf of the organization and should be authorized by an active Advocate.

702. Another challenge that is slowing down the process is the amendment of the original AFFA to the current AFA since the KRA PIN for the Authority with the term 'FISHERIES' is still appearing whereby the KRA portal does not recognize the amended AFA.

703. The Authority has Thirty-Two (32) Vehicles and Ten (10) motorcycles with logbooks under the former boards, i.e. Coffee Board of Kenya, Cotton Development Authority, Horticultural crops development, and sisal board of Kenya.

704. The Authority has so far initiated the transfer of the assets by creating an account on the NTSA PORTAL. Directorates nominated transport officers to carry out all transactions in regard to the transfer of Logbooks and access NTSA for the former institutions.

705. Directorates nominated transport officers to carry out all transactions in regard to the transfer of Logbooks and access Citizen-NTSA PORTAL for the former institutions.

706. Two Directorate's have uploaded the documents successfully i.e NOCD and HCD while three are still under NTSA "verification Process"

707. The status is as follows:

1.HCDA-Created

2.CBK-Waiting for verification

3.KSB-Waiting for verification. This has now to be reversed with effect from 1st January, 2025. KSB has become independent.

4.CDA-Waiting for Verification

5.KCDA-Created

To follow up with NTSA to finalize creation access by Directorates and finalize on transfer.

Committee Observations

i) The Committee observed that –although the Crops Act, 2013 consolidated former agricultural regulatory institutions into Directorates under the Agriculture and Food Authority (AFA) effective 1 August 2014, the ownership documents for seventeen (17) motor vehicles remained registered under the defunct institutions.

ii) Management did not provide evidence of efforts made to transfer these logbooks to the Authority's name. This situation exposes the Authority to risks related to asset verification, delayed transactions, and challenges during audits or statutory processes requiring proof of ownership.

Committee Recommendations

The Committee recommended that, within three (3) months from the adoption of this report, the Accounting Officer (AFA) to expedite the completion of the transfer of all motor vehicle and motorcycle logbooks registered under the relevant institutions in accordance with new mandates of the relevant directorate as per the governing and establishing Acts. The Accounting officer should then submit to the Committee and the Auditor-General a status report detailing progress made, outstanding cases, and timelines for completion.

1.6 Unreconciled Motor Vehicle Records

708. The Committee heard that, the Authority maintained an electronic fixed asset register where all assets had been allocated asset ID Numbers and where details of the cost of the assets, accumulated depreciation, additions and net book values were provided. However, motor vehicle registration numbers were not included in the fixed assets register. Although a separate list containing motor vehicle registration number, model, location and Directorate was maintained, reconciliation of the two sets of records held by the Authority was not possible hindering physical verification of the location and condition of the vehicles.

709. In the circumstances, the accuracy, completeness and ownership status of the reported property, plant and equipment balance of Kshs 10,470,889,000 as at 30June,2020 could not be confirmed

Management response

710. The management informed the Committee that ERP system currently in use treat all assets in the same way in terms of data capture. A change in one area would mean a change in the whole system. The system is ready for an upgrade and this specific requirement for motor vehicles will be incorporated in the upgraded version. The ERP has been budgeted in the FY 2024-25

Committee Observations

The Committee observed that –although the Authority maintains an electronic fixed asset register capturing asset IDs, costs, depreciation, additions, and net book values, the register does not record motor vehicle registration numbers. Instead, a separate list containing registration numbers, models, locations, and Directorates was maintained. Therefore, the Authority could not reliably verify the physical location and condition of motor vehicles.

Committee Recommendations

The Committee recommended that–

Within three months the Accounting Officer to provide evidence to the National Assembly and the Auditor-General for review that the planned ERP upgrade incorporates mandatory fields for motor vehicle registration numbers and provides for automatic reconciliation between the fixed asset register and motor vehicle records aimed at strengthening asset management controls and ensure full accuracy and reliability of the Authority's Property Plant and Equipment's records.

1.7 Unsupported Investments in Subsidiary

711. The Committee heard that, as previously reported, the statement of financial position reflects a balance of Kshs 389,000 under investments which relates to investments on coffee exchange shares. However, the reported investment balance of Kshs 389,000 differed with the amount of Kshs 148,200 reflected in the share certificates, resulting in an unexplained difference of Kshs 240,800.

712. In the circumstances, the accuracy of the value of investments reflected in the financial statements could not be confirmed.

Management response

713. The management informed the Committee that, the investment of KShs. 389,000 relates to the total shares value on a number of share certificates at Kenya Coffee Auctions Limited issued over a number of years. The KShs. 148,200 related to Share Certificate No. 14 dated 29/09/1997 for 7,410 shares of KShs. 20 each. Certificate No. 7 for 1,938 shares issued on 11/12/1969 and No. 10 for 532 shares issued on 20/08/1980. The three share certificates total to 9,880 shares valued at KShs. 197,600 as evidenced by letter Ref. CR13.C.3335 dated 15 April 2016 from the Registrar General. Moreover, a letter from the defunct CBK Ref. ADM/2/45/1C dated 3rd March 2006 to Inspector General State Corporations, confirms that the Board owned 65% of issued share capital of the company. According to the financial report of the company for the year ended 30th June 2002 the issued shares were 15,200 out of which the board owned 9,880 shares valued at KShs 197,600. Earlier Financial statements of the Defunct CBK still carry the investment at KShs. 389,000.

714. From this analysis, the Authority can only confirm 9,880 shares valued at KShs. 197,600. The Authority has commenced the process of winding up of the company which is not operational and this will determine the residual values.

Committee Observations and Recommendations

The Committee deliberated on the issue of investments in subsidiary in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.8 Cash and Cash Equivalents

715. The statement of financial position reflects cash and cash equivalents balance of Kshs 3,386,661,000 which, as disclosed in Note 21 to the financial statements, includes bank balances totalling to Kshs 833,963,000. The following anomalies were noted regarding the balance

1.8.1 Authority to Operate Bank Accounts

716. The Committee heard that as previously reported, the Authority continued to operate forty-one (41) bank accounts instead of twenty-three (23) bank accounts as provided under The National Treasury Circular Ref: AG.3/88/1/33 dated 17 May, 2018.

717. Further, two bank accounts operated by the Sugar Directorate Account No.1001009339300 and Account No.1001419222 were ordered closed but were still operational. Although Management provided letters to the Banks requesting for closure of the unauthorized accounts, no explanation was provided for the delayed closure of the bank accounts.

Management response

718. The management informed the Committee that, during the year of audit, the Authority did not have a Board and this made the process of closing the accounts go slow. As at the time of the audit the Authority was still in the process of closing the 18 listed bank accounts. The management confirms that the bank accounts have since been closed as authorized by the National Treasury except for account 300026063 at Citi Bank which Tea Board of Kenya decided to use as its USD account.

719. The two bank accounts, No. 1001009339300 and No. 1001419222 for Sugar Directorate, have since been closed.

Committee Observations and Recommendations

The Committee deliberated on the issue of Authority to Operate Bank Accounts in its report for the financial year 2018/2019, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.9 Lost Investment in Euro Bank

720. The Committee heard that, as disclosed in Note 21 to the financial statements, included in the cash and cash equivalents balance of Kshs.3,386,661,000 are the short-term deposits of Kshs.1,167,438,000. As previously reported, the short-term deposits includes an amount of Kshs.52,237,374 in respect of deposits placed in Euro Bank which was placed under receivership in the 1990s. Although the deposits were provided for in full, the Authority has not provided evidence of the efforts made to recover the deposits. In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.3,386,661,000 as at 30 June, 2020 could not be confirmed.

Management response

721. The management informed the Committee that, the bank is under liquidation and the assets are being managed by the Kenya Deposit Insurance Corporation (KDIC) who have been paying dividends as and when the funds are available.

Committee Observations and Recommendations

The Committee deliberated on the issue of short-term deposits in its report for the financial year 2015/2016, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

2.0 Long Outstanding Receivables from Exchange Transactions

722. The Committee heard that, the statement of financial position reflects receivables from exchange transactions balance of Kshs.3,520,400,000. As disclosed in Note 22 to the financial statements, the balance included trade debtors amounting to Kshs.3,468,013,000 of which an amount of Kshs.3,220,591,365 related to long outstanding balances from four (4) Directorates: - Kshs.3,118,828,814, Horticulture Development Directorate Kshs.91,053,346, Fibre Directorate Kshs.2,072,532 and Coffee Directorate -Kshs.8,636,673. In addition, included in the amount of Kshs.3,118,828,814 attributed to the Sugar Directorate, is an amount of Kshs.229,121,576 relating to Sugar Development Fund which had been outstanding for more than two years. No evidence of efforts towards the recovery of the amounts was provided.

Management response

723. The management informed the Committee that the outstanding receivables for Coffee Directorate relates to the waived 1% Ad Valorem levy for the last sale (sale No. 18) in the month of March 2016, just when the President had made a directive to stop the levy deductions. The Directorate has been following up on the debts with the marketers, but they indicate that following the Presidential directive, all the proceeds from the last sale in March 2016 were paid to the farmers without deducting the levy.

    Fibre Directorate sent letters to all the trade debtors and rent receivable (Hitesh) demanding for the outstanding dues. Makueni, Equatorial nut processors, Rea vipingo, Riftcot, Foam Mattress paid their debts in full while Teita estate and Swife Ltd paid their debts partly. The rest of the debtors did not respond. The Horticulture Directorate issued demand letters for rent debtors and trade debtors.

724. The Authority has vigorously followed the arrears on the levy from the Sugar mills and continue to do so to date. The National Assembly vide Certificate (No. 039/13th /2023) of 14th September 2023 approved the action plan to revive and commercialize state owned sugar companies.

725. In the certificate, approval was given to write off liabilities amounting to Kshs. 65,778,448,646 owed to Government of Kenya, defunct Kenya Sugar Board and Commodities Fund. It is envisaged that upon verification by the Auditor General as indicated in the certificate, the full amount of Kshs. 229,121,576 will be adjusted accordingly.

Committee Observations and Recommendations

The Committee deliberated on the issue of Receivables from Exchange Transactions in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

2.1 Long Outstanding Receivables from Non-Exchange Transactions

726. The Committee heard that the statement of financial position reflects a balance of Kshs.12,596,000 under receivables from non-exchange transactions which includes an amount of Kshs.9,263,354 or 74% that has been outstanding for a long period. No evidence of efforts towards the recovery of the receivables was provided.

Management response

727. The management informed the Committee that this was related to other receivables of Kshs 4.2 m partly for the Pyrethrum Processing Company, which is recovering but once they have sufficient funds, AFA will demand the refund from them. The Authority has made efforts to recover staff advances from the existing staff,

Committee Observations and Recommendations

The Committee deliberated on the issue of Receivables from Exchange Transactions in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

2.2 Trade and Other Payables from Exchange Transactions

Long Outstanding Payables

728. The Committee heard that the statement of financial position reflects a balance of Kshs.687,506,000 under trade and other payables from exchange transactions. As disclosed in Note 24 to the financial statements, an amount of Kshs.673,568,000 related to trade payables of which payables amounting to Kshs.605,085,562 or (79%) were outstanding, with some outstanding for over eight (8) years. No reason has been provided for the failure to settle the long outstanding debts.

Management response

729. The management informed the Committee that, the explanations to each of the vendors are detailed below;

Payee/Name	Amount (KShs)	Response
Munyao Muthama and Kashindi Advocates	929,000	This relates to the following cases. 1. No. 112 of 2012 Mat International Ltd VS KRA and Kenya sugar Board ksh. 687,000 2. No.463 of 2012 Raghbir Sing Chathe vs Kenya Sugar Board & 2 others ksh. 696,000

		3. No. 42 of 2014 JR Applno vs KSB (ex parte Mjengo Ltd) ksh. 420,000 4. 583 of 2013 Mumias Sugar Co. vs Kenya Sugar Board ksh. 475,000 50% down payments were made and taxes paid. The cases are still ongoing. The outstanding balance of 50% is payable after the determination of the cases.
Biofuel for Kenya (norad)	926,000	The Biofuel4kenya project funded by Norwegian Agency for Development co-operation was completed in October 2022. The matter is since fully settled.
Sugar Research Levy	444,776,697	These were provisions made in the books for Sugar research levy. Sugar research levy was a component of the sugar development levy collected from millers and payable to Kenya Sugar Research Foundation for research. The amounts will be paid to KESREF when the sugar millers settle the outstanding levy arrears
Controller and Auditor General - SUGAR	24,967,000	This relates to provisions for audit fees made by the defunct Kenya Sugar Board. Provisions for external audit fee from the directorates was consolidated and paid by the headquarters on 27th February 2024
Ndungu Gathinji	5,679,113	This refers to outstanding legal fees relating to Nairobi HCCC 559 of 2005 Kenya Sugar Board Vs Ndungu Gathinji The matter was resolved.
Kenya Airports Authority (KAA)	66,788,067	This relates to outstanding land rent for the HCD HQ offices. The Authority has been negotiating for new terms of the lease with KAA which so far has not been finalized.
Cortec System and Solutions Ltd	3,789,588	This was paid but the customer's ledger had not been updated. This has since been corrected.
Kenya Shell Ltd	2,804,228	This was paid but the customer's ledger had not been updated. This has since been corrected.
Shelcon Tech Services	2,017,401	These were paid but the customer subsidiary ledger had not been updated. This has since been corrected.
Sundry Creditors	1,500,039	These were paid but the customer subsidiary ledger had not been updated. This has since been corrected.

Muga & Muga Associates	4,133,000	They were contracted to transfer the former institutions ownership documents to the Agriculture and Food Authority in March 2017. Invoicing of the full amount was done in March 2017 but payment was made in phases based on the work done. The last installment of Kshs 4,133,000 was paid in July 2020.
VAS Consultant	1,722,840	This was owed to a consultant whose contract was terminated. Since there was no obligation to pay the provision was reversed.
Long Outstanding Payables	45,052,589.00	These relate to accounting and bookkeeping errors at the directorates and therefore not payable. This will be adjusted to correct the errors.
	605,085,562	

Committee Observations and Recommendations

The Committee deliberated on the issue of Receivables from Exchange Transactions in its report for the financial year 2018/2019, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

2.3 Unresolved issues on Trade and Other Payables from Exchange Transactions

730. The Committee heard that, the trade and other payables from exchange transactions balance of Kshs.687,506,000 reflected in the statement of financial position excludes an amount of Kshs.2,636,872,172 relating to the defunct Coffee Board of Kenya, which, as previously reported, had been written off as an old balance on the recommendation of a consultant. However, approvals for the write-off from both the Parent Ministry and The National Treasury were not provided for audit review. Under the circumstances, the legality of the write-offs effected in the financial year 2010/2011 could not be confirmed.

Management response

731. The management informed the Committee that, the treatment of KShs. 2,636,872,172 in 2010/2011 was correction of accounting errors and not a write off. Prior to the year 2002, the Coffee Board of Kenya (CBK) was the sole coffee marketer operating under Cap. 333. In 2002, Cap. 333 was repealed and the Coffee Act 9 of 2001 came into force leading to the privatization of CBK marketing function.

732. Coffee Board of Kenya then underwent restructuring in the years 2002 and 2009 whereby most of the employees were either retrenched or retired. The Board had not prepared financial statements for a period of seven (7) years starting the 2003/04 FY creating a backlog.

733. The Board of Directors deemed it fit to engage an accounting firm to help clear the backlog. This was completed and certificates issued by the Kenya National Audit Office for the years that were in arrears.

734. Due to the amounts involved and in the absence of a Board of Directors, management forwarded a letter to PS MOA for concurrence.

Committee Observations and Recommendations

The Committee deliberated on the issue of Receivables from Exchange Transactions in its report for the financial year 2018/2019, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

2.4 Unsupported Balance on Grant Reserve in the Statement of Changes in Net Assets

735. The Committee heard that, the statement of changes in net assets reflects an amount of Kshs.79,394,000 under grant reserves and described as capital/development grant utilized during the year. The funds were used to pay for GOK fertilizer subsidy to the National Cereals and Produce Board (NCPB) and a private company. As per letter referenced MOA/FIN/3/8, the Principal Secretary, Crop Department authorized payment of Kshs.67,512,139 to the National Cereals and Produce Board as per the recommendations of the Internal Auditor. However, the Authority paid a total of Kshs.67,233,730 to the NCPB and an additional amount of Kshs.12,160,973 to a private company for Mumias Sugar farmers without approval.

736. In addition, the total amount of Kshs.79,394,703 on payment of subsidized fertilizer paid from the grant reserve was not budgeted for in the year under review

Management response

737. The management informed the Committee that, the GoK subsidized fertilizer for the Sugar Industry was initiated by the Government. The supply of the fertilizer was awarded to the following four firms:

i) National Cereals and Produce Board

ii) Performance Parts

iii) First Quality Supplies

iii) Riobiz Company Limited

738. The last three firms above form the category of Women, Youth and Persons living with disabilities. The supply to sugarcane farmers was to be conducted by all the sugar mills, private and public. The Authority received a list from the Ministry of Agriculture detailing fertilizer subsidy rate, type of fertilizer, delivery points, unit of issue, quantity, unit cost per bag farmers cost per bag and subsidy rate per bag to be borne by the Authority. This is what the Authority used. The grants on behalf of Sugar farmers was incurred on need basis from the fund.

Committee Observations and Recommendations

The Committee deliberated on the issue of Grant Reserve in its report for the financial year 2018/2019, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

2.5 Irregularities in Payment of Salaries

739. The Committee heard that, the statement of financial performance reflects employee costs amounting to Kshs.998,285,000 which, as disclosed in Note 12 to the financial statements, relates to salaries and wages, pensions, medical expenses, staff gratuities and other staff-related costs. A review of the payroll revealed that the Authority engaged a member of staff on contract terms who later proceeded on study leave as per approval of the Authority through the Training Committee on 3 August, 2017. The study-leave commenced in September 2017 for a period of three years. The terms of the approval of the leave provided that during the period of study, salary, remunerative allowances and medical benefits were not payable. However, during the period of study the Authority continued remitting monthly salary to the officer. A total of Kshs.2,945,080 was paid under unclear circumstances.

Management response

740. The management informed the Committee that, there was an oversight on the process, as the letter of approval for the officer to proceed on study leave was not forwarded to payroll for stoppage of salary. However, upon realization of the omission, the Authority initiated recoveries of the overpayment and the same has been fully recovered from the Officer. As a measure the same has been corrected through issuing a copy of approvals to payroll for action where applicable.

Committee Observations

The Committee observed that –the Authority irregularly paid salary to an officer who had been granted a three-year study leave effective September 2017. Despite the approval terms expressly prohibiting payment of salary, remunerative allowances, and medical benefits during the study period, the officer continued to receive monthly salary payments totaling Kshs. 2,945,080. These irregular payments point to weaknesses in internal controls, communication procedures, and payroll management.

Committee Recommendations

The Committee recommends that–

i) Within three months of the adoption of this report, the Accounting Officer recover the amount of Kshs. 2,945,080 with interest at the prevailing CBK rates from the officer;

failing which, recovery should be made from the then Finance Officer, the then Accounting Officer, and the Board that approved the irregular salary payments.

ii) Within three months of the adoption of this report, the Accounting Officer submit to Parliament and the Auditor-General, for review, the approved guiding policy on internal controls relating to personnel actions—including study leave approvals—and the mandatory cross-checking mechanism between the HR and payroll systems to prevent unauthorized payments and ensure full compliance with approved staff terms

2.6 Disbursements to Farmers

741. The statement of financial performance reflects disbursements of Kshs.670,567,000 which, as disclosed in Note13 to the financial statements, related to disbursements to Sugar Farmers and other Programmes. However, the following was noted:

2.6.1 Farmers Bank Account Name Differs with Farmers Name

742. The Committee heard that, the disbursements of Kshs.670,567,000 included an amount of Kshs.4,904,497 paid to thirty-one (31) farmers whose bank account names differed with the names of the farmers. Consequently, the validity of the Kshs.4,904,497 paid to the farmers could not be confirmed.

Management response

743. The management informed the Committee that, The Authority was given the approved list of farmers with respective bank accounts from the Ministry of Agriculture, Livestock, Fisheries and Cooperatives. There was no restriction as to the number of bank accounts a farmer could have. All farmers were paid based on the data verified by the Ministry of Agriculture and forwarded to the Authority for payment.

Committee Observations

The Committee observed that –payments amounting to Kshs. 4,904,497 were disbursed to thirty-one (31) farmers whose bank account names did not correspond with their registered names. This discrepancy raises concerns of possible fraud or fictitious payments to ineligible beneficiaries.

Committee Recommendations

The Committee recommends that–

i) Within three months of the adoption of this report, the Accounting Officer investigate the payments totaling Kshs. 4,904,497 made to the thirty-one (31) farmers whose bank account names differed from their registered names. The Accounting Officer should submit to Parliament and the Auditor-General a detailed report on the validity of these payments and undertake recovery, with interest at prevailing CBK rates, from responsible officers and beneficiaries where irregular payments are established.

ii) Within three months of the adoption of this report, the Accounting Officer submit to Parliament and the Auditor-General a documented and approved mechanism outlining strengthened controls and verification procedures for confirming beneficiaries' identities and bank account details prior to disbursement, to enhance accuracy, accountability, and the integrity of future payments.

2.7 Funds Disbursed to Saccos

744. The Committee heard that, the disbursements of Kshs.670,567,000 also included an amount of Kshs.846,783 paid to farmers through a SACCO. However, the SACCO had been placed under receivership for defaulting in paying a loan with a local bank. The disbursements were utilized in partial payment of the bank loan. Similarly, payments amounting to Kshs.8,225,576 to another SACCO were utilized to offset the overdraft in the SACCO's bank account.

Management response

745. The Management informed the Committee that, the Authority was given the approved list of farmers with respective bank accounts from the Ministry of Agriculture, Livestock, Fisheries and Cooperatives. There was no restriction as to the number of banks accounts a farmer could have. The list had farmers with more than one bank account depending on the number of fields and deliveries. The same list had farmers whose banks details were for their respective Saccos as their pay point. Each Sacco had one account number for their farmers' payments and funds were transferred to that account as per approved list. The bank account numbers relate to the Saccos as indicated in the table below:

Bank Account No	Bank Name	Sacco Name
1104121573	KCB	Sukari Sacco
1009055044400	Cooperative	Nzoia Sacco
1112021760	KCB	Nitunze Sacco
1120012311900	Cooperative	Jumuika Saccao
1108069169	KCB	Post Bank
1104064421	KCB	Nyando Sacco

Committee Observations

The Committee observed that–

Payments amounting to Kshs. 846,783 were made to farmers through a SACCO that had been placed under receivership for defaulting on a loan with a local bank, resulting in the funds being applied toward partial settlement of the SACCO's outstanding loan. In addition, payments totaling Kshs. 8,225,576 to another SACCO were used to offset the SACCO's bank overdraft. These instances demonstrate that funds intended for farmers were diverted to settle SACCO financial liabilities, thereby undermining the intended purpose of the disbursements.

Committee Recommendations

The Committee recommends that–

i) Within three months of the adoption of this report, the EACC conduct a comprehensive investigation into the payments and initiate recovery of Kshs. 9,072,359 from the then Accounting Officer and the Board of Directors who authorized the payments comprising of Kshs. 846,783 and Kshs. 8,225,576 to the two SACCOs whose accounts were used to offset loan and overdraft obligations.

ii) Within three months of the adoption of this report, the Accounting Officer submit a detailed report to Parliament and the Auditor-General outlining the circumstances under which the funds were paid without due diligence by the then Accounting Officer and the Board of Directors.

iii) Within three months of the adoption of this report, the Accounting Officer of AFA as a regulator, develop and submit to Parliament and the Auditor-General for review, the enhanced guidelines and due-diligence procedures governing disbursements through financial institutions, including mandatory verification of their financial status and account integrity, to safeguard funds and ensure that disbursements reach the intended beneficiaries.

2.8 Unresolved Prior Year Matters

746. The Committee heard that, various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues. Further, some unresolved prior year issues are not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

Management response

747. The management informed the Committee that Letter of invitation to appear before Ref NA/DAA&GPC/PIC-SSAA/2025/(32) was dated 24th April 2025.

Committee Observations

The Committee observed that–

Unresolved prior year issue were not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board hence the Management did not provide the reasons for the delay in resolving

them contrary to Section 68 (2) (l) of the PFM Act CAP 412A that requires accounting Officer to take appropriate measures to resolve any issues arising from audit which may remain outstanding.

Committee Recommendations

The Committee reprimands the then Accounting officer for dereliction of duties and recommends that the Accounting Officer, as a preliminary step, submit a report to the Parliament and the Auditor-General for review, on how it has addressed the recommendation made in respect of this report within three months upon adoption of this report.

2.9 Failure to Operationalize Cane Testing Units

748. The Committee heard that, the statement of financial performance reflects repairs and maintenance costs totalling Kshs.329,484,000. As disclosed in Note 15 to the financial statements, the amount includes Kshs.282,464,000 on repairs and maintenance of plant and equipment which includes Kshs.277,257,168 spent on Cane Testing Units (CTUs) repairs, maintenance and licenses.

749. Additional information indicated that the authority to use Kshs.359,003,000 from reserves to operationalize, run and maintain the CTU project was granted by The National Treasury on 19 December, 2019. However, the CTU project had not been operationalized at an industrial level and therefore the benefits of the cane testing units had not been realized since inception.

750. In addition, as previously reported, it was not clear whether the cane testing units were useful to the sugar mills considering that the sugar mills had not fully embraced payment to farmers based on sucrose content as envisaged when the project was initiated. Audit inspection to the cane testing units revealed that the CTUs were operational and maintained but cane testing was voluntary since it was still under pilot phase. Further some mills like Chemilil Sugar Company did not have an ERP system to connect to the CTUs' software.

751. From the foregoing, the value for money on repairs and maintenance totalling to Kshs.277,257,168 could not be confirmed.

Management response

752. The management informed the Committee that, the project begun with installation of 2 pilot CTUs at Nzoia Sugar Company and South Nyanza Sugar Company with the objective of generating technical information on cane testing that would guide establishment of Quality-Based Cane Payment System.

753. Subsequent to the 2 pilot projects, 9 additional CTUs were installed at 9 sugar mills and commissioned in July 2017. The 2 pilot units were upgraded in 2021 to bring them to the same operational level as the 9 installed later.

754. To support the operationalization, the following have been undertaken:

i) A manual containing Methods and Procedures for management of Cane Testing Services has been developed.

ii) Technical staff have been deployed at the 11 units to calibrate the quality measurement technology.

iii) Data collection and analysis has been ongoing at the eleven CTUs. Cane quality results have been used for calibration to determine the suitability of the model to predict new samples.

iv) Sensitization of stakeholders has been ongoing to enlighten the affected parties on the proposed changes.

v) Draft Crops (Sugar)(Quality-Based Sugarcane Payment System) Regulations, 2023 have been developed. These await public participation prior to gazettement. Once gazetted, the Regulations will guide the operationalization of the CTUs and make it mandatory for all the sugar factories to use Quality-Based Sugarcane Payment System (QBSPS) to pay farmers.

vi) The purpose of the CTUs is to give information on the content of raw sugarcane delivered to the miller including sucrose content and fiber. The information is given to the mills to be incorporated in the calculation of the payments to the farmer. Tabulation of the payments to the farmer can be done either through an ERP or manually (as some mills without an existing ERP are currently paying its own farmers). Thus, the existence or otherwise of an ERP does not jeopardize in any way operations of the CTUs.

Committee Observations

The Committee observed that–

The Authority incurred Kshs. 277,257,168 on repairs, maintenance, and licences for Cane Testing Units (CTUs). Further, the National Treasury had authorized the use of Kshs. 359,003,000 from reserves in December 2019 to operationalize, run, and maintain the CTU project. However, despite this investment, the CTU project had not been operationalized at an industrial level, and the intended benefits had not been realized since inception.

It was not unclear whether the CTUs were beneficial to sugar mills, as mills had not fully adopted payment to farmers based on sucrose content, which was the core objective of the project although the CTUs were functional and maintained, cane testing remained voluntary and in a pilot phase.

Committee Recommendations

The Committee recommends that–

i) Within three months of the adoption of this report, the Accounting Officer submit to Parliament and the Auditor-General a comprehensive report detailing the status of the CTU project, reasons for failure to operationalize the units at an industrial level, and measures being taken to address the gaps identified in the implementation of the project and the total cost Outlay so far incurred on the CTU Projects.

ii) Within three months of the adoption of this report, the Auditor General to undertake and submit to Parliament a performance audit/ value-for-money audit of the amounts so far

spent on the CTUs project, including justification or not for the continued investment in a project yet to achieve its intended objectives.

iii) Within three months of the adoption of this report, the Accounting Officer submit to Parliament and the Auditor-General an implementation roadmap, with clear timelines, on full operationalization of the CTUs, including measures to ensure universal adoption of quality-based cane payment by sugar mills and the necessary system integrations.

iv) Within three months of the adoption of this report, the Accounting Officer conduct a technical audit of all CTUs to determine their current functionality, readiness for industrial-level deployment, and any additional costs required for full operationalization, and submit the findings to Parliament and the Auditor-General for review.

3.0 Lack of substantive Board Members

755. The Committee heard that, as previously reported, the Authority functioned without a substantive Board of Directors from 7 November, 2017 when the term of the interim Board Members lapsed. There was, therefore, no support to the Accounting Officer with regard to responsibilities for issues of risk, control and governance and associated assurance and follow up on implementation of recommendations of internal and external auditors as envisaged under Regulation 175 of the Public Finance Management (National Government) Regulations, 2015.

Management response

756. The management informed the Committee that, the Board of Directors was constituted vide gazette notice N0.69 Vol.CXXV dated 24th March 2023.

Committee Observations

The Committee observed that–

The Authority operated without a substantive Board of Directors from 7 November 2017, when the term of the interim Board members lapsed. Consequently, the Accounting Officer lacked the critical oversight and support necessary for effective risk management, internal control, governance, and follow-up on implementation of audit recommendations, as required under Regulation 175 of the Public Finance Management (National Government) Regulations, 2015. The prolonged absence of a substantive Board significantly weakened the Authority's governance framework and assurance mechanisms.

Committee Recommendations

The Committee recommends that–

i) Within three months of the adoption of this report, the Accounting Officer submit to Parliament and the Auditor-General a detailed report outlining measures instituted to ensure that the Authority does not operate without a substantive Board at any time, thereby mitigating governance gaps, operational challenges, and risks that may arise in the absence of a properly constituted Board.

ii) Within three months of the adoption of this report, the Director-General, Inspectorate of State Corporations, submit a comprehensive report on measures taken to address the recurring problem of prolonged vacancies in substantive Boards and Chief Executive Officer positions in State Corporations, with a view to preventing governance lapses and ensuring compliance with the Public Finance Management legal framework.

3.1. Information Technology (IT) Internal Controls

3.1.1 IT Governance Gaps

757. The Committee heard that, the Authority had not instituted an ICT Strategic Committee or an IT Steering Committee. In addition, a formal, documented and tested emergency procedure for use in the event of an unforeseen occurrence had not been established neither did the Authority have an approved Disaster Recovery Plan

Management response

758. The management informed the Committee that, the Authority has constituted a 7-member IT steering committee to define the IT mission and goals aligned with the strategic direction of the organization. This is according to IT governance standards by ICT Authority.

759. The Committee heard that, as per the ICT Authority guidelines on IT governance the IT strategic committee should be comprised of Board members and specialists non board members, currently, AFA does not have a board and therefore the lack of a strategic committee.

3.2 Disaster recovery plan

760. The Committee heard that, the Authority is in the process of developing a five-year strategic plan (2022/2023-2027/2028), part of the requirements is to identify key strategic initiatives on Automation of Business Processes and Enhancement of ICT Infrastructure. The authority has so far identified and prioritised the development and implementation of a Disaster Recovery Plan (DRP) in the first year of the next 5-year cycle strategic initiatives. So far the authority has developed the (DRP) which is awaiting approval. At the formation of AFA the Directorates had independent systems. During the period under review AFA was in the process of implementing the Navision ERP system to integrate operations under one platform. Currently the system is fully integrated.

761. The issue of two systems running concurrently is the common practice in the IT field during system change over. This is normally done to help a company to have a fall back plan in case of any eventuality. The use of the two ERP systems concurrently by HCD was to ensure a smooth transition and data migration.

762. Currently the Horticulture Directorate is using one system (ERP).

763. The official email domain was in the setup stage in the year under review and thus was not fully functional. The management has fully enforced the use of official emails. After the integration and enhancement of the module as per the ERP contract agreement of 2019-2020, the ERP system payables module was properly secured and integrated to deal with the risk of system manipulation by;

764. Use of KRA PIN as the unique ID for vendors to avoid creation of same vendor multiple times (mandatory);

i. Allowing specific procurement officers to have the rights to create vendors for accountability purposes.

ii. The system allows users to only pick vendors from a list of vendors in the system.

765. The Authority has instituted IT Governance structure, REF: IT GOVERNANCE 29A, and an approved IT Strategic Plan in line with the Corporate Strategic Plan 2017-2022, REF: IT GOVERNANCE 29B, BC & 29C The Authority has a Technical Processes Automation Committee from all functional units and/or Directorates appointed by the Accounting Officer on 16th July, 2018. REF: IT GOVERNANCE 29A.

766. The Authority will implement a disaster recovery plan with a documented and tested emergency procedure by quarter 4, 2020/2021.

Committee Observations

The Committee observed that–

i) There were significant weaknesses in the Authority's Information Technology (IT) governance framework. Specifically, the Authority had not established an ICT Strategic Committee, or an IT Steering Committee as required under recognized IT governance standards.

ii) The Authority lacked a formal, documented, and tested emergency procedure for responding to unforeseen disruptions and did not have an approved Disaster Recovery Plan (DRP) in place. These gaps exposed the Authority to heightened operational, security, and continuity risks.

Committee Recommendations

The Committee recommends that–

i) Within three months of the adoption of this report, the Accounting Officer submit to Parliament and the Auditor-General a detailed report outlining measures taken to establish and operationalize all required IT governance structures, including an ICT Strategic Committee and IT Steering Committee, in line with national IT governance standards.

ii) Within three months of the adoption of this report, the Accounting Officer develop, Board approves and submit to Parliament and the Auditor-General a fully documented and tested

Disaster Recovery Plan and emergency response procedure, demonstrating readiness to safeguard critical IT systems and ensure continuity of operations in the event of disruptions.

3.3 ICT Infrastructure Weaknesses

767. The Committee heard that, the Authority uses an ERP (Enterprise Resource Planning) Solution system with various modules adopted by the Authority, namely, Finance, Customer Relationship Management, and Human Resource Management. All the directorates are linked through the system. However, the Authority had not achieved full connectivity and integration between the Headquarters and its Directorates.

768. System generated financial records could thus not be accessed on demand from the Headquarters. In addition, the Horticulture Development Directorate implemented an upgrade of the ERP system while simultaneously running an earlier version of the ERP. The accounts receivables module which entails cash management, receipting and invoicing was maintained in the earlier version and the data subsequently transferred manually to the upgraded system leaving room for human error. Use of two systems with the same capability may compromise the data of the Horticulture Directorate.

769. Further, the Authority has an Information Management System that provides for official communication, through staff emails operated within a secure domain. However, the staff used personal emails for official communication posing a risk to data security

Management response

770. The management informed the Committee that, the initial design of the ERP was that the system had autonomous companies/ Directorates. The consolidation and integration requirement was identified later, which was considered under the 2019-2020 support contract & was achieved. The authority has continuously maintained and used the system to realize full optimization of the system. Currently the system is fully integrated. One of the functionalities of the ERP system was to generate financial records however this was not possible then but after integration the system can generate the necessary reports. The issue of two systems running concurrently is the common practice in the IT field during system change -over. This is normally done to help a company to have a fall-back plan in case of any eventuality.

771. The use of the two ERP systems concurrently by HCD was to ensure a smooth transition and data migration. The Authority runs an email system with all the staff mails mailboxes created on afa.go.ke domain. There has been an increased use of official email adoption, the management has continuously enforced the use of official emails for official communication. Below is a screen shot of the email control panel showing staff mailboxes use status. afa.go.ke domain registration, Memo to staff on use of official emails).

Committee Observations

The Committee observed that–

i) There were notable weaknesses in the Authority's ICT infrastructure despite the implementation of an Enterprise Resource Planning (ERP) system covering the Finance, Customer Relationship Management, and Human Resource Management modules.

ii) Although all Directorates were linked to the ERP, full connectivity and integration between the Headquarters and the Directorates had not been achieved, resulting in system-generated financial records not being accessible on demand at the Headquarters.

iii) The Horticulture Development Directorate implemented an upgraded ERP system while concurrently running an earlier version. Critical functions under the accounts receivables module—including cash management, receipting, and invoicing—continued to be maintained in the older version, with data later transferred manually to the upgraded system. This manual process increased the risk of human error and compromised data integrity due to the concurrent use of two ERP systems with similar functionalities.

iv) The Authority had an Information Management System designed to facilitate official communication through staff emails within a secure domain. However, staff continued to use personal email accounts for official communication, exposing the Authority to significant data security risks.

Committee Recommendations

The Committee recommends

i) Within three months of the adoption of this report, the Accounting Officer submit to Parliament and the Auditor-General a detailed plan outlining measures taken to ensure full connectivity and real-time integration between the Headquarters and all Directorates, to enable seamless access to system-generate financial records.

ii) Within three months of the adoption of this report, the Accounting Officer submit to Parliament and the Auditor-General evidence-based measures instituted to enforce the exclusive use of official email accounts for all organizational communication, including controls designed to mitigate data security risks arising from the use of personal email accounts.

3.4 Sub-Modules not Secured and Integrated

772. The Committee heard that, AFA maintains its financial information through a system which integrates all functional departments of the Authority namely, human resource, procurement, administration, finance and accounts through sub-modules. A review of the data on payables revealed that the sub modules were not properly secured and integrated because the vendor payment would be processed by keying in the vendor details instead of the system picking the vendor automatically from the vendor list. Hence, vendors would appear severally with different

name formats. Consequently, the ERP system may be manipulated to process unauthorized transactions and the reports generated from the system may not reflect the true position of the account balances.

Management response

773. The management informed the Committee that, after the integration and enhancement of the module as per the ERP contract agreement of 2019-2020, the ERP system payables module was properly secured and integrated to deal with the risk of system manipulation by: -

i. Use of KRA PIN as the unique ID for vendors to avoid creation of same vendor multiple times (mandatory);

ii. Allowing specific procurement officers to have the rights to create vendors for accountability purposes.

iii. The system allows users to only pick vendors from a list of vendors in the system.

Committee Observations

The Committee observed significant control weaknesses in the Authority's ERP system integrating Human Resource, Procurement, Administration, Finance, and Accounts making the system vulnerable to manipulation, risking unauthorized transactions and undermining the accuracy and reliability of system-generated financial reports.

Committee Recommendations

The Committee recommends that–

i) Within three months of the adoption of this report, the Accounting Officer submit to Parliament and the Auditor-General a detailed report on measures taken to secure, integrate, and strengthen controls in all ERP sub-modules, particularly the payables module, to prevent manual vendor entry that circumvents system controls.

ii) Within three months of the adoption of this report, the Accounting Officer implement and document additional safeguards such as automated vendor selection, strengthened access controls, and audit trails and provide evidence to Parliament and the Auditor-General to demonstrate mitigation of vendor duplication and system manipulation risks.

FINANCIAL YEAR 2020/2021

1.0 Cash and Cash Equivalent

1.1 Variance in Cash and Cash Equivalents

774. The Committee heard that, the statement of financial position reflects a cash and cash equivalents balance of Kshs. 2,611,083,000. However, note 20(a) to the financial statements reflected a total

cash and cash equivalents balance as Kshs. 2,611,607,836 resulting in an unreconciled and unexplained variance of Kshs. 524,836.

Management response

775. The management informed the Committee that, the variance of Kshs. 524,836 resulted from erroneous disclosure under Note 20 a) for Horticulture Crops Directorate's ABSA bank A/C No. 0945019115 for the bank balance as at 30th June 2021.

i.	Balance as per Certificate of Balance	Kshs 166,044,252.60
ii.	Cashbook balance	Kshs 164,898,321.00
iii.	Balance as per Note 20 a)	Kshs 165,423,157.00
iv.	Difference	Kshs 524,836.00

Committee Observations

The Committee observed that –there were erroneous reporting of cash and cash equivalents balance. However, the submission by the Accounting Officer did not indicate how the error was resolved.

Committee Recommendations

The committee reprimands the Accounting Officer for failing to ensure accuracy of financial records contrary to Section 68 of the PFM Act CAP 412A.

1.2 Authority to Operate Bank Accounts

776. The Committee heard that, as previously reported, the Authority continued to operate forty-one (41) bank accounts instead of twenty-three (23) bank accounts contrary to Circular REF: AG.3/88/1/33 dated 17 May, 2018 from The National Treasury. In addition, two bank accounts operated by the Sugar Directorate were ordered closed but were still operational. Further, although the Management provided letters written to banks requesting them to close the unauthorized accounts, acknowledgements of the instructions from the indicated banks were not provided for audit.

Management response

777. The management informed the Committee that, the Authority has since closed all the 18 bank accounts authorized by the National Treasury including the two bank accounts, No. 1001009339300 and No. 1001419222 for Sugar Directorate.

Committee Observations and Recommendations

The Committee deliberated on the issue of Authority to Operate Bank Accounts in its report for

the financial year 2018/2019, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.3 Lost Investment in Euro Bank

778. The Committee heard that, the statement of financial position reflects a cash and cash equivalents balance of Kshs. 2,611,083,000, which as disclosed at Note 20C to the financial statements, includes fixed deposits of Kshs. 1,144,294,172. However, as previously reported, the balance includes fixed deposits of Kshs. 52,237,375 that had been placed in Euro Bank, which was placed under receivership in the 1990s. However, Management did not provide evidence of the efforts to recover the amount from the Receiver Managers or make a provision against the balance.

Management response

779. The management informed the Committee that, On the KShs. 52,237,374 invested in Euro Bank, the Authority wrote to the Liquidator in 2019 following which the Liquidator gave a status report which includes dividends so far paid on the deposit. Further the Liquidator advised that subsequent payment of dividends would be pegged on availability of sufficient funds and the communication of the same shall be through public media. The management has made a full provision for the amount in the books of accounts.

Committee Observations and Recommendations

The Committee deliberated on the issue of short-term deposits in its report for the financial year 2015/2016, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.4 Investments in Fixed Deposits

780. The Committee heard that, The reported cash and cash equivalents balance of Kshs. 2,611,083,000 includes Kshs. 854,309,032 and Kshs.1, 144,294,172 being call deposits and fixed deposits respectively, held in commercial banks, as disclosed at Notes 20 (B) and (C) to the financial statements. This is contrary to The National Treasury Circular Ref. DMD 4/02 'H' (63) of 26 March, 2018 which directed all State Corporations and Semi-Autonomous Government Agencies (SAGAs) to invest surplus funds in Treasury Bills and/or Treasury Bonds directly through Central Bank of Kenya without intermediaries. All funds previously held in fixed deposits in commercial banks / financial institutions were not to be rolled over but retired and invested in Treasury bills/ bonds.

Consequently, the regularity and fair statement of the cash and cash equivalents balance of Kshs. 2,611,083,000 could not be confirm

Management response

781. The management informed the Committee that, these were not surplus funds rather funds budgeted for operational costs which are payable as they occur. Management found it prudent to put it in short term and call deposits instead of leaving the funds in current accounts. Also, during the financial year AFA did not have a Board of Directors and therefore could not open a CDS account to enable placement of funds in in Treasury Bills and Bonds.

Committee Observations

The Committee observed that–

Although the Authority stated that the funds placed in fixed deposits were not surplus but operational funds payable as expenses arose, the then Accounting Officer and Board did not provide any documentary evidence demonstrating approval from the National Treasury or any legal or regulatory basis authorizing the placement of these funds in deposit accounts.

The Committee further noted that, regardless of the source of funds, the placements were made in contravention of National Treasury Circular Ref. DMD 4/02 'H' (63) of 26 March 2018, which requires State Corporations and SAGAs to invest surplus funds exclusively in Treasury Bills or Treasury Bonds through the Central Bank of Kenya and prohibits the rollover of fixed deposits in commercial banks.

Committee Recommendations

The Committee recommends that within three months of the adoption of this report, the Accounting Officer submit to Parliament and the Auditor-General a comprehensive Board-approved investment policy that aligns the Authority's investment practices with National Treasury directives, including evidence of opening and operationalizing a CDS account to ensure full compliance with investment requirements for Treasury Bills and Bonds.

1.5 Property, Plant and Equipment

1.5.1 Unconfirmed Ownership of Property, Plant and Equipment

782. The Committee heard that, the statement of financial position reflects a balance of Kshs. 10,342,549,000 under property, plant and equipment. However, as reported in the previous years, the balance includes the value of properties whose ownership had not been established as explained below:

i. The balance includes an amount of Kshs. 72,000,000 in respect of land measuring 236.35 hectares in Thika, Kiambu County. However, land measuring 137.2 hectares out of the 236.35 hectares bought with funds from the defunct Coffee Board of Kenya, was registered in the name of a former Chairman. No evidence was provided that ownership of the land had been transferred to the Authority.

Management response

783. The management informed the Committee that, the 236.35 hectares is made of LR No.10084 of 99.15 Ha and LR No.10085 of 137.2 Ha. The value of KShs. 72,000,000 relates to LR No.10084 only acquired by the defunct Coffee Board of Kenya in 1977. Records indicate that the Board initially wanted to purchase a farm from M/S Azania Investments Co. Ltd for Coffee Research comprising L.R. No.10084 and L.R. No. 10085. However, the Coffee Research Foundation advised that they did not need the entire two parcels and one of them, L.R. No. 10084 would be adequate.

784. The Board minutes Min. no 245 of 15th July 1977 also indicate that the then Chairman of the Board, E.N. Kuria, acquired block L.R. No.10085 which was not required for Coffee Research. The same had been paid for by the Board and the then Chairman was to repay as a loan to the Board Mr. Kuria paid the money on the 16th January 1978 through a banker's cheque forwarded by his advocate M/S Kaplan & Straton Advocates and acknowledgement of receipt communicated vide a letter ADM/2/30C dated 19th January 1978. The Authority is in possession of the title for L.R. No. 10084 for 99.1Ha.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

ii. The reported property, plant and equipment balance includes an amount of Kshs. 161,200,000 representing the value of the land on which the defunct Horticultural Crops Development Authority (HCDA) depots stand and for which ownership documents had not been obtained.

Management response

785. The management informed the Committee that, the Authority engaged the services of KOMM advocate to follow up on all the land without title documents. The status report as indicated by the advocate vide his report dated 16th September 2024 is as summarized below,

S/NO	DEPOT	REMARKS
1.	MACHAKOS PDP No. 59/96/23-MACHAKOS	This is a 2 acres piece of land currently occupied by the Machakos County Government. As of 3rd June 2024, the advocate is engaging the County Government of Machakos on accessing the land for survey purposes.

2.	LIMURU LIMURU/BIBIRIONI/1010	This is a 6 acres piece of trust land situated in Limuru, Kiambu County. The Authority is pursuing the Kiambu County Government to release the piece of land to the National Land Commission for issuance of a letter of allotment.
3.	MWEA	This is a 2.5 acres piece of land. The Authority wrote a letter dated 31st March 2023 to the National Irrigation Board agreeing to their proposal to enter into a simple agreement. National Irrigation Board has not acquired the title for the entire land yet. The advocate is pursuing the matter.
4.	KIBWEZI	The Authority has already obtained the title deed for the Kibwezi depot, measuring 2 acres LR No. 27422.
5.	SAGANA	This is a 0.74 Ha. of land. From the report of the Authority's advocate, he is pursuing the preparation of a new Part Development Plan as the old one cannot be traced.
6.	MERU No. ABOTHUGUGUCHI/KARIENE/3165.	This is a 0.43-Ha land located in Kariene in Meru County. The Title Deed was successfully processed and Title issued on 12th August, 2024.
7.	KITHIMANI (YATTA)	This involves 22 plots each measuring 0.03 Ha. for which title deeds have been issued in the name of HCDA on 18th July 2024. The Authority is in the process of transferring them in the name of AFA.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

iii. Included in the reported property, plant and equipment balance is an amount of Kshs. 1,280,000,000 in respect of two parcels of land relating to the former Horticultural Crops Development Authority for which the Organization did not have ownership documents. The parcels include a plot situated along Mombasa Road, measuring 3.5 hectares valued at Kshs. 692,000,000 which was allocated to a private developer even though the Authority

holds an allotment letter. Although a ruling by the National Land Commission (NLC) was in favour of the Authority, the private developer had not vacated the land as at the date of the report.Further, the Authority had not obtained ownership documents for the parcel of land at the Jomo Kenyatta International Airport (JKIA) valued at Kshs.588,000,000 where the Horticultural Crops Directorate (HCD) is located.

Management response

786. The Management informed the Committee that the Property was subject of a court case ELC NO. 516 OF 2018 (Formerly High Court Civil Suit No 1205 of 2005) HCDA-VS-Sakir Properties Limited & 2 Others. The Judgment was delivered on 17th December 2020 in favor of the Authority and the land was reverted to the Authority, but vide a Ruling dated 10th February 2022, the Court set aside the Judgment that granted AFA ownership of the land. The Authority has appealed against the judgement.

787. The matter is coming up in court for compliance on 28th May, 2025.

788. HCDA was allotted by the commissioner of lands an un-surveyed piece of land LR. No.209/12490 opposite Yana Tyres along Mombasa RD Nairobi measuring 3.5Ha. for a lease term of 99 years effective 1st February 1987. On or about 2005, HCDA got information that M/S Sakir had been allotted the same land and a tittle deed issued.

789. M/S Sakir claims that they got allocated the property after HCDA surrendered the land back to the government. HCDA maintained that it did not surrender the land back and therefore a legal suit ensured through the then Gachiri Kariuki & Kiai Advocates.

790. M/S Sakir have developed the property by building residential flats.

The land was allocated to the defunct HCDA on request from the Ministry and National treasury. A letter of offer dated 15th May, 2000 signed for acceptance by then Managing Director of HCDA. The letter of letter stipulated rent payable quarterly. The lease between the HCDA and KAA was never executed.

791. On 3rd of April, 2023 the Authority wrote a letter to KAA requesting them to submit a lease agreement for the 5 acre piece of land. KAA has not availed the requested drafted lease agreement for consideration and execution. HCDA has occupied this land where it has constructed headquarters and pack houses.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

iv. As previously reported, in the year 2000, Horticultural Crops Directorate constructed a depot in Machakos at a cost of Kshs. 55,677,000. The depot was one of the seven (7) satellite depots meant for horticultural produce handling facilities (HPHF). Although the facility's sole purpose was to pre-cool horticultural produce and provide market access

support for smallholders, the facility was taken over by the County Government of Machakos for office use in 2013 and was no longer accessible to HCD staff. No evidence was provided that the County Government had signed a lease agreement with the Authority for use of the facility.

Management response

792. The management informed the Committee that, since 2014 the Authority has made several attempts to revert this facility to its initial purpose of packing and pre-cooling horticultural produce by small-scale exporters. 1.On 16/9/2016 the matter was referred to the Intergovernmental Relations Technical Committee to assist in reverting back the facility to the Authority and recovery of the outstanding amounts. (Ref. AFA/LM/IGRTC.VOL.I (48)

793. On 19/12/2017 the matter was again forwarded to the Cabinet through the Principal Secretary for further action (Ref: AFA/DG/MOA/HCD/VOL.II/)

Besides the above efforts, the Authority is following up on payments for the rent.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.6 Un-Disclosed Land and Buildings

794. The Committee heard that, as previously reported, the reported property, plant and equipment balance excludes the value of various assets as explained below:

i. The fixed assets register provided for audit revealed that the Authority had excluded ten (10) acres of land situated in Wundanyi, Taveta and land of undetermined acreage situated in Kitui valued at Kshs. 36,600,000 and Kshs. 4,000,000 and allocated to the defunct Horticultural Crops Development Authority and the defunct Cotton Board of Kenya, respectively. No explanation was provided for the failure to include the two pieces of land in the assets register and the financial statements of the Authority.

Management response

795. The management informed the Committee that the Authority has not acquired any document of ownership to merit a claim on the two parcels of land to merit inclusions in the fixed asset register. The Authority is still pursuing letters of allotment and once this is acquired the same will be included in the assets register.

KOMM Advocate report to the Authority dated 21st February 2025 advised as follows:

i. Wundanyi

The Part Development Plan (PDP) needs to be updated to capture contours, shows adjacent parcels, indicate the use of the adjacent parcels land preparation of shape files for the updated PDP which would require placing of advertisements in 2 local dailies (in English and Kiswahili), public participation, preparation of the allotment letter and lease and PDP approval.

The Authority is pursuing the processing of the documentation of ownership and will record this asset as soon as it receives the letter of Allotment.

ii Kitui

This land is valued at Kshs. 4,000,000 and not Kshs 36,600,000 and relates to the defunct Cotton Board of Kenya. The acreage is 0.5acres and not 127 acres.

Documents of ownership of this land are presently very weak as it is at the draft PDP stage, which is still pending approval. This requires to be updated through advertisement in the newspapers.

The Authority is pursuing the processing of the documentation of ownership and will record this asset as soon as it receives the letter of Allotment.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

ii. The reported property, plant and equipment balance excludes seven acres of land in Mtwapa that had been allocated to the defunct Kenya Coconut Development Authority by the defunct Kenya Agricultural Research Institute (KARI). In addition, the ownership had not been transferred by the KARI by the time the Authority ceased to exist upon the commencement of the Crops Act, 2013.

Management response

796. The management informed the Committee that, the land in question had been reserved for the defunct Kenya Agricultural Research Institute (KARI). The defunct Kenya Coconut Development Authority applied for the parcel of land from KARI through the Ministry of Agriculture for the purpose of constructing a Headquarters at Mtwapa. Kenya Agricultural Research Institute vide their letter REF. KARI/4/023C/VOL.XIV dated 2nd July 2012 informed the defunct Authority that the Board of Directors had resolved in their 98th meeting to allocate 7 Acres of land to KCDA. However, the defunct KARI now KALRO have not acquired title documents to enable transfer of the same to the Authority due to an ongoing court case. The land is also invaded by squatters as per the restraining order of the environment and land court, Mombasa ELC petition no 29 of 2019.The value of the parcel can therefore not be included in the books of the Authority.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

iii. The defunct Cotton Board of Kenya had property, plant and equipment with a net book value of Kshs. 210,759,785 and investments of Kshs. 13,940,758 in Meru Ginnery Limited as at 30 June, 1993. However, the Management has not satisfactorily explained how these property, plant and equipment and investments were accounted for upon the creation of the defunct Cotton Development Authority.

Management response

797. The management informed the Committee that as per The Cotton (Amendment) Act 2006, there was no provision for transfer of Property, Plant and Equipment from the defunct Cotton Board of Kenya to Cotton Development Authority. At the formation of AFA, Cotton Development Authority did not have ownership documents for the Meru ginnery. The Property had been sold by the former Cotton Board of Kenya to offset a bank loan as per a taskforce report. The matter has been referred to the Ministry of Agriculture & Livestock Development for further advice.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

iv. The reported property, plant and equipment balance excludes capital expenditure totaling Kshs. 2,289,347,764 incurred on the acquisition of eleven (11) Cane Testing Units and Laboratories in the years 2014 to 2018.

Management response

798. The management informed the Committee that assets related to CTU totalling KShs. 2,289,347,764 were not included in AFA 's assets since they were work in progress. The same have been capitalized in the year 2022/2023 books of accounts.

Committee Observations and Recommendations

The Committee deliberated on the issue of Failure to Operationalize Cane Testing Units (CTU) in its report for the financial year 2019/2020, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

v. The property, plant and equipment balance of Kshs. 10,342,549,000 excludes the value of a property in Riverside Estate where the defunct Cotton Development Authority's head office was located. Information available indicates that the property belonged to the defunct Cotton Board of Kenya and was charged against a bank loan that the Board failed to service. The bank subsequently sold the property for Kshs. 21,500,000 through a public auction held in November, 2000. In addition, records show that the purchaser of the property paid the bank an amount of Kshs. 8,375,000 representing the balance of the outstanding loan, upon which the bank released the documents relating to the property to the purchaser. The purchaser thereafter sought to transfer the title to the property in his name before clearing the balance of Kshs. 13,125,000. The Board, however, declined to execute the transfer documents and the purchaser filed a case in the High Court in November 2008. Although the case was determined on 25 September, 2015, the Authority has not obtained the ownership documents for the property and consequently, the ownership could not be confirmed.

Management response

799. The management informed the Committee that, the case has since been concluded and the Authority is in possession of ownership document.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.7 Failure to Disclosure the Fair Value of Fully Depreciated Assets

800. The Committee heard that, Note 24(c) *to* the financial statements reflects fully depreciated property, plant and equipment with a cost value of Kshs. 957,714,000. As disclosed in Note 4 (ii)(e) on the summary of significant accounting policies, the Authority uses the cost model accounting policy in measurement and recognition of assets. However, though the fully depreciated assets might indicate a possible material variance between the fair value and the carrying value of the assets, the Authority has not disclosed the carrying amount of temporarily idle, fully depreciated, retired from active use and held for disposal property, plant and equipment as required under Paragraph 94 (a) to (d) of IPSAS 17 - Property, Plant and Equipment. In the circumstances, the accuracy, completeness and ownership status of the reported property, plant and equipment balance of Kshs. 10,342,549,000 as at 30 June, 2021 could not be confirmed.

Management response

801. The management informed the Committee that, the policy of AFA is to carry out revaluation for its assets after every 5 years as per clause 5.13.2 of the AFA Asset Management Policy 2017.

The Authority revalued and adjusted its assets in the financial year 2017/2018, the next revaluation was earmarked for the financial year 2022/2023. The revaluation exercise is currently being done.

Committee Observations

The Committee observed that–

Authority did not provide the required disclosures on the carrying amounts of fully depreciated, idle, retired, or held-for-disposal assets. This omission is contrary to IPSAS 17, Paragraph 94(a)–(d) given the potential material variance between the fair value and carrying value of these assets.

Committee Recommendations

The Committee recommends that–

Within three months of the adoption of this report, the Accounting Officer submit to Parliament and the Auditor-General for review evidence of revaluation of the assets and the required disclosures for all fully depreciated, idle, retired, or held-for-disposal assets, in full compliance with IPSAS 17, Paragraph 94(a)–(d).

1.8 Fleet Management

802. The net book value of Kshs. 10,342,549,000 for property, plant and equipment and as disclosed in Note 24 to the financial statements, includes an amount of Kshs. 3,684,000 relating to automobiles. However, a review of motor vehicle records held by the Authority revealed the following anomalies:

1.8.1 Documents of Ownership Not in Custody of the Authority

803. The Committee heard that, with the formation of Agriculture and Food Authority in the year 2014 through the Crops Act 2013, various regulatory institutions were merged and some of their functions centralized at the Authority's Head Office. Among these functions is management of the motor vehicle fleet. All ownership documents were to be in the custody the Legal Department at the Head Office. However, as previously reported, after the merger, Management failed to secure all the ownership documents and did not have custody of logbooks for forty (40) motor vehicles.

Management response

804. The management informed the Committee that all 40 motor vehicle logbooks are now in the custody of Legal Department

Committee Observations and Recommendations

The Committee deliberated on the issue of Documents of Ownership Not in Custody of the Authority in its report for the financial year 2019/2020, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.9 Unaccounted for Motor Vehicle

805. The Committee heard that, as previously reported, the value of motor vehicle registration number KBG 517C, which was registered in the name of Coffee Research Foundation was removed from the books of accounts of the Authority under unclear circumstances.

Management response

806. The management informed the Committee that, Coffee Research Foundation (CRF) has transferred the vehicle to AFA and a logbook for the same has been issued. The vehicle has now been included in AFA's asset register

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein

2.0 Logbooks in the Name of Defunct Institutions and Boards

807. The Committee heard that, on commencement of the Crops Act, 2013 on 1st August, 2014, the former regulatory institutions in the Agriculture Sector were merged into Directorates under the Authority. However, the ownership documents of seventeen (17) motor vehicles were still registered in the defunct Institutions' names. Evidence of Management effort to register the vehicles in the Authority's name was not provided.

Management response

808. The management informed the Committee that, it agrees with the observation of the auditor. At the time of the audit seventeen (17) motor vehicles were still registered in the defunct institutions' names.

809. The process was ongoing at the National Transport and Safety Authority (NTSA). Before the merger the defunct institutions had their respective Transport Integrated Management System (TIMS) under the management of one transport officer to enable them to access NTSA Portal.

810. After the formation of AFA everything changed because some services were centralized and staff transferred to various Directorates which disoriented some of the functions. We wrote to NTSA applying for the transfer of the said logbooks and in their response they requested us to meet the following requirements for Government Bodies Vehicles:

- Request for change of phone numbers
- Former institutions now Directorates under AFA to appoint somebody who will be in charge of the phone number to enable him/her to access the NTSA Portal.

- The Directors of respective Directorates should swear Affidavit indicating the full names of the person, ID number and KRA PIN number who has been authorized to transact on behalf of the organization and should be authorized by an active Advocate.

811. Another challenge that is slowing down the process is the amendment of the original AFFA to the current AFA since the KRA PIN for the Authority with the term 'FISHERIES' is still appearing whereby the KRA portal does not recognize the amended AFA.

812. The Authority has Thirty-Two (32) Vehicles and Ten (10) motorcycles with logbooks under the former boards, i.e. Coffee Board of Kenya, Cotton Development Authority, Horticultural crops development, and sisal board of Kenya.

813. The Authority has so far initiated the transfer of the assets by creating an account on the NTSA PORTAL. Directorates nominated transport officers to carry out all transactions in regard to the transfer of Logbooks and access NTSA for the former institutions.

814. Directorates nominated transport officers to carry out all transactions in regard to the transfer of Logbooks and access Citizen-NTSA PORTAL for the former institutions.

815. Two Directorate's have uploaded the documents successfully i.e NOCD and HCD while three are still under NTSA "verification Process"

816. The status is as follows:-

1.HCDA-Created

2.CBK-Waiting for verification

3.KSB-Waiting for verification. This has now to be reversed with effect from 1st January, 2025. KSB has become independent.

4.CDA-Waiting for Verification

5.KCDA-Created

To follow up with NTSA to finalize creation access by Directorates and finalize on transfers

Committee Observations and Recommendations

The Committee deliberated on the issue of Logbooks in the Name of Defunct Institutions and Boards in its report for the financial year 2019/2020, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

2.1 Unreconciled Motor Vehicle Records

817. The Committee heard that, the Authority maintained an electronic fixed asset register where all assets had been allocated asset Identification Numbers and where details of the cost of the assets, accumulated depreciation, additions and net book values were provided. However, motor vehicle registration numbers were not included in the fixed assets register. Although a separate list containing motor vehicle registration number, model, location and Directorate was maintained,

reconciliation of the two sets of records held by the Authority was not possible hindering physical verification of the location and condition of the vehicles. In the circumstances, the accuracy, completeness and ownership status of the reported automobiles with net book balance of Kshs. 3,684,000 as at 30 June, 2021 could not be confirmed.

Management response

818. The management informed the Committee that, the ERP system currently in use treat all assets in the same way in terms of data capture. A change in one area would mean a change in the whole system. The system is ready for an upgrade and this specific requirement for motor vehicles will be incorporated in the upgraded version. The ERP has been budgeted in the FY 2024-25

Committee Observations and Recommendations

The Committee deliberated on the issue of Unreconciled Motor Vehicle Records in its report for the financial year 2019/2020, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.0 Unsupported Non-Current Provisions Balance

819. The Committee heard that, the statement of financial position reflects non-current provisions of Kshs. 326,820,000. As disclosed in Note 31 to the financial statements, the long-outstanding provision relates to long service levy for the Sugar Directorate. However, no supporting schedules, documentation or policy in support of the provision was provided for audit. In the circumstances, it could not be confirmed that the non-current provisions balance of Kshs. 326,820,000 reflected in the financial statements was fairly stated.

Management response

820. The management informed the Committee that, the provision on levy arrears will be addressed vide the National Assembly Certificate (No. 039/13th /2023) of 14th September 2023 which approved the action plan to revive and commercialize state owned sugar companies.

821. In the certificate, approval was given to write off liabilities amounting to Kshs. 65,778,448,646 owed to Government of Kenya, defunct Kenya Sugar

822. Board and Commodities Fund. It is envisaged that upon verification by the Auditor General as indicated in the certificate, the full amount of the provisions of Kshs. 126,417,000 and Kshs. 148,166,000 will be adjusted accordingly.Though the Authority continues to pursue the recovery of the deposit with Euro Bank from the liquidator, it nevertheless recognizes that the deposit is long outstanding having been deposited in the year 2000 and that the Euro Bank is under liquidation, and thus the need for the provision.

Committee Observations

The Committee observed that–

The financial statements reflected non-current provisions totaling Kshs. 326,820,000, relating to long-standing long-service levy obligations under the Sugar Directorate. However, the Authority did not provide supporting schedules, documentation, or policy justification for the provision.

Committee Recommendations

The Committee recommends that–

Within three months of the adoption of this report, the Accounting Officer submit to Parliament and the Auditor-General for review a comprehensive supporting documentation including schedules, basis of computation, and policy justification substantiating the non-current provisions.

2.0 Long Outstanding Trade and Other Payables

823. The Committee heard that, the statement of financial position reflects a balance of Kshs. 766,592,000 in respect of trade and other payables. As disclosed in Note 27 to the financial statements, the balance includes trade payables amounting to Kshs. 677,170,000 of which Kshs. 506,589,529 had been outstanding for more than one year. The long-outstanding payables included Kshs. 3,536,884, Kshs. 22,726,754, Kshs. 6,004,733 and Kshs. 475,321,156 owed to Coffee Directorate, Horticulture Development Directorate, Sugar Directorate and Headquarters respectively. No satisfactory explanation was provided for failure to settle the long-outstanding debts.

Management response

824. The management informed the Committee that, explanations to each of the vendor is detailed below;

Payee/Name	Amount (KShs)	Response
Munyao Muthama and Kashindi Advocates	929,000	This relates to the following cases. 1. No. 112 of 2012 Mat International Ltd VS KRA and Kenya sugar Board ksh. 687,000 2. No.463 of 2012 Raghbir Sing Chathe vs Kenya Sugar Board & 2 others ksh. 696,000 3. No. 42 of 2014 JR Applno vs KSB (ex parte Mjengo Ltd) ksh. 420,000 4. 583 of 2013 Mumias Sugar Co. vs Kenya Sugar Board ksh. 475,000 50% down payments were made and taxes paid.

		The cases are still ongoing. The outstanding balance of 50% is payable after the determination of the cases.
Biofuel for Kenya (norad)	926,000	The Biofuel4kenya project funded by Norwegian Agency for Development co-operation was completed in October 2022. The matter is since fully settled.
Sugar Research Levy	444,776,697	These were provisions made in the books for Sugar research levy. Sugar research levy was a component of the sugar development levy collected from millers and payable to Kenya Sugar Research Foundation for research. The amounts will be paid to KESREF when the sugar millers settle the outstanding levy arrears
Controller and Auditor General	24,967,000	This relates to provisions for audit fees made by the defunct Kenya Sugar Board. Provisions for external audit fee from the directorates was consolidated and paid by the headquarters on 27th February 2024
Ndungu Gathinji	5,679,113	This refers to outstanding legal fees relating to Nairobi HCCC 559 of 2005 Kenya Sugar Board Vs Ndungu Gathinji The matter was resolved.
Muga & Muga Associates	4,133,000	They were contracted to transfer the former institutions ownership documents to Agriculture and Food Authority in March 2017. Invoicing of the full amount was done in March 2017 but payment was made in phases based on the work done. The last installment of Kshs 4,133,000 was paid in July 2020.
VAS Consultant	1,722,840	This was owed to a consultant whose contract was terminated. Since there was no obligation to pay the provision was reversed.
Long Outstanding Payables	23,455,879	These relate to accounting and bookkeeping errors at the directorates and therefore not payable. This will be adjusted to correct the errors.
	506,589,529	

Committee Observations and Recommendations

The Committee deliberated on the issue of Receivables from Exchange Transactions in its report for the financial year 2018/2019, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

2.4 Unsupported Deposits in Trade and Other Payables

825. The Committee heard that, the trade payables balance of Kshs. 677,170,000 included Kshs. 99,546,142 owed to Horticultural Crops Directorate which included unclaimed deposits of Kshs. 4,298,027 received from clients. However, the deposits had not been classified to client accounts as appropriate. In the circumstances, the accuracy of trade and other payables balance of Kshs. 766,592,000 could not be confirmed.

Management response

826. The management informed the Committee that, total of Kshs. 4,298,027 has been identified to client accounts. A schedule of the clients identified and their respective amounts. All customers were required to make payments in advance to access services in the Kentrade system. Once the permit is issued the cess is drawn down from their deposits. This was the normal way of operations. This system is no longer in use as the Authority in the FY 2023-24 converted to e citizen platform whereby customer pay as they access the services.

Committee Observations

The Committee observed that –the trade payables balance included unclaimed client deposits amounting to Kshs. 4,298,027Kshs. 99,546,142 owed to the Horticultural Crops Directorate, that had not been allocated to the respective client accounts.

Committee Recommendations

The Committee recommends that within three months of the adoption of this report, the Accounting Officer submit to Parliament and the Auditor-General for review a detailed reconciliation of all unclaimed deposits, including the allocation of the Kshs. 4,298,027 to the respective client accounts and ensure that all remaining unclassified deposits are appropriately accounted for. Further, provide evidence of implemented controls to ensure timely classification and reconciliation of client deposits within the payables.

2.5 Long Outstanding Receivables from Exchange Transactions

827. The Committee heard that, the statement of financial position and as disclosed in Note 22(b) to the financial statements, reflects an amount of Kshs.3,112,161,000 that relates to long-term receivables from exchange transactions and Kshs.440,332,000 relating to current portion of receivables from exchange transactions, all totaling Kshs.3,552,493,000.

828. Included in the balance is Kshs.25,345,000, Kshs.10,680,000 and Kshs.203,215,000 being long-outstanding rent receivables, trade receivables and other trade debtors.

829. In addition, included in the rent receivables balance of Kshs. 25,345,000 is an amount of Kshs. 18,537,000 being rent receivable from the County Government of Machakos. The amount relates to the HPHF in Machakos which was taken over by the County Government in the year 2014 and converted into offices. In the circumstances, it has not been possible to confirm the full recoverability of the total receivables balance of Kshs. 3,552,493,000.

Management response

830. The management informed the Committee that, 10,680,000 (trade debtors) relates to Coffee Directorate – Kshs 8,744,313 this relates to advalorem levy for three marketing firms.

- Aristocrafts Coffee and Tea -USD 67,063.37 – addressed by JV. No. 4 in 2022/2023.
- Thika Coffee Marketing – USD 4,470.79 – Paid in 2022/2023 receipt no. 15649

Meru County coffee marketing USD 9,544.31 - This will be addressed through the BOD for write off.

831. Kshs 203,215,000 - the amount on other debtors of Kshs 196,630,816 relates to amounts owed to AFA by the Pyrethrum Processing Company which has been experiencing financial challenges and is expected to be paid back to the Authority when the situation improves.

832. Amount of Ksh.6,583,942 relates to other debtors and for Sugar Directorate and not rent receivables. These are:

1. Chemelil Outgrower Company Ksh.295,015. This is services rendered to institution to be repaid.
2. Andrew Otieno Ksh.546,789 - Former staff car loan
3. Augustine Amulyoto Ksh.1,913.238.15 - Former staff car loan
4. Muhoroni Sugar Company Ksh.3,823,900 – Receivership cost to be repaid.

25,345,000 (rent debtors) relates to HCD. Kshs. 22,879,848 relates to Machakos County Government.

833. Following the occupation of the Machakos Depot by the County Government of Machakos, the Authority started billing the County rent based on the rates chargeable to exporters. The quarterly rent is KShs. 1,085,700.

834. There has been negotiation between the Authority, the Ministry of Agriculture and Livestock Development and the County Government of Machakos on the recovery of the Machakos Depot. The matter of rent receivable from the County Government is part of this discussion.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

2.6 Unresolved Prior Year Audit Matters

835. The Committee heard that, various prior year audit issues remained unresolved as at 30th June 2021. Management did not provide satisfactory reasons for the delay in resolving the prior year audit issues. Further, some unresolved prior year issues are not disclosed under the progress on the follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board

Management response

836. The management informed the Committee that, prior year matters are in the process of being resolved.

Committee Observations

The Committee observed that –unresolved prior year issues were not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board hence the Management did not provide the reasons for the delay in resolving them contrary to Section 68 (2) (l) of the PFM Act CAP 412A that requires accounting Officer to take appropriate measures to resolve any issues arising from audit which may remain outstanding.

Committee Recommendations

The Committee reprimands the then Accounting officer for dereliction of duties and recommends that the Accounting Officer, as a preliminary step, submit a report to the Parliament and the Auditor-General for review, on how it has addressed the recommendation made in respect of this report within three months upon adoption of this report.

2.7 Financial Statements for Staff Car and Mortgage Scheme Funds

837. The Committee heard that, the Authority operated Car Loan and Mortgage Schemes whose value was Kshs. 773,035,822 as at 30 June, 2021. The total amount relates to Kshs. 281,778,806, Kshs. 211,308,649, Kshs. 236,556,710 and Kshs. 43,391,656 for Sugar, Tea, Coffee and Fibre Directorates, respectively. However, although the two schemes have been in operation since the year 2015, the Authority did not prepare financial statements for the Schemes and submit them for audit as required by Circular No SRC/ADM/CIR/l/13Nol.lll (128) of 17th December, 2014 on Car Loan and Mortgage Schemes for State Officers and other Public Officers of the Government of Kenya. Management was, therefore, in breach of the law.

Management response

838. The management informed the Committee that, the Authority has noted the observation of the auditor. Separate accounts for car loan and mortgage have been prepared from the financial year 2021/2022 and presented for audit.

Committee Observations

The Committee observed that –the Authority failed to prepare and submit financial statements for the Schemes for the Car Loan and Mortgage Schemes valued at Kshs. 773,035,822 since their inception in 2015 that cover the Sugar, Tea, Coffee, and Fibre Directorates in breach of Section 68 (2) (k) of the Public Financial Management Act Cap 412A and the SRC Circular No. SRC/ADM/CIR/1/13 Vol. III (128) of 17 December 2014, which requires preparation and audit of financial statements for such Schemes.

Committee Recommendations

The Committee recommends that–

i) Within three months of the adoption of this report, the Accounting Officer prepare and submit to Parliament and the Auditor-General all outstanding financial statements for the Car Loan and Mortgage Schemes covering all years from inception to the current Financial Year, in compliance with Section 68 (2) (k) of the Public Financial Management Act Cap 412A and the SRC requirements.

ii) Within three months of the adoption of this report, the Accounting Officer put in place measures to ensure timely preparation, submission, and audit of Scheme financial statements going forward, and provide evidence of compliance to Parliament and the Auditor-General for review.

2.8 Failure to Operationalize Cane Testing Units (CTU)

839. The Committee heard that, the statement of financial performance reflects repairs and maintenance costs totalling Kshs. 344,592,000. As disclosed in Note 17 to the financial statements, the amount includes Kshs. 301,755,000 on repairs and maintenance of machinery and equipment including Kshs. 295,299,387 spent on Cane Testing Units (CTUs) repairs, maintenance and licenses. However, the Authority had not developed the required Regulations to operationalize the CTU Project at an industrial level and therefore the benefits of the CTUs had not been realized since inception.

840. In addition, and as previously reported, it was not clear whether the CTUs are useful to the Sugar Mills considering that the Sugar Mills have not fully embraced payment to farmers based on sucrose content as envisaged when the Project was initiated. Audit inspection to the cane testing units revealed that the CTUs were operational and maintained but cane testing was voluntary since it was still under the pilot phase. Further, some mills like Chemilil Sugar Company did not have an ERP system to connect to the CTUs' software. From the foregoing, the value for money on the expenditure on the CTUs could not be confirmed.

Management response

841. The management informed the Committee that, the project begun with installation of 2 pilot CTUs at Nzoia Sugar Company and South Nyanza Sugar Company with the objective of generating

technical information on cane testing that would guide establishment of Quality-Based Cane Payment System.

842. Subsequent to the 2 pilot projects, 9 additional CTUs were installed at 9 sugar mills and commissioned in July 2017. The 2 pilot units were upgraded in 2021 to bring them to the same operational level as the 9 installed later. To support the operationalization, the following have been undertaken:

i) A manual containing Methods and Procedures for management of Cane Testing Services has been developed.

ii) Technical staff have been deployed at the 11 units to calibrate the quality measurement technology.

iii) Data collection and analysis has been ongoing at the eleven CTUs. Cane quality results have been used for calibration to determine the suitability of the model to predict new samples.

iv) Sensitization of stakeholders has been ongoing to enlighten the affected parties on the proposed changes.

v) Draft Crops (Sugar)(Quality-Based Sugarcane Payment System) Regulations, 2023 have been developed. These await public participation prior to gazettement. Once gazetted, the Regulations will guide the operationalization of the CTUs and make it mandatory for all the sugar factories to use Quality-Based Sugarcane Payment System (QBSPS) to pay farmers.

vi) The purpose of the CTUs is to give information on the content of raw sugarcane delivered to the miller including sucrose content and fiber. The information is given to the mills to be incorporated in the calculation of the payments to the farmer. Tabulation of the payments to the farmer can be done either through an ERP or manually (as some mills without an existing ERP are currently paying its own farmers). Thus, the existence or otherwise of an ERP does not jeopardize in any way operations of the CTUs.

Committee Observations and Recommendations

The Committee deliberated on the issue of Failure to Operationalize Cane Testing Units (CTU) in its report for the financial year 2019/2020, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

2.9 Lack of Substantive Board Members

843. The Committee heard that, the Authority functioned without a substantive Board of Directors from 7 November, 2017 when the term of the interim Board Members lapsed. There was, therefore, no support to the Accounting Officer with regard to responsibilities for issues of risk, control and governance and associated assurance and follow up on implementation of recommendations of internal and external auditors as envisaged under Regulation 175 of the Public Finance Management (National Government) Regulations, 2015. Consequently, the Authority's risk management and governance may be negatively impacted.

Management response

844. The management informed the Committee that, the Board of Directors was constituted vide gazette notice N0.69 Vol.CXXV dated 24th March 2023.

Committee Observations and Recommendations

The Committee deliberated on the issue of Lack of Substantive Board Members in its report for the financial year 2019/2020, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

FINANCIAL YEAR 2021/2022

1.0 Statement of Cash flows

845. The Committee heard that, review of the statement of cash flows revealed the following anomalies:

The statement of cash flows reflects adjustments of surplus for the year in respect of transfer to Tea Board of Kenya of Kshs. 1,194,937,000 which includes transfer of reserve fund of Kshs. 36,000,000. However, details supporting what the reserve funds relate to were not provided. In addition, no disclosure note explaining the adjustment was provided.

Management response

846. The management informed the Committee that, the financial statements of the Authority are prepared by consolidating the performance and position of the individual Directorates. Upon the enactment of the Tea Act, 2020, the financial position of Tea Directorate was separated from the consolidated AFA accounts. The annual performance for the financial year 2021/2022 of the former Tea Directorate resulted in a deficit of KShs. 36,475,909.

Committee Observations

The Committee observed that –the Authority transferred to Tea Board of Kenya Kshs. 36,000,000. whose details supporting what the reserve funds relate to were not provided for review. The management cited the process of separation of Tea Directorate from the consolidated AFA accounts as the reason. This is a breach of Section 62 of the Public Audit Act CAP 412C.

Committee Recommendations

The Committee reprimands the then Accounting Officer for failing to provide necessary documents to the Auditor-General contrary to Section 62 of the Public Audit Act CAP 412C.

i. The statement reflects an adjustment to mortgage and car loan fund of Kshs. 3,498,000 which management has explained relates to an over-statement of interest income in the previous year. However, evidence of the overstatement was not provided. In addition, the mortgage and loan fund financials statements reflect an adjustment of the same of Kshs. 4,819,229 resulting in unexplained variance of Kshs. 1,321,229. In the circumstances, the accuracy of the statement of cash flows and the cash and cash equivalents balance for the year ended 30th June, 20222 could not be confirmed.

Management response

847. The management informed the Committee that, the difference of Kshs. 1,321,229 was as a result of the bank transfer of KShs. 50,000,000 for the car loan for former Tea Directorate while its ledger had a balance of Kshs. 51,320,000. The Directorate accrued interest income of Kshs. 1,320,000 in their ledger while the bank had not credited the interest. The difference of KShs. 1,229 relates to bank charges.

Committee Observations

The Committee observed that –the Authority reported erroneous balances for mortgage and car loan. The management cited transfer of KShs. 50,000,000 for the car loan for former Tea Directorate as the reason for the anomalies. This is a breach of Section 62 of the Public Audit Act CAP 412C.

Committee Recommendations

The Committee reprimands the then Accounting Officer for failing to provide necessary documents to the Auditor-General contrary to Section 62 of the Public Audit Act CAP 412C.

1.1 Cash and cash equivalents

848. The Committee heard that, the statement of financial position and as disclosed in Note 20(9) to the financial statements reflects an amount of Kshs. 1,673,096,000 in respect of cash and cash equivalents. Review of the cash books, bank reconciliations statements and bank confirmation certificates revealed the following;

i. Cash on call amount of Kshs. 1,004,815,000 includes an amount of Kshs. 480,000,000 held at a local bank whose bank confirmation certificate was not provided for audit review.

Management response

849. The management informed the Committee that, it was not possible to get a bank confirmation for Kshs. 480,000,000 because it was a consolidated figure of call deposit (Kshs. 318,180,000), collateral account for international letters of credit (Kshs. 135,974,208) and collateral account

(Kshs. 25,845,792). The Authority has restated the schedule on Note 20(a) breaking down the amount as indicated above.

Committee Observations

The Committee observed that –the Authority had Cash on call amount of Kshs. 480,000,000 held at a local bank whose bank confirmation certificate was not provided for review. The management cited that it was not possible to get a bank confirmation for Kshs. 480,000,000 because it was a consolidated figure of call deposit (Kshs. 318,180,000), collateral account for international letters of credit (Kshs. 135,974,208) and collateral account (Kshs. 25,845,792). This is a breach of Section 62 of the Public Audit Act CAP 412C.

Committee Recommendations

The Committee reprimands the then Accounting Officer for failing to provide necessary documents to the Auditor-General contrary to Section 62 of the Public Audit Act CAP 412C.

ii. Fixed deposit amount of Kshs. 240,819,000 includes an amount Kshs. 8,582,000 held in an escrow account. Management explained that a judgment releasing the money to the creditor was made on 8 November, 2017. It is not clear why Management has not paid the amount to the creditor as per the court decision and why the amount is still reflected in the Authority's books.

Management response

850. The management informed the Committee that, the escrow account was created on the directive of the court for a security deposit for the Nairobi HCCC 559 OF 2005. The case was concluded vide court ruling CIVIL 26D on 8th November 2017. The court ruling order releasing the money to the judgment creditors; KShs 7,981,797 being the decretal sum and KShs 600,000 being the Auctioneers fees have been provided. The adjustment was done on 30th June 2024.

Committee Observations and Recommendations

The Committee deliberated on the issue of escrow account in its report for the financial year 2018/2019, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

iii. Further, fixed deposits amount of Kshs. 52,237,000 that had been in Euro Bank, which was placed under receivership in the 1990s has not been recovered since the collapse of the bank. In the circumstances, the accuracy of cash and cash equivalents balance of Kshs. 1,673,096,000 as at 30 June, 2022 could not be confirmed.

Management response

851. The management informed the Committee that, on the KShs. 52,237,374 invested in Euro Bank, the Authority wrote to the Liquidator in 2019 following which the Liquidator gave a status report which includes dividends so far paid on the deposit. Further the Liquidator advised that subsequent payment of dividends would be pegged on availability of sufficient funds and the communication of the same shall be through public media. The management has made a full provision for the amount in the books of accounts.

Committee Observations and Recommendations

The Committee deliberated on the issue of short-term deposits in its report for the financial year 2015/2016, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.2 Property, Plant and Equipment

852. The Committee heard that, the statement of financial position reflects property, plant and equipment net book value of Kshs. 9,574,474,000 and as disclosed in Note 24 to the financial statements. However, review of the records revealed the following unsatisfactory matters.

1.2.1 Unconfirmed Ownership of Property, Plant and Equipment

853. The Committee heard that, the balance includes the value of properties whose ownership had not been established as explained below:

i. Land measuring 137.2 Ha out of 236.35 Ha located in Thika Kiambu County bought with funds from the defunct coffee Board of Kenya was registered in the name of the former Chairman of Coffee Board of Kenya. No evidence was provided that ownership of the land has reverted to the Authority.

Management response

854. The management informed the Committee that, the 236.35 hectares is made of LR No.10084 of 99.15 Ha and LR No.10085 of 137.2 Ha. The value of KShs. 72,000,000 relates to LR No.10084 only acquired by the defunct Coffee Board of Kenya in 1977. Records indicate that the Board initially wanted to purchase a farm from M/S Azania Investments Co. Ltd for Coffee Research comprising L.R. No.10084 and L.R. No. 10085. However, the Coffee Research Foundation advised that they did not need the entire two parcels and one of them, L.R. No.10084 would be adequate.

855. The Board minutes Min. no 245 of 15th July 1977 also indicate that the then Chairman of the Board, E.N. Kuria, acquired block L.R. No.10085 which was not required for Coffee Research. The same had been paid for by the Board and the then Chairman was to repay as a loan to the Board. Mr. Kuria paid the money on the 16th January 1978 through a banker's cheque forwarded by his advocate M/S Kaplan & Straton Advocates and acknowledgement of receipt communicated vide

a letter ADM/2/30C dated 19th January 1978. The Authority is in possession of the title for L.R. No. 10084 for 99.Ha.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

ii. Land on which seven depots of the defunct Horticultural Crops Development Authority (HCDA) depots are located. Management has obtained ownership documents for only one parcel located in Kibwezi. In addition, one of the seven depots located in Machakos County was taken over by the County Government o Machakos for office use in 2013 and is no longer accessible to HCDA staff and no evidence was provided that the county Government signed a lease agreement with the HCDA.

Management response

856. The management informed the Committee that, the Authority engaged the services of KOMM advocate to follow up on all the land without title documents. The status report as indicated by the advocate vide his report dated 16th September 2024 is as summarized below,

S/NO	DEPOT	REMARKS
1.	MACHAKOS PDP No. 59/96/23-MACHAKOS	This is a 2 acres piece of land currently occupied by the Machakos County Government. As of 3rd June 2024, the advocate is engaging the County Government of Machakos on accessing the land for survey purposes.
2.	LIMURU LIMURU/ BIBIRIONI /1010	This is a 6 acres piece of trust land situated in Limuru, Kiambu County. The Authority is pursuing the Kiambu County Government to release the piece of land to the National Land Commission for issuance of a letter of allotment.

3.	MWEA	This is a 2.5 acres piece of land. The Authority wrote a letter dated 31st March 2023 to the National Irrigation Board agreeing to their proposal to enter into a simple agreement. National Irrigation Board has not acquired the title for the entire land yet. The advocate is pursuing the matter.
4.	KIBWEZI	The Authority has already obtained the title deed for the Kibwezi depot, measuring 2 acres LR No. 27422.
5.	SAGANA	This is a 0.74 Ha. of land. From the report of the Authority's advocate, he is pursuing the preparation of a new Part Development Plan as the old one cannot be traced.
6.	MERU No. ABOTHU GUGUCHI /KARIENE /3165.	This is a 0.43-Ha land located in Kariene in Meru County. The Title Deed was successfully processed and Title issued on 12th August, 2024.
7.	KITHIMANI (YATTA)	This involves 22 plots each measuring 0.03 Ha. for which title deeds have been issued in the name of HCDA on 18th July 2024. The Authority is in the process of transferring them in the name of AFA.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

iii. Two parcels of land valued at Kshs. 1,280,000,000 relating to the former Horticultural Crops Development Authority. The parcels include a plot situated along Mombasa Road, measuring 3.5 hectares valued at Kshs. 692,000,000 which was allocated to a private developer despite the Authority having an allotment letter.

Management response

857. The management informed the Committee that, the Property was subject of a court case ELC NO. 516 OF 2018 (Formerly High Court Civil Suit No 1205 of 2005) HCDA =VS= Sakir Properties Limited & 2 Others. The Judgment was delivered on 17th December 2020 in favor of the Authority and the land was reverted to the Authority, but vide a Ruling dated 10th February 2022, the Court set aside the Judgment that granted AFA ownership of the land. The Authority has appealed against the judgement.

858. The matter is coming up for compliance on 28th May, 2025.

859. HCDA was allotted by the commissioner of lands an unsurveyed piece of land LR. No.209/12490 opposite Yana Tyres along Mombasa RD Nairobi measuring 3.5Ha. for a lease term of 99 years effective 1st February 1987. On or about 2005, HCDA got information that M/S Sakir had been allotted the same land and a tittle deed issued.

860. M/S Sakir claims that they got allocated the property after HCDA surrendered the land back to the government. HCDA maintained that it did not surrender the land back and therefore a legal suit ensured through the then Gachiri Kariuki & Kiai Advocates.

861. M/S Sakir have developed the property by building residential flats.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

iv. A parcel of land at the Jomo Kenyatta International Airport (JKIA) valued at Kshs. 588,000,000 where the Horticultural Crops Directorate (HCD) is located.

Management response

862. The management informed the Committee that, the land was allocated to the defunct HCDA on request from the Ministry and National treasury. A letter of offer dated 15th May, 2000 signed for acceptance by then Managing Director of HCDA. The letter of letter stipulated rent payable quarterly. The lease between the HCDA and KAA was never executed. On 3rd of April, 2023 the Authority wrote a letter to KAA requesting them to submit a lease agreement for the 5 acre piece of land. KAA has not availed the requested drafted lease agreement for consideration and execution. HCDA has occupied this land where it has constructed headquarters and pack houses.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.1 Exclusion of Property, Plant and Equipment

863. The Committee heard that, property, plant and equipment balance of Kshs. 9,574,474,000 excludes the value of various assets were provided for audit.

i. Ten (10) acres of land situated in Wundanyi, Taveta.

Management response

The management informed the Committee that–

864. The Wundanyi land is valued at Kshs. 36,600,000.

865. The Authority has not acquired any document of ownership to merit a claim on the two parcels of land to merit inclusions in the fixed asset register. The Authority is still pursuing letters of allotment and once this is acquired the same will be included in the assets register. KOMM Advocate report to the Authority dated 21st February 2025 advised as follows:

i. Wundanyi

The Part Development Plan (PDP) needs to be updated to capture contours, shows adjacent parcels, indicate the use of the adjacent parcels land preparation of shape files for the updated PDP which would require placing of advertisements in 2 local dailies (in English and Kiswahili), public participation, preparation of the allotment letter and lease and PDP approval.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

ii. Land of undetermined acreage situated in Kitui valued at Kshs. 36,600,000 allocated to the defunct Horticultural Crops Development Authority.

Management response

866. The management informed the Committee that–

ii. Kitui- This land is valued at Kshs. 4,000,000 relates to the defunct Cotton Board of Kenya.

There is a draft PDP that is pending approval, this requires to be updated through advertisement in the newspapers.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

iii. Land of undetermined value acreage valued at Kshs.4,000,000 allocated to the defunct Cotton Board of Kenya.

Management response

867. This refers to the Kitui Land valued at Kshs. 4,000,000 and addressed under 3.2 ii above.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

iv. Seven (7) acres of land in Mtwapa that was allocated to the defunct Kenya Coconut Development Authority by the defunct Kenya Agricultural Research Institute (KARI). In addition, the ownership had not been transferred by the KARI to the Authority by the time it ceased to exist upon the commencement of the Crops Act, 2013.

Management response

868. The management informed the Committee that, the land in question had been reserved for the defunct Kenya Agricultural Research Institute (KARI). The defunct Kenya Coconut Development Authority applied for the parcel of land from KARI through the Ministry of Agriculture for the purpose of constructing a Headquarters at Mtwapa. Kenya Agricultural Research Institute vide their letter REF. KARI/4/023C/VOL.XIV dated 2nd July 2012 informed the defunct Authority that the Board of Directors had resolved in their 98th meeting to allocate 7 Acres of land to KCDA. However, the defunct KARI now KALRO have not acquired title documents to enable transfer of the same to the Authority due to an ongoing court case. The land is also invaded by squatters as per the restraining order of the environment and land court, Mombasa ELC petition no 29 of 2019. The value of the parcel can therefore not be included in the books of the Authority.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

v. Capital expenditure amount of Kshs. 2,289,347,764 incurred on the acquisition of eleven (11) Cane Testing Units and Laboratories in the period 2014 to 2018.

Management response

869. The management informed the Committee that, assets related to CTU totaling KShs. 2,289,347,764 were not included in AFA 's assets since they were work in progress. The same have been capitalized in the year 2022/2023 books of accounts.

Committee Observations and Recommendations

The Committee deliberated on the issue of failure to Operationalize Cane Testing Units (CTU) in its report for the financial year 2019/2020, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

vi. The property in Riverside Estate where the defunct Cotton Development Authority's head office was allocated.

Management response

870. The management informed the Committee that, the case has since been concluded and the Authority is in possession of ownership document.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.4 Failure to Revalue Fully Depreciated Assets

871. The Committee heard that, the statement of financial position and as disclosed Note 23 to the financial statements reflects historical cost of property, plant and equipment Kshs. 11,118,827,000. Review of the assets register revealed that assets with a historical cost of Kshs. 1,021,007,000 have been fully depreciated assets and are still in use by the Authority. No explanation form Management has been given for failure to revalue the assets to reflect their fair values.

Management response

872. The management informed the Committee that, the policy of AFA is to carry out revaluation for its assets after every 5 years as per clause 5.13.2 of the AFA Asset Management Policy 2017.

873. The Authority revalued and adjusted its assets in the financial year 2017/2018, the next revaluation is budgeted in the financial year 2024/2025. The revaluation exercise is currently being done.

Committee Observations and Recommendations

The Committee deliberated on the issue of Failure to Revalue Fully Depreciated Assets in its report for the financial year 2020/2021, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.5 Logbooks in the Name of Defunct Institutions and Boards

874. The Committee heard that, the balance includes an amount of Kshs. 25,612,000 relating to automobiles. Review of motor vehicle records held by the Authority revealed that on commencement of the Crops Act, 2013 on 1st August, 2014, the former regulatory institutions in the Agriculture Sector were merged into Directorates under the Authority. As reported in the previous year, the ownership documents of seventeen (17) motor vehicles are registered in the defunct institutions' names. Evidence of management effort to register the vehicles in the Authority's name was not provided. In the circumstances, the accuracy, completeness and

ownership status of the reported property, plant and equipment net book value of Kshs. 9,574,000 as 30th June, 2022 could not be confirmed.

Management response

875. The management informed the Committee that, we agree with the observation of the auditor. At the time of the audit seventeen (17) motor vehicles were still registered in the defunct institutions' names.

876. The process was ongoing at the National Transport and Safety Authority (NTSA). Before the merger the defunct institutions had their respective Transport Integrated Management System (TIMS) under the management of one transport officer to enable them to access NTSA Portal.

877. After the formation of AFA everything changed because some services were centralized and staff transferred to various Directorates which disoriented some of the functions.

878. We wrote to NTSA applying for the transfer of the said logbooks and in their response, they requested us to meet the following requirements for Government Bodies Vehicles:

- Request for change of phone numbers.
- Former institutions now Directorates under AFA to appoint somebody who will be in charge of the phone number to enable him/her to access the NTSA Portal.
- The Directors of respective Directorates should swear Affidavit indicating the full names of the person, ID number and KRA PIN number who has been authorized to transact on behalf of the organization, and should be authorized by an active Advocate.

879. Another challenge that is slowing down the process is the amendment of the original AFFA to the current AFA since the KRA PIN for the Authority with the term 'FISHERIES' is still appearing whereby the KRA portal does not recognize the amended AFA.

880. The Authority has Thirty-Two (32) Vehicles and Ten (10) motorcycles with logbooks under the former boards, i.e. Coffee Board of Kenya, Cotton Development Authority, Horticultural crops development, and sisal board of Kenya.

881. The Authority has so far initiated the transfer of the assets by creating an account on the NTSA PORTAL.

882. Directorates nominated transport officers to carry out all transactions in regards to the transfer of Logbooks and access eCitizen-NTSA PORTAL for the former institutions.

883. Two Directorate's have uploaded the documents successfully i.e NOCD and HCD while three are still under NTSA "verification Process"

884. The status is as follows;

1. HCDA-Created

2. CBK-Waiting for verification

3. KSB-Waiting for verification. This has now to be reversed with effect from 1st January, 2025. KSB has become independent.

4.CDA-Waiting for Verification

5.KCDA-Created

885. To follow up with NTSA to finalize creation access by Directorates and finalize on transfer.

Committee Observations and Recommendations

The Committee deliberated on the issue of Logbooks in the Name of Defunct Institutions and Boards in its report for the financial year 2019/2020, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.6 Receivables from Exchange Transactions

886. The Committee heard that, the statement of financial position and as disclosed in Note 21(a) to the financial statements reflects current portion of receivables from exchange transactions of Kshs. 380,000,000. Included in the balance is rent debtors, trade debtors and other debtors of Kshs. 77,701,227, Kshs.11,139,158 and Kshs.291,134,00 out of which amounts totaling Kshs. 31,035,320, Kshs.10,943,484 and Kshs.41,369,807, respectively, had been outstanding for more than one year and no effort has been made to collect the debts.

887. Further, the statement of financial position and as disclosed in Note 21(b) to the financial statements reflects longterm receivables from exchange transactions of Kshs. 3,112,161,000. The amount comprises of levy arrears and the Sugar Development Fund (SDF) of Kshs. 2,883,039,009 and Kshs. 229,121,576, respectively, that has been outstanding for more than two years. No explanation was provided by Management for the failure to collect these debts and no provision for doubtful debts was provided in case they become un-collectible.

888. In the circumstances, the accuracy and completeness of receivables from exchange transactions amount of Kshs. 3,492,169,000 could not be confirmed.

Management response

The management informed the Committee that–

889. Kshs. 31,035,320 rent debtors – Coffee these accrued rent receivables under the management agent Mesrs.Value Zone Limited. This has since been cleared.

890. Kshs.10,943,484 trade debtors – Coffee Kshs 9,026,866, This relates to Aristocrats Coffee and Tea USD 67,063.37 Journalised in 2022/2023 and Meru County Coffee Marketing USD 9,544.31. This will be addressed through the BOD for write off. **Fibre** – Kshs 2,112,292 Trade Debtors - Kshs, 41,369,807 other debtors – HCD Kshs 50,965,105. The schedule for account receivables has a value of Ksh.50,965,105 and not Ksh.41,369,807.

891. The amount that relates to levy arrears and Loans owed by state owned Sugar mills to the defunct Sugar Board has been long outstanding. The mills have been facing severe financial constraints and have therefore not been able to settle the same. The National Assembly vide Certificate (No. 039/13th /2023) of 14th September 2023 approved the action plan to revive and commercialize state owned sugar companies.

892. In the certificate, approval was given to write off liabilities amounting to Kshs. 65,778,448,646 owed to Government of Kenya, defunct Kenya Sugar Board and Commodities Fund. It is envisaged that upon verification by the Auditor General as indicated in the certificate, the full amount of the levy arrears will be written off.

893. A provision of Kshs. 148,166,000 for doubtful debts on SDF debtors and Kshs. 126,417,000 on levy arrears have been made and disclosed under note 30 of the 2021/2022 financial statements and also identified under your observations in no.5 'unsupported provisions' below.

Committee Observations and Recommendations

The Committee deliberated on the issue of Receivables from Exchange Transactions in its report for the financial year 2018/2019, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.7 Unsupported Provisions

894. The Committee heard that, the statement of financial position and as disclosed in Note 30 to the financial statements reflects non-current provisions of Kshs. 326,820,390. The amount relates to long service leave no taken. Management did not provide a policy document on the provision and supporting schedule to support the amount.

Management response

895. The management informed the Committee that the analysis of a provision for staff arrears disclosed under Note 29 of the Financial Statements. The long outstanding provision of Kshs. 326,820,000 is comprised of Kshs. 148,166,000 for provision of doubtful debts on SDF debtors; Kshs. 52,237,000 on short term deposits - Eurobank and Kshs. 126,417,000 on levy arrears. These are historical figures from the defunct Kenya Sugar Board. The provision on levy arrears will be addressed vide the The National Assembly Certificate (No. 039/13th /2023) of 14th September 2023 which approved the action plan to revive and commercialize state owned sugar companies.

896. In the certificate, approval was given to write off liabilities amounting to Kshs. 65,778,448,646 owed to Government of Kenya, defunct Kenya Sugar. Board and Commodities Fund. It is envisaged that upon verification by the Auditor General as indicated in the certificate, the full amount of the provisions of Kshs. 126,417,000 and Kshs. 148,166,000 will be adjusted accordingly.

897. Though the Authority continues to pursue the recovery of the deposit with Euro Bank from the liquidator, it nevertheless recognizes that the deposit is long outstanding having been deposited in the year 2000 and that the Euro Bank is under liquidation, and thus the need for the provision.

Committee Observations

The Committee observed that –the Authority disclosed provisions of Kshs. 326,820,390 relating to long service leave no taken. However, the Management did not provide a policy document on

the provision and supporting schedule to support the amount. In the absence of this documentation, the accuracy and completeness of the balance could not be confirmed.

Committee Recommendations

The Committee recommends that–

Within three months of the adoption of this report, the Accounting Officer submit to the Auditor-General for audit review and reporting in the subsequent audit cycle the policy document, complete and detailed schedule to allow verification of accuracy, completeness, and compliance with applicable financial reporting standards.

i. In addition, the statement of financial position and as disclosed in Note 28 to the financial statements reflect current provision Kshs. 66,670,000 out of which Kshs. 44,395,316 was not supported with details of the beneficiaries. Further, the statement of financial position and as disclosed in Note 28 to the financial statements reflects employee benefits obligations of Kshs. 785,789,000.

Management response

898. The management informed the Committee that, this was a provision for audit services provided by the National Audit Office across the Directorates. The provision has since been cleared through payment to the National Audit Office in the year 2023/2024.

Committee Observations

The Committee observed that–

The current provisions totaling Kshs. 44,395,316 were not supported with details of the respective beneficiaries as well as employee benefits obligations amounting to Kshs. 785,789,000. In the absence of this documentation, the accuracy and completeness of both balances could not be confirmed.

Committee Recommendations

The Committee recommends that–

Within three months of the adoption of this report, the Accounting Officer submit to the Auditor-General for audit review and reporting in the subsequent audit cycle a complete and detailed schedule supporting the provisions and employee benefits obligations including the identities of all beneficiaries, the basis of computation to allow verification of accuracy, completeness, and compliance with applicable financial reporting standards.

1.8 Transfers to Tea Board of Kenya

899. The Committee heard that, the statement of changes in net assets reflects transfers to Tea Board of Kenya amounting to Kshs. 2,203,888,000. Further, the statement of financial position reflects trade and other payables of Kshs. 862,880,000 which as disclosed in Note 26 to the financial statements includes Tea Board of Kenya Mortgage and Car Loan Fund balances of kshs.108,802,000 and Kshs.50,000,000, respectively. However, detailed schedules of assets and liabilities to support the balances were not provided for audit. In the circumstances, the accuracy and completeness of the transfers of Kshs. 2,203,888,000 to Tea Board of Kenya for the year ended 30 June, 2022 could not be confirmed.

Management response

900. The management informed the Committee that, transfers of Kshs 2,203,888,000 relates to the position of the former Tea Directorate as at 30th June 2021. Detailed ledgers for the position relating to Assets and Liabilities for the former Tea Directorate was provided.

Committee Observations

The Committee observed that –Kshs. 2,203,888,000 was reflected in the financial statements as a transfer to the Tea Board of Kenya in addition, the Tea Board of Kenya Mortgage Fund balance of Kshs. 108,802,000 and the Car Loan Fund balance of Kshs. 50,000,000. However, detailed schedules of the assets and liabilities supporting these balances were not provided for review.

Committee Recommendations

The Committee recommends that–

Within three months of the adoption of this report, the Accounting Officer submit to Parliament and the Auditor-General; A comprehensive and fully supported schedule of all the assets and liabilities forming the basis of the Kshs. 2,203,888,000 transfers to the Tea Board of Kenya; and detailed schedules substantiating the Kshs. 108,802,000 Mortgage Fund balance and the Kshs. 50,000,000 Car Loan Fund balance, to enable verification of the accuracy and completeness of the reported balances.

1.9 Unresolved Prior Year Audit Matters

901. The Committee heard that, various Prior Year Audit Matters remained unresolved

Management response

902. The management informed the Committee that, prior year matters are in the process of being resolved

Committee Observations

The Committee observed that –unresolved prior year issues were not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board hence the Management did not provide the reasons for the delay in resolving them contrary to Section 68 (2) (l) of the PFM Act CAP 412A that requires accounting Officer to take appropriate measures to resolve any issues arising from audit which may remain outstanding.

Committee Recommendations

The Committee reprimands the then Accounting officer for dereliction of duties and recommends that the Accounting Officer, as a preliminary step, submit a report to the Parliament and the Auditor-General for review, on how it has addressed the recommendation made in respect of this report within three months upon adoption of this report.

2.0 Investments in Fixed Deposits

903. The Committee heard that, the statement of financial position and as disclosed in Note 20(a) to the financial statements reflects cash and cash equivalents amount of Ksh. 1,673,100,000. The amount excludes fixed deposits of Kshs. 240,819,000 held in commercial banks. Management has not provided approval of the National Treasury to invest surplus funds in commercial banks contrary to the provision of the National Treasury Circular Ref. DMD No. 4/02 'H' (63) of 26 March, 2018 which directed all state corporations and semi-autonomous Government agencies (SAGAs) to invest surplus funds in Treasury Bills and/or Treasury Bonds directly through Central Bank of Kenya without intermediaries and all funds previously held in fixed deposits in commercial banks and financial institutions were not to be rolled over but retired and invested in Treasury Bills and Bonds. In the circumstances, Management was in breach of The National Treasury directive.

Management response

904. The management informed the Committee that, these were not surplus funds rather funds budgeted for operational costs which are payable as they occur. Management found it prudent to put it in short term and call deposits instead of leaving the funds in current accounts. Also during the financial year AFA did not have a Board of Directors and therefore could not open a CDS account to enable placement of funds in in Treasury Bills and Bonds. With the Board in place the Authority is in the process of opening a CDS account with the Central Bank to enable it to invest in treasury bills and bonds.

Committee Observations and Recommendations

The Committee deliberated on the issue of Investments in Fixed Deposits in its report for the financial year 2020/2021, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

2.1 Irregular Acting Appointments

905. The Committee heard that, the statement of financial performance reflects employee costs of Kshs. 957,428,000. Review of human resources records revealed that six officers were appointed on acting appointments to posts that were more than two grades above their substantive posts contrary to the Human Resource Policies and Procedures Manual for the Public Service of May, 2016. In the circumstances, Management was in the breach of the law.

Management response

906. The management informed the Committee that, The Authority has been using the Interim Management Committee documents which were issued to the Interim Director General and the Interim Management Staff during the launch of AFA by the then Cabinet Secretary In-Charge of MoALF& C.

907. The documents included:

i) An Organization Structure
ii) Staff Establishment
iii) Human Resource Procedures Manual

908. Subsequently, the Authority has made attempts to review the documents and have approved to incorporate a number of changes which have taken place. To this end, we attach correspondences to the Ministry to seek approval of the various HR Instruments.

a) AFA has been in its formative stages without a Board and the situation is made worse whenever employees exist due to natural attrition. All these exits have aggravated the staff deficits at various levels in the Authority necessitating appointment of officers to take up the roles of the vacated higher posts in acting capacities. For AFA to deliver on its mandate to the people of Kenya, staff must be engaged and deployed to undertake functions at different levels of the organization.

909. The Authority in FY 2020/2021, received approval from the Salaries and Remuneration Commission to undertake a staff placement exercise and place all staff and pay salaries in line with the approval issued vide SRC letter Ref. No SRC/TS/JE/SRSC/3/33/4 Vol. IX (106) dated 19th August 2020.

b) As per above referred approval, the Authority thus placed staff in accordance with their substantive or interim appointment, where it is applicable, this therefore meant that the staff designations changed to be in line with the new designations and thus staff who were already at the various levels of the job groups, were placed with the correct designations. The draft staff establishment did not also factor in positions for officers at the regional and field offices.

910. The Authority has currently developed and submitted for approval revised Human Resource Instruments including the staff establishment and shall align the positions once approval is granted.

The Authority has been constrained in undertaking staff recruitment and promotions to fill the existing staff gaps due to the absence of the Board of Directors until April 2023 and also lack of Approved Human Resource Instruments to assist in proper staff placements. The situation is further aggravated by exits of staff through natural attrition (resignations, retirements, death). All these exits have aggravated the staff deficits at various levels in the Authority necessitating appointment of officers to take up the roles of the vacated higher posts. As a result, the Authority has adopted appointment of the most suitably qualified staff in the specific functional area, to undertake the duties and responsibilities of the vacant post in an Acting capacity so as to ensure uninterrupted service delivery in the various departments.

911. The appointment of the officers beyond the provision of the PSC Manual,2016 is on the basis of the officers being the most qualified and with experience in the specific functional area.

912. The Authority commenced a process to undertake promotions to fill these gaps with substantive holders and submitted a request for approval to the Cabinet Secretary Ministry of Agriculture and Livestock Development, which is still awaited.

913. The response for each of the cases are provided.

914. The Authority has not been able to make any adjustments, however following the appointment of the Board of Directors in March 2023, the Board has approved HR Instruments which have been forwarded to the Cabinet Secretary for onward forwarding for consideration by State Corporations Advisory Committee. This, upon approval, is expected to facilitate substantive appointment of officers to fill the vacant positions and put a stop on the Acting Appointments.

Committee Observations

The Committee observed that–

Six officers were appointed to act in positions more than two grades above their substantive posts, contrary to the Human Resource Policies and Procedures Manual for the Public Service (May 2016). Although Management attributed this to the use of interim HR instruments and staffing gaps resulting from attrition, no evidence was provided to demonstrate compliance with the applicable legal or regulatory requirements governing acting appointments.

The absence of a substantive Board and the lack of approved HR instruments contributed to prolonged acting appointments, leading to non-compliance with Public Service Commission (PSC) guidelines and exposing the Authority to irregular human resource management practices.

Committee Recommendations

The Committee recommends that–

Within three months of the adoption of this report, the Accounting Officer submit to Parliament and the Auditor-General a comprehensive report detailing:

i) The corrective measures taken to ensure full compliance with the Public Service Commission Human Resource Policies and Procedures Manual (2016) on acting appointments, including evidence of adherence to grade-limit requirements; and

ii) Evidence that all acting appointments have been regularized through substantive appointments, based on the approved HR instruments and corresponding Board approvals.

1.0 Delays in Operationalization of Cane Testing Units (CTU)

915. The Committee heard that, the statement of financial performance and as disclosed in note 14 to the financial statement reflects an amount of KShs 457,412,000 in respect of special programs expenditure. Included in the amount is KShs 187,344,000 incurred on cane testing units(CTU). Further Disclosed in note 23 to the financial statements is additions to work in progress amounting to KShs. 306,227,000 in respect to upgrading of the CTU's.

916. Records provided for audit reveal that Authority had not developed the required regulations to operationalize the CTU projects at an industrial level and therefore the benefits of the CTU's have not been realized since inception. Review of the status of implementation of the CTU indicates that thirteen (13) cane testing units have been constructed and equipped, and none is operational. This is despite Kshs. 3,436,149,218 having been spent on construction and maintenance of the CTU's from the year 2014.

917. In the circumstances, the Authority did not attain value for money on the expenditure of Ksh.3,436,149,218 incurred on the CTU's.

Management response

918. The management informed the Committee that, the project begun with installation of 2 pilot CTUs at Nzoia Sugar Company and South Nyanza Sugar Company with the objective of generating technical information on cane testing that would guide establishment of Quality-Based Cane Payment System.

919. Subsequent to the 2 pilot projects, 9 additional CTUs were installed at 9 sugar mills and commissioned in July 2017. The 2 pilot units were upgraded in 2021 to bring them to the same operational level as the 9 installed later. To support the operationalization, the following have been undertaken:

i. A manual containing Methods and Procedures for management of Cane Testing Services has been developed.

ii. Technical staff have been deployed at the 11 units to calibrate the quality measurement technology.

iii. Data collection and analysis has been ongoing at the nine CTUs. Cane quality results have been used for calibration to determine the suitability of the model to predict new samples.

iv. Sensitization of stakeholders has been ongoing to enlighten the affected parties on the proposed changes.

v. Draft Crops (Sugar)(Quality-Based Sugarcane Payment System) Regulations, 2023 have been developed. These await public participation prior to gazzettment. Once gazzetted, the Regulations will guide the operationalization of the CTUs and make it mandatory for all the sugar factories to use Quality-Based Sugarcane Payment System (QBSPS) to pay farmers.

vi. The Board resolved that the CTUs should be operationalized.

vii. The purpose of the CTUs is to give information on the content of raw sugarcane delivered to the miller including sucrose content and fiber. The information is given to the mills to be incorporated in the calculation of the payments to the farmer. Tabulation of the payments to the farmer can be done either through an ERP or manually (as some mills without an existing ERP are currently paying its own farmers). Thus, the existence or otherwise of an ERP does not jeopardize in any way operations of the CTUs.

Committee Observations and Recommendations

The Committee deliberated on the issue of Failure to Operationalize Cane Testing Units (CTU) in its report for the financial year 2019/2020, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

2.3 Lack of Substantive Board Members

920. The Committee heard that, the Authority functioned without a substantive Board of Directors from 7 November, 2017 when the term of the interim Board Members lapsed. There was, therefore, no support to the Accounting Officer with regard to responsibilities for issues of risk, control and governance and associated assurance and follow up

Management response

921. The management informed the Committee that, the Board has been constituted via gazette notice dated 23rd March 2023

Committee Observations and Recommendations

The Committee deliberated on the issue of Lack of Substantive Board Members in its report for the financial year 2019/2020, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.0 Lack of a Disaster Recovery Plan

The Committee heard that, review of the internal control and risk management environment revealed that the Authority did not have in place an approved disaster recovery plan to guide the Authority on procedures to mitigate against any eventuality. In the circumstances, the risk management practices were not effective.

Management response

922. The management informed the Committee that, the Authority developed a five-year strategic plan (2023-2027). Part of the requirements was to identify key strategic initiatives on Automation of Business Processes and Enhancement of ICT Infrastructure. The Authority identified and prioritised the development and implementation of a Disaster Recovery Plan (DRP) in the first year of the 5-year cycle strategic initiatives. So far the authority has developed the DRP which is awaiting approval.

Committee Observations and Recommendations

The Committee deliberated on the issue of Information Technology (IT) Internal Controls in its report for the financial year 2019/2020, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

FINANCIAL YEAR 2022/2023.

1.0 Long-Outstanding Debts from Exchange Transactions

923. The Committee heard that, the statement of financial position reflects long-term receivables from exchange transactions balance of Kshs.3,112,161,000 as disclosed in Note 22(b) to the financial statements. The balance includes amounts due from levy arrears and Sugar Development Fund of Kshs.2,883,039,000 and Kshs.229,122,000 respectively both totaling to Kshs. 3,112,161,000. These balances have been outstanding for over three years without any recoveries to date. In addition, the Authority has made no provision for doubtful debts as provided for in paragraph 7.4.1 of Agriculture and Food Authority Finance Policy and Procurement manual 2018. In the circumstances, the accuracy and recoverability of long-term receivables of Kshs. 3,112,161,000 could not be confirmed.

Management response

924. The management informed the Committee that, the amount that relates to levy arrears and Loans owed by state owned Sugar mills to the defunct Sugar Board has been long outstanding. The mills have been facing severe financial constraints and have therefore not been able to settle the same. The National Assembly vide Certificate (No. 039/13th /2023) of 14th September 2023 approved the action plan to revive and commercialize state owned sugar companies.

925. In the certificate, approval was given to write off liabilities amounting to Kshs. 65,778,448,646 owed to Government of Kenya, defunct Kenya Sugar Board and Commodities Fund. It is envisaged that upon verification by the Auditor General as indicated in the certificate, the full amount of the levy arrears will be written off.

926. A provision of Kshs. 148,166,000 for doubtful debts on SDF debtors and Kshs. 126,417,000 on levy arrears have been made and disclosed under note 30 of the 2021/2022 financial statements.

Committee Observations and Recommendations

The Committee deliberated on the issue of Receivables from Exchange Transactions in its report for the financial year 2018/2019, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.2 Property, Plant and Equipment

927. The Committee heard that, the statement of financial position reflects property, plant and equipment net book balance of Kshs. 11,308,026,000 and as disclosed in Note 24 to the financial statements. Review of records revealed the following anomalies.

1.2.1 Unconfirmed Ownership of Land

928. The Committee heard that,

i) The balance includes seventeen (17) parcels of freehold land valued at Kshs 6,664,284,000 out of which thirteen (13) parcels of land valued at Kshs 5,170,700,000 had no evidence of ownership vesting with the Authority due to lack of ownership documents.

ii) As previously reported, the balance includes land on which six of the seven depots of the defunct Horticultural Crops Development Authority (HCDA) are located do not have ownership documents. In addition, the depot located in Machakos County was taken over by the County Government of Machakos for office use in the year 2013 and is no longer accessible to the Authority staff and no evidence was provided that the county Government signed a lease agreement with the HCD

iii) Included in the property plant and equipment balance are two parcels of land valued at Kshs.1,280,000,000 relating to the former Horticultural Crops Development Authority. The parcels include a plot situated along Mombasa road, measuring 3.5 hectares valued at Kshs.692,000,000 which was allocated to a private developer despite the Authority having an allotment letter and a parcel of land at the Jomo Kenyatta International Airport (JKIA) valued at Kshs.588,000,000 where the Horticultural Crops Directorate (HCD) is located whose details of ownership was not provided.

Management response

The management informed the Committee that–

929. Query 2.1 (i), (ii) and (iii) are provided.

930. The Authority engaged the services of KOMM advocate to follow up on all the land without title documents. The status report as indicated by the advocate vide his report dated 16th September 2024 is as summarized below,

S/NO	DEPOT	REMARKS

1.	MACHAKOS PDP No. 59/96/23-MACHAKOS	This is a 2 acres piece of land currently occupied by the Machakos County Government. As of 3rd June 2024, the advocate is engaging the County Government of Machakos on accessing the land for survey purposes.
2.	LIMURU LIMURU/BIBIRIONI/1010	This is a 6 acres piece of trust land situated in Limuru, Kiambu County. The Authority is pursuing the Kiambu County Government to release the piece of land to the National Land Commission for issuance of a letter of allotment.
3.	MWEA	This is a 2.5 acres piece of land. The Authority wrote a letter dated 31st March 2023 to the National Irrigation Board agreeing to their proposal to enter into a simple agreement. National Irrigation Board has not acquired the title for the entire land yet. The advocate is pursuing the matter.
4.	KIBWEZI	The Authority has already obtained the title deed for the Kibwezi depot, measuring 2 acres LR No. 27422.
5.	SAGANA	This is a 0.74 Ha. of land. From the report of the Authority's advocate, he is pursuing the preparation of a new Part Development Plan as the old one cannot be traced.
6.	MERU No. ABOTHUGUGUCHI/KARIENE/3165.	This is a 0.43-Ha land located in Kariene in Meru County. The Title Deed was successfully processed and Title issued on 12th August, 2024.
7.	KITHIMANI (YATTA)	This involves 22 plots each measuring 0.03 Ha. for which title deeds have been issued in the name of HCDA on 18th July 2024. The Authority is in the process of transferring them in the name of AFA.
8	WUNDANYI	The Part Development Plan (PDP) needs to be updated to capture contours, shows adjacent parcels, indicate the use of the adjacent parcels land preparation of shape files for the updated PDP which would require placing of advertisements in 2 local dailies (in English and Kiswahili), public participation, preparation of the allotment letter and lease and PDP approval.
9	KITUI	There is a draft PDP that is pending approval, this requires to be updated through advertisement in the news papers.

10	RIVERSIDE	The case has since been concluded and the Authority is in possession of ownership document.
11	ATHI RIVER LR NO.24848	Allotment letter and fees have been confirmed. Lease preparation underway at Ministry of Lands.
12	JKIA	The land was allocated to the defunct HCDA on request from the Ministry and National treasury. A letter of offer dated 15th May, 2000 signed for acceptance by then Managing Director of HCDA. The letter of letter stipulated rent payable quarterly. The lease between the HCDA and KAA was never executed. On 3rd of April, 2023 the Authority wrote a letter to KAA requesting them to submit a lease agreement for the 5 acre piece of land. KAA has not availed the requested drafted lease agreement for consideration and execution. HCDA has occupied this land where it has constructed headquarters and pack houses.

13	MOMBASA ROAD LR. No.209/12490	The Property was subject of a court case ELC NO. 516 OF 2018 (Formerly High Court Civil Suit No 1205 of 2005) HCDA-VS-Sakir Properties Limited & 2 Others. The Judgment was delivered on 17th December 2020 in favor of the Authority and the land was reverted to the Authority, but vide a Ruling dated 10th February 2022, the Court set aside the Judgment that granted AFA ownership of the land. The Authority has appealed against the judgement. The matter is coming up in court for compliance on 28th May 2025. HCDA was allotted by the commissioner of lands an un-surveyed piece of land LR. No.209/12490 opposite Yana Tyres along Mombasa RD Nairobi measuring 3.5Ha. for a lease term of 99 years effective 1st February 1987. On or about 2005, HCDA got information that M/S Sakir had been allotted the same land and a tittle deed issued. M/S Sakir claims that they got allocated the property after HCDA surrendered the land back to the government. HCDA maintained that it did not surrender the land back and therefore a legal suit ensured through the then Gachiri Kariuki & Kiai Advocates. M/S Sakir have developed the property by building 28 go-downs.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.3 Exclusion of Property, Plant and Equipment

931. The Committee heard that, as reported in previous years, the property, plant and equipment balance exclude the value of various assets as explained below:

i. Ten (10) acres of land situated in Wundanyi, Taita-Taveta County;

ii. Land of undetermined acreage situated in Kitui valued at Kshs.36,600,000 allocated to the defunct Horticultural Crops Development Authority;

iii. Land of undetermined acreage valued at Kshs.4,000,000 allocated to the defunct Cotton Board of Kenya;

iv. Seven (7) acres of land in Mtwapa that was allocated to the defunct Kenya Coconut Development Authority by the defunct Kenya Agricultural Research Institute (KARI). In addition, the ownership had not been transferred by the KARI to the Authority by the time it ceased to exist upon the commencement of the Crops Act, 2013.

v. The property in Riverside Estate where the defunct Cotton Development Authority's head office was located.

Management response

932. The management informed the Committee that–The Wundanyi land is valued at Kshs. 36,600,000.

933. The Authority has not acquired any document of ownership to merit a claim on the two parcels of land to merit inclusions in the fixed asset register. The Authority is still pursuing letters of allotment and once this is acquired the same will be included in the assets register.

KOMM Advocate report to the Authority dated 21st February 2025 advised as follows:

i. **Wundanyi** -The Part Development Plan (PDP) needs to be updated to capture contours, shows adjacent parcels, indicate the use of the adjacent parcels land preparation of shape files for the updated PDP which would require placing of advertisements in 2 local dailies (in English and Kiswahili), public participation, preparation of the allotment letter and lease and PDP approval

ii. **Kitui** - This land is valued at Kshs. 4,000,000 relates to the defunct Cotton Board of Kenya. There is a draft PDP that is pending approval, this requires to be updated through advertisement in the newspapers.

934. The land in question had been reserved for the defunct Kenya Agricultural Research Institute (KARI). The defunct Kenya Coconut Development Authority applied for the parcel of land from KARI through the Ministry of Agriculture for the purpose of constructing a Headquarters at Mtwapa. Kenya Agricultural Research Institute vide their letter REF. KARI/4/023C/VOL.XIV dated 2nd July 2012 informed the defunct Authority that the Board of Directors had resolved in their 98th meeting to allocate 7 Acres of land to KCDA. However, the defunct KARI now KALRO have not acquired title documents to enable transfer of the same to the Authority due to an ongoing court case. The land is also invaded by squatters as per the restraining order of the environment and land court, Mombasa ELC petition no 29 of 2019. The value of the parcel can therefore not be included in the books of the Authority.The case has since been concluded and the Authority is in possession of ownership document.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for the financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.4 Failure to Revalue Fully Depreciated Assets

935. The Committee observed that, the statement of financial position and as disclosed in Note 24 to the financial statements reflects historical cost of property, plant and equipment of Kshs.13,151,476.000. Review of the assets register revealed that assets with a historical cost of Kshs. 1,434,254,000 that were fully depreciated were still in use by the Authority. No explanation from Management has been given for failure to revalue the assets to reflect their fair values.

Management response

936. The management informed the Committee that, the policy of AFA is to carry out revaluation for its assets after every 5 years as per clause 5.13.2 of the AFA Asset Management Policy 2017.

937. The Authority revalued and adjusted its assets in the financial year 2017/2018, the next revaluation is budgeted in the financial year 2024/2025. The revaluation exercise is currently being done.

Committee Observations and Recommendations

The Committee deliberated on the issue of Failure to Revalue Fully Depreciated Assets in its report for the financial year 2020/2021, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.5 Logbooks in the Name of Defunct Institutions and Board

938. The Committee heard that, the Property, plant and equipment balance includes an amount of Kshs. 89,870,000 relating to motor vehicles. Review of related records held by the Authority revealed that on commencement of the Crops Act, 2013 on 1st August, 2014, the former regulatory institutions in the Agriculture Sector were merged into Directorates under the Authority. As reported in the previous year, the ownership documents of seventeen (17) motor vehicles are still registered in the defunct institutions' names. Evidence of Management effort to register the vehicles in the Authority's name was not provided.

939. In the circumstances, the accuracy and completeness of property, plant & equipment of net book balance of Kshs. 11,308,026,000 could not be confirmed

Management response

940. The management informed the Committee that, at the time of the audit seventeen (17) motor vehicles were still registered in the defunct institutions' names.The process was ongoing at the National Transport and Safety Authority (NTSA). Before the merger the defunct institutions had their respective Transport Integrated Management System (TIMS) under the management of one transport officer to enable them to access NTSA Portal.After the formation of AFA everything changed because some services were centralized and staff transferred to various Directorates which disoriented some of the functions.

941. AFA wrote to NTSA applying for the transfer of the said logbooks and in their response, they requested us to meet the following requirements for Government Bodies Vehicles:

- Request for change of phone numbers

- Former institutions now Directorates under AFA to appoint somebody who will be in charge of the phone number to enable him/her to access the NTSA Portal.
- The Directors of respective Directorates should swear Affidavit indicating the full names of the person, ID number and KRA PIN number who has been authorized to transact on behalf of the organization and should be authorized by an active Advocate.

942. Another challenge that is slowing down the process is the amendment of the original AFFA to the current AFA since the KRA PIN for the Authority with the term 'FISHERIES' is still appearing whereby the KRA portal does not recognize the amended AFA

943. The Authority has Thirty-Two (32) Vehicles and Ten (10) motorcycles with logbooks under the former boards, i.e., Coffee Board of Kenya, Cotton Development Authority, Horticultural crops development, and sisal board of Kenya.

944. The Authority has so far initiated the transfer of the assets by creating an account on the NTSA PORTAL.Directorates nominated transport officers to carry out all transactions in regards to the transfer of Logbooks and access eCitizen-NTSA PORTAL for the former institutions. Two Directorate's have uploaded the documents successfully i.e NOCD and HCD while three are still under NTSA "verification Process"

945. The status is as follows;

a. HCDA-Created
b. CBK-Waiting for verification
c. KSB-Waiting for verification. This has now to be reversed with effect from 1st January, 2025. KSB has become independent
d. CDA-Waiting for Verification
e. KCDA-Created

946. To follow up with NTSA to finalize creation access by Directorates and finalize on transfers

Committee Observations and Recommendations

The Committee deliberated on the issue of Logbooks in the Name of Defunct Institutions and Boards in its report for the financial year 2019/2020, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.6 Unsupported Fixed Deposit Account Balances

947. The Committee heard that, the statement of financial position reflects cash and cash equivalents balance of Kshs.3,197,838,000, and as disclosed in Note 20 to the financial statements. Included in this amount is fixed deposit account balances amounting to Kshs.1,745,819,000. The balance further includes an amount Kshs.8,582,000 held in an escrow account. Management explained that a judgement releasing the money to the creditor was made on 8 November, 2017. It is not clear

why the amount is still reflected in the Authority's books. In addition, the balance was not supported with a bank statement or certificate of bank balance.

948. Further, the balance also includes Kshs. 52,237,000 held at Euro Bank, which was placed under receivership. Payments are pegged on availability of funds thus the amount is still not accessible to the authority.

949. In the circumstances the accuracy and completeness of cash and cash equivalent balances amounting to Kshs.3,197,838,000 could not be confirmed.

Management response

950. The management informed the Committee that the escrow account was created on the directive of the court for a security deposit for the Nairobi HCCC 559 OF 2005. The case was concluded vide court ruling CIVIL 26D on 8th November 2017. The court ruling order releasing the money to the judgment creditors; KShs 7,981,797 being the decretal sum and KShs 600,000 being the Auctioneers fees was provided. The adjustment was done on 30th June 2024.

951. On the KShs. 52,237,374 invested in Euro Bank, the Authority wrote to the Liquidator in 2019 following which the Liquidator gave a status report which includes dividends so far paid on the deposit. Further the Liquidator advised that subsequent payment of dividends would be pegged on availability of sufficient funds and the communication of the same shall be through public media.

952. The management has made a full provision for the amount in the books of accounts.

Committee Observations and Recommendations

The Committee deliberated on the issue of escrow account in its report for the financial year 2018/2019, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.7 Prior Year Matters

953. The Committee heard that, several issues were raised in the audit report of the previous year. However, Management has not resolved the issues nor given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board template and The National Treasury's Circulars.

Management response

954. Prior year matters are in the process of being resolved

Committee Observations

The Committee observed that–

Unresolved prior year issues were not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting

Standards Board hence the Management did not provide the reasons for the delay in resolving them contrary to Section 68 (2) (l) of the PFM Act CAP 412A that requires accounting Officer to take appropriate measures to resolve any issues arising from audit which may remain outstanding.

Committee Recommendations

The Committee reprimands the then Accounting officer for dereliction of duties and recommends that the Accounting Officer, as a preliminary step, submit a report to the Parliament and the Auditor-General for review, on how it has addressed the recommendation made in respect of this report within three months upon adoption of this report.

1.8 Failure to Operationalize the Cane Testing Units

955. The Committee heard that, the statement of financial performance reflects expenditure on special programmes of Kshs. 673,480,000 which as disclosed in Note 14 to the financial statements includes expenditure on cane testing units of Kshs. 587,430,000. Records provided for audit revealed that the Authority entered into a contract ref AFA/LM/CON/31/202 with a firm in the year 2020, for provision of a comprehensive support and maintenance of eleven (11) Cane Testing Units (CTUs) and upgrade of two (2) pilot Cane Testing Units (CTUs) at Sony sugar Co. Limited and Nzoia Sugar Co. Limited at a total contract sum of Kshs. 1,395,293,094.

956. Physical verification of the works in the beneficiary sugar companies in September, 2023 and review of project records revealed the following anomalies;

i. Despite the units having been installed in the eleven (11) sugar companies, none has operationalized the Quality-Based Cane Payment System (QBCPS) on the cane delivered rather than on tonnage as no single miller has fully adopted the cane testing unit in its operation.

   Although the Management has explained that the Authority developed regulations, The Crops Act, 2013, that will enable operationalization, and that the same has been approved by the Sector Technical Working Group (SWAG) Committee, the operationalization and adoption of the cane testing units by the sugar companies has remained impossible due to the failure to enact these regulations to law.

ii. Though there is a functioning Laboratory Information Management System capable of capturing primary data, the same was not integrated with the weigh bridges sampling point, payment and data collection systems and neither were their card readers to pick the farmers details in their respective factories. The existing millers ERP systems have also not been integrated with these cane testing units.

iii. In west Sugar and Sukari Companies, weighbridges were not aligned to the Cane Testing Units making it difficult to ensure every truck goes through both the cane testing units and the weighbridge,

957. In the circumstances, delay in operationalization of the cane testing units may result to cost overruns units and the weighbridge.

Management response

958. The management informed the Committee that, the project begun with installation of 2 pilot CTUs at Nzoia Sugar Company and South Nyanza Sugar Company with the objective of generating technical information on cane testing that would guide establishment of Quality-Based Cane Payment System.

959. Subsequent to the 2 pilot projects, 9 additional CTUs were installed at 9 sugar mills and commissioned in July 2017. The 2 pilot units were upgraded in 2021 to bring them to the same operational level as the 9 installed later. To support the operationalization, the following have been undertaken:

i. A manual containing Methods and Procedures for management of Cane Testing Services has been developed.
ii. Technical staff have been deployed at the 11 units to calibrate the quality measurement technology.
iii. Data collection and analysis has been ongoing at the eleven CTUs. Cane quality results have been used for calibration to determine the suitability of the model to predict new samples.
iv. Sensitization of stakeholders has been ongoing to enlighten the affected parties on the proposed changes.
v. Draft Crops (Sugar)(Quality-Based Sugarcane Payment System) Regulations, 2023 have been developed. These await public participation prior to gazettement. Once gazetted, the Regulations will guide the operationalization of the CTUs and make it mandatory for all the sugar factories to use Quality-Based Sugarcane Payment System (QBSPS) to pay farmers.
vi. The purpose of the CTUs is to give information on the content of raw sugarcane delivered to the miller including sucrose content and fiber. The information is given to the mills to be incorporated in the calculation of the payments to the farmer. Tabulation of the payments to the farmer can be done either through an ERP or manually (as some mills without an existing ERP are currently paying its own farmers). Thus, the existence or otherwise of an ERP does not jeopardize in any way operations of the CTUs.

Committee Observations and Recommendations

The Committee deliberated on the issue of Failure to Operationalize Cane Testing Units (CTU) in its report for the financial year 2019/2020, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

FINANCIAL YEAR 2023/2024

1.0 Property, Plant and Equipment

960. The statement of financial position as disclosed in Note 25 to the financial statements reflects the net book value of property, plant, and equipment balance of Kshs.11,241,351,000. The following discrepancies were observed: -

1.1. Failure to Revalue Assets

961. The Committee heard that, review of the assets register submitted for audit revealed several items in different classes with a historical acquisition cost of Kshs. 1,415,504,584 that had been depreciated to zero net book value. However, the assets are still in use and the entity is still getting economic value from these assets.

Further, two Cane Testing Units pilot projects with a balance of Kshs.279 095, 735 and upgrade of Sony and Nzoia Cane testing units with a balance of Kshs.442,841,740 were reported as work in progress but they were complete thus understating buildings, plant and equipment and overstating work in Progress.

Management response

962. The management informed the Committee that, the policy of AFA is to carry out revaluation for its assets after every 5 years as per clause 5.13.2 of the AFA Asset Management Policy 2017.

963. The Authority revalued and adjusted its assets in the financial year 2017/2018, the next revaluation is budgeted in the financial year 2024/2025. The revaluation procurement process has commenced.

964. The auditor's observation is correct that the matter of the two CTU's will be addressed in the following year. As at 1st January 2025, the Cane Testing Units assets have been transferred to the Kenya Sugar Boards.

Committee Observations and Recommendations

The Committee deliberated on the issue of Failure to Revalue Fully Depreciated Assets in its report for financial year 2020/2021, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.2. Undocumented Assets in the Cane Testing Units

965. The Committee heard that, the Physical verification Carried out on 12 September 2024 at the Cane Testing Units in Chemill, Muhoroni, Nzoia and Sony sugar companies revealed that although the Cane testing units had been tagged as AFA assets, they have not been included in the entity's asset register.

966. Further, there are no documented standard procedures on how to treat the replaced spare parts and integration them with other items so that they can be included in the entity's disposal plan thus exposing them to theft. In addition, at the time of audit verification in the month of August, 2024 no evidence was provided to prove that the fire extinguishers are regularly being maintained, as a result the safety of the cane testing units are compromised.

Management response

967. The management informed the Committee that the cane testing units have been capitalised in the FY 2022-23 and categorized appropriately in the asset register as per the extract of the asset register.

968. The Authority maintains a CTU Spares Monitoring Register that records replaced parts across various CTUs. All the replaced parts are stored within the various CTUs and the main store located at Nzoia CTU. Standard procedures shall be developed to guide the treatment and integration of replaced parts into the disposal plan within the FY 2024/2025.

Committee Observations and Recommendations

The Committee deliberated on the issue of Failure to Operationalize Cane Testing Units (CTU) in its report for financial year 2019/2020, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.3 Unconfirmed Ownership of Land, Property, Plant and Equipment

969. The Committee heard that the statement of financial position reflects property, plant and equipment net book balance of Kshs. 11,241,351,000 as disclosed in Note 25 to the financial statements.

970. Reviews of records revealed the following anomalies.

i) The balance includes seventeen (17) parcels of freehold land valued at

ii) Kshs. 6,664, ,284, 000 out of which thirteen (13) parcels of land valued at Kshs. 5,170,700,000 had no evidence of ownership vesting with the Authority due to lack of the documents

iii) As previously reported, the balance includes land on which six of the seven depots of the defunct Horticultural Crops Development Authority (HCDA) are located do not have ownership documents. In addition, the depot located in Machakos County was taken over by the County Government of Machakos for office use in the year 2013 and is no longer accessible to the Authority staff and no evidence was provided that the County Government signed a lease agreement with the HCDA.

iv) Included in the property, plant and equipment balance are two parcels of land valued at Kshs. 1,280,000,000 relating to the former Horticultural Crops Development Authority. The parcels include a plot situated along Mombasa Road, measuring 3.5 hectares valued at Kshs. 692,000,000 which was allocated to a private developer despite the Authority having an allotment letter and a parcel of land at the Joma Kenyatta International Airport (JKIA) valued at Kshs. 588,000,000 where the Horticultural Crops Directorate (HCD) is located whose details of ownership was not provided.

Management response

971. The management informed the Committee that, the Authority engaged the services of KOMM advocate to follow up on all the land without title documents. The status report as indicated by the advocate vide his report dated 16th September 2024 is as summarized below;

S/NO	DEPOT	REMARKS

1.	MACHAKOS PDP No. 59/96/23-MACHAKOS	This is a 2 acres piece of land currently occupied by the Machakos County Government. As of 3rd June 2024, the advocate is engaging the County Government of Machakos on accessing the land for survey purposes.
2.	LIMURU LIMURU/BIBIRIONI/1010	This is a 6 acres piece of trust land situated in Limuru, Kiambu County. The Authority is pursuing the Kiambu County Government to release the piece of land to the National Land Commission for issuance of a letter of allotment.
3.	MWEA	This is a 2.5 acres piece of land. The Authority wrote a letter dated 31st March 2023 to the National Irrigation Board agreeing to their proposal to enter into a simple agreement. National Irrigation Board has not acquired the title for the entire land yet. The advocate is pursuing the matter.
4.	KIBWEZI	The Authority has already obtained the title deed for the Kibwezi depot, measuring 2 acres LR No. 27422.
5.	SAGANA	This is a 0.74 Ha. of land. From the report of the Authority's advocate, he is pursuing the preparation of a new Part Development Plan as the old one cannot be traced.
6.	MERU No. ABOTHUGUGUCHI/KARIENE/3165.	This is a 0.43-Ha land located in Kariene in Meru County. The Title Deed was successfully processed and Title issued on 12th August, 2024.
7.	KITHIMANI (YATTA)	This involves 22 plots each measuring 0.03 Ha. for which title deeds have been issued in the name of HCDA on 18th July 2024. The Authority is in the process of transferring them in the name of AFA.
8	WUNDANYI	The Part Development Plan (PDP) needs to be updated to capture contours, shows adjacent parcels, indicate the use of the adjacent parcels land preparation of shape files for the updated PDP which would require placing of advertisements in 2 local dailies (in English and Kiswahili), public participation, preparation of the allotment letter and lease and PDP approval.
9	KITUI	There is a draft PDP that is pending approval, this requires to be updated through advertisement in the news papers.
10	RIVERSIDE	The case has since been concluded and the Authority is in possession of ownership document.

11	ATHI RIVER LR NO.24848	Allotment letter and fees have been confirmed. Lease preparation underway at Ministry of Lands.
12	JKIA	The land was allocated to the defunct HCDA on request from the Ministry and National treasury. A letter of offer dated 15th May, 2000 signed for acceptance by then Managing Director of HCDA. The letter of letter stipulated rent payable quarterly. The lease between the HCDA and KAA was never executed. On 3rd of April, 2023 the Authority wrote a letter to KAA requesting them to submit a lease agreement for the 5 acre piece of land. KAA has not availed the requested drafted lease agreement for consideration and execution. HCDA has occupied this land where it has constructed headquarters and pack houses.
13	MOMBASA ROAD LR. No.209/12490	The Property was subject of a court case ELC NO. 516 OF 2018 (Formerly High Court Civil Suit No 1205 of 2005) HCDA-VS-Sakir Properties Limited & 2 Others. The Judgment was delivered on 17th December 2020 in favor of the Authority and the land was reverted to the Authority, but vide a Ruling dated 10th February 2022, the Court set aside the Judgment that granted AFA ownership of the land. The Authority has appealed against the judgement. The matter is coming up in court for compliance on 28th May 2025. HCDA was allotted by the commissioner of lands an un-surveyed piece of land LR. No.209/12490 opposite Yana Tyres along Mombasa RD Nairobi measuring 3.5Ha. for a lease term of 99 years effective 1st February 1987. On or about 2005, HCDA got information that M/S Sakir had been allotted the same land and a tittle deed issued. M/S Sakir claims that they got allocated the property after HCDA surrendered the land back to the government. HCDA maintained that it did not surrender the land back and therefore a legal suit ensured through the then Gachiri Kariuki & Kiai Advocates. M/S Sakir have developed the property by building 28 go-downs.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.4 Exclusion of Property, Plant and Equipment

972. The Committee heard that, as reported in previous years, the property, plant and equipment balance exclude values of various assets as explained below

i) Ten (10) acres of land situated in Wundanyi, Taita-Taveta

ii) Land of undetermined acreage situated in Kitui valued at Kshs. 36,600,000 allocated to the defunct Horticultural Crops Development Authority

iii) Land of undetermined acreage valued at Kshs. 4,000,000 allocated to the defunct Cotton Board of Kenya.

iv) Seven (7) acres of land in Mtwapa that was allocated to the defunct Kenya Coconut Development Authority by the defunct Kenya Agricultural Research Institute, (KARI). In addition, the ownership had not been transferred by the KARI to the Authority by the time it ceased to exist upon the commencement of the Crops Act, 2013;

v) The property in Riverside Estate where the defunct Cotton Development Authority's head office was located.

Management response

973. The Management informed the Committee that the Wundanyi land is valued at Kshs. 36,600,000.

i. The Authority has not acquired any document of ownership to merit a claim on the two parcels of land to merit inclusions in the fixed asset register. The Authority is still pursuing letters of allotment and once this is acquired the same will be included in the assets register.KOMM Advocate report to the Authority dated 21st February 2025 advised as follows:

Wundanyi - The Part Development Plan (PDP) needs to be updated to capture contours, shows adjacent parcels, indicate the use of the adjacent parcels land preparation of shape files for the updated PDP which would require placing of advertisements in 2 local dailies (in English and Kiswahili), public participation, preparation of the allotment letter and lease and PDP approval.

ii. **Kitui-** This land is valued at Kshs. 4,000,000 relates to the defunct Cotton Board of Kenya.

There is a draft PDP that is pending approval, this requires to be updated through advertisement in the newspapers.

iii. This refers to the Kitui land valued at Kshs. 4,000,000 and addressed under 1.4 ii above

iv. The land in question had been reserved for the defunct Kenya Agricultural Research Institute (KARI). The defunct Kenya Coconut Development Authority applied for the

parcel of land from KARI through the Ministry of Agriculture for the purpose of constructing a Headquarters at Mtwapa. Kenya Agricultural Research Institute vide their letter REF. KARI/4/023C/VOL.XIV

dated 2nd July 2012 informed the defunct Authority that the Board of Directors had resolved in their 98th meeting to allocate 7 Acres of land to KCDA. However, the defunct KARI now KALRO have not acquired title documents to enable transfer of the same to the Authority due to an ongoing court case. The land is also invaded by squatters as per the restraining order of the environment and land court, Mombasa ELC petition no 29 of 2019. The value of the parcel can therefore not be included in the books of the Authority

v. The case has since been concluded and the Authority is in possession of ownership documents.

Committee Observations and Recommendations

The Committee deliberated on the issue of Ownership of Property, Plant and Equipment in its report for financial year 2014/2015, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

1.5 Failure to Transfer Logbooks in the Name of the Defunct Boards

974. The Committee heard that, the property, plant and equipment balance include a balance of Kshs. 168,200,000 relating to motor vehicles. Review of related records held by the Authority revealed that on commencement of the Crops Act, 2013 on 1st August, 2014, the former Regulatory Institutions in the Agriculture Sector were merged into Directorates under the Authority. As reported in the previous year, the ownership documents of seventeen (17) motor vehicles are still registered in the defunct institutions' names. Evidence of Management effort to register the vehicles in the Authority's name not provided. circumstances, the accuracy and completeness of property, plant and equipment of net book balance of Kshs. 11,241,351,000 could not be confirmed. In circumstances the accuracy, ownership and completeness of property, plant, and equipment of balance of Kshs. 11,241,351,000 could not be confirmed. In circumstances the accuracy, ownership and completeness of property, plant and equipment of balance of Ksh. 11,241,351,000 could not be confirmed.

Management response

975. The management informed the Committee that, observation of the auditor. At the time of the audit seventeen (17) motor vehicles were still registered in the defunct institutions' names.

976. The process was ongoing at the National Transport and Safety Authority (NTSA). Before the merger the defunct institutions had their respective Transport Integrated Management System (TIMS) under the management of one transport officer to enable them to access NTSA Portal.

977. After the formation of AFA everything changed because some services were centralized and staff transferred to various Directorates which disoriented some of the functions.

978. We wrote to NTSA applying for the transfer of the said logbooks and in their response they requested us to meet the following requirements for Government Bodies Vehicles:

- Request for change of phone numbers
- Former institutions now Directorates under AFA to appoint somebody who will be in charge of the phone number to enable him/her to access the NTSA Portal.
- The Directors of respective Directorates should swear Affidavit indicating the full names of the person, ID number and KRA PIN number who has been authorized to transact on behalf of the organization, and should be authorized by an active Advocate.

979. Another challenge that is slowing down the process is the amendment of the original AFFA to the current AFA since the KRA PIN for the Authority with the term 'FISHERIES' is still appearing whereby the KRA portal does not recognize the amended AFA.

980. The Authority has Thirty-Two (32) Vehicles and Ten (10) motorcycles with logbooks under the former boards, i.e. Coffee Board of Kenya, Cotton Development Authority, Horticultural crops development, and sisal board of Kenya.

981. The Authority has so far initiated the transfer of the assets by creating an account on the NTSA PORTAL.

982. Directorates nominated transport officers to carry out all transactions in regard to the transfer of Logbooks and access eCitizen-NTSA PORTAL for the former institutions.

983. Two Directorate's have uploaded the documents successfully i.e Nuts and Oil Crops Directorate and Horticultural Crops Directorate while three are still under NTSA "verification Process"

i) The status of the process for the defunct institutions is as follows.

ii) Horticultural Crops Development Authority-Created

iii) Coffee Board of Kenya- Waiting for verification

iv) Kenya Sugar Board-Waiting for verification. This has now to be reversed with effect from 1st January, 2025. Kenya Sugar Board has become independent.

v) Cotton Development Authority-Waiting for Verification

vi) Kenya Coconut Development Authority-Created

To follow up with NTSA to finalize creation access by Directorates and finalize on transfers

Committee Observations and Recommendations

The Committee deliberated on the issue of Logbooks in the Name of Defunct Institutions and Boards in its report for financial year 2019/2020, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

2.0 Variance between Revenue from Exchange Transactions and Amount reflected on E-Citizen Platform

984. The Committee heard that, the statement of financial performance reflects revenue from non-exchange transactions amount of Kshs. 5,506,831,000. Included in this amount were levies, fines and penalties and licences and permits of Kshs. 2,805,022,000 and Kshs. 141,473,000 all totaling Kshs. 2,946,495,000. However, records from the E-Citizen platform indicate an amount of Kshs. 2,370,423,691 out of which Kshs. 2,326,450,698 was transferred back to the Agriculture and Food Authority thus resulting to an amount of Kshs. 62,784,313 not transferred from the National Treasury. Further, it could not be confirmed why the balance was not transferred to Agriculture and Food Authority during the financial year under review and when these funds would be made available to the Authority.

985. In circumstances, the accuracy and completeness of revenue from exchange transactions amount of Kshs. 5,506,831,000 could not be confirmed.

Management response

986. The management informed the Committee that, a letter to the Principal Secretary National Treasury requesting for the release of the amount of Kshs 62,784,313 has been sent

Committee Observations

The Committee observed that–

i) The Committee observed a significant variance between the levies, fines and penalties, and licences and permits revenue totaling Kshs. 2,946,495,000 as reported in the financial statements and the Kshs. 2,370,423,691 reflected on the E-Citizen platform. Further, of the Kshs. 2,370,423,691 collected through the E-Citizen system, only Kshs. 2,326,450,698 was transferred to the Agriculture and Food Authority (AFA), leaving an unexplained balance of Kshs. 62,784,313 that was not remitted by the National Treasury during the year under review. Consequently, the accuracy and completeness of the reported revenue from exchange transactions was misstated.

ii) The Committee further noted that the only action taken by Management of the Authority was the issuance of a request letter to the Principal Secretary, National Treasury, seeking release of the outstanding Kshs. 62,784,313. However, no evidence was provided to demonstrate any response, follow-up action, or commitment from the National Treasury.

Committee Recommendations

The Committee recommends that–

i) Within three months of the adoption of this report, the Accounting Officer undertakes a comprehensive reconciliation of all revenues collected through the E-Citizen platform since its inception against the amounts recorded in the Authority's financial statements. This reconciliation should be jointly undertaken by the AFA Finance Department, the E-Citizen platform administrators, and the National Treasury. The resultant reconciliation

documentation should be submitted to the National Assembly and to the Auditor-General for review within the stated timeframe.

ii) Within three months of the adoption of this report, the Accounting Officer develops, documents, and submits to the National Assembly and to the Auditor-General a detailed framework of measures instituted to strengthen revenue reporting and monitoring controls. These measures should include, but not be limited to; Monthly revenue reconciliation procedures; Automated integration between AFA systems and the E-Citizen platform; and Exception reporting for unremitted amounts. These controls should aim at enhancing accuracy, improving transparency, and preventing recurrence of discrepancies.

3.0 Unsupported Payment of Farmers Arrears Disbursements

987. The statement of financial performance as disclosed in Note 13 to the financial statements reflects the disbursement of Kshs. 1,464,472,000. However, the following anomalies were noted.

i. **Chemilil Sugar Company**- The Committee heard that, included in the disbursements is an amount of Kshs. 183,103,000 was disbursed to Chemilil Sugar for offsetting the farmers arrears. Review of the disbursement schedule revealed that an amount of Kshs. 140,937,757 was paid through various Savings and Credit Cooperative Societies (SACCOs) and other institutions. However, the entity did not provide any documents to show that the money was eventually received by individual farmers as per the schedule which had been approved by the National Treasury. An enquiry from the Management of the sugar company revealed that the entity does not have any follow up mechanisms to confirm whether each farmer gets their dues as disbursed including the beneficiaries of those who might be deceased between the time of preparing the list and disbursement of funds.

Management response

988. The management informed the Committee that, the Authority sought confirmation of the payments to individual farmers from Chemelil Sugar Company who have since responded vide their letter ref. CSCL/ADM/MD/MOA/029 dated 30th October 2024. In the letter, the company has indicated that they do have contracts with SACCOs /societies and outgrower institutions therefore has an obligation to them and not individual farmers. They have obtained confirmations from sampled institutions as per provided documents.

Committee Observations

The Committee observed that–

i) A total of Kshs. 183,103,000 was disbursed to Chemilil Sugar Company for the settlement of farmers' arrears; however, only Kshs. 140,937,757 was disbursed through various Savings and Credit Cooperative Societies (SACCOs) and other intermediary institutions. Despite these transfers, no documentary evidence was availed to confirm that the funds were ultimately received by the intended individual farmers as per the National

Treasury-approved payment schedule. This gap significantly impairs the traceability, authenticity, and accountability of the disbursed funds.

ii) The Committee further noted that the Authority lacks an adequate follow-up mechanism to verify whether each farmer actually received the correct dues, including cases where farmers need to be tracked from the approved beneficiary list through to the final disbursement. The absence of robust verification controls exposes the entire disbursement process to heightened risks of misallocation, non-payment, diversion of funds, and potential loss of public resources.

Committee Recommendations
The Committee recommends that–

i) Within three months of the adoption of this report, the Accounting Officer (AFA) undertakes a comprehensive beneficiary verification exercise to confirm receipt of funds by every individual farmer as approved. A detailed report, supported by complete documentation—including verified payment records, acknowledgements, bank confirmations, or any other admissible evidence of receipt—shall be submitted to the National Assembly and thereafter to the Auditor-General.

ii) Within three months of the adoption of this report, the Accounting Officer (AFA) develops and submits a documented strategy establishing a mandatory verification and audit-trail protocol for all future disbursements made through intermediary institutions. The strategy should incorporate an end-to-end tracking mechanism from disbursement to final receipt by individual farmers; Verification procedures for deceased beneficiaries; and Periodic reconciliation and reporting obligations for all contracted SACCOs, societies, and outgrower institutions to strengthen oversight and prevent misuse of funds.

iii) Within three months of the adoption of this report, the Accounting Officer (AFA), in collaboration with the Ministry responsible for Agriculture and the National Treasury, develops a standardised payment and verification framework for all Government-funded farmers' arrears programmes. The framework should ensure uniformity, safeguard public resources, strengthen internal controls, and enhance accountability across all sugar millers and related institutions.

ii. **Muhoroni Sugar Company** - The Committee heard that, the amount further includes Kshs. 251,335,000 disbursed to Mumias Sugar Company for offsetting the farmers arrears. The funds were disbursed to various Savings and Credit Cooperative Societies (SACCOs), Farmer Cooperatives and Banks. However, it was not possible to confirm receipt of Kshs. 13,528,212 as the entity did not provide any remittance documents from the SACCOs and the Cooperative societies to confirm that the farmers had received the monies.

Management response

989. The management informed the Committee that, the Authority sought confirmation of the payments to individual farmers from Muhoroni Sugar Company and received a response vide letter ref.

FC/BANK/02/10/2024 dated 28th October 2024. Likewise, the company do have contracts with SACCOs /societies and outgrower institutions therefore has an obligation to them and not individual farmers. The Company obtained confirmations of payments to individual farmers from sampled institutions.

Committee Observations

The Committee observed that– it was not possible to confirm the receipt of Kshs. 13,528,212 by the intended individual farmers, as Muhoroni Sugar Company did not provide any remittance documents from the relevant SACCOs, cooperatives, or financial institutions to verify that the farmers had actually obtained their payments. This significantly undermines the traceability, transparency, and accountability of these funds and the process exposes the public funds to risks of non-payment, misallocation, or potential diversion of funds intended for farmers' arrears.

Committee Recommendations

The Committee recommends that–

i. Within three months of the adoption of this report, the Accounting Officer (AFA) undertakes a comprehensive beneficiary verification exercise to confirm receipt of funds by every individual farmer as approved. A detailed report, supported by complete documentation—including verified payment records, acknowledgements, bank confirmations, or any other admissible evidence of receipt—shall be submitted to the National Assembly and thereafter to the Auditor-General.

ii. Within three months of the adoption of this report, the Accounting Officer (AFA) develops and submits a documented strategy establishing a mandatory verification and audit-trail protocol for all future disbursements made through intermediary institutions. The strategy should incorporate an end-to-end tracking mechanism from disbursement to final receipt by individual farmers; Verification procedures for deceased beneficiaries; and Periodic reconciliation and reporting obligations for all contracted SACCOs, societies, and outgrower institutions to strengthen oversight and prevent misuse of funds.

iii. Within three months of the adoption of this report, the Accounting Officer (AFA), in collaboration with the Ministry responsible for Agriculture and the National Treasury, develops a standardised payment and verification framework for all Government-funded farmers' arrears programmes. The framework should ensure uniformity, safeguard public resources, strengthen internal controls, and enhance accountability across all sugar millers and related institutions.

iii. **Nzoia Sugar Company-** The Committee heard that, the amount includes Kshs. 213,114,000 which was disbursed to Nzoia Sugar company which further includes an amount of Kshs. 63,114,000 for offsetting the farmers arrears. The money was sent to various SACCOs, Farmer Cooperatives and Banks. However, audit could not confirm receipt of Kshs. 20,433,934 as the entity did not provide any remittance documents from

the Nzoia Sacco Society that the farmers had received the monies. In circumstances, the completeness and regularity of farmers arrears amount Kshs.174,899,903 could not be confirmed.

Management response

990. The management informed the Committee that, confirmation of the payments to individual farmers from Nzoia Sugar SACCO has been received vide letter ref. SCS/2735/01/19/03/09/2024 dated 3rd September 2024 The Nzoia Sugar company has a contract with Nzoia Sugar SACCO to process payments of individual farmers through the SACCO. Confirmation of sample payments to individual farmers by the SACCO.

Committee Observations

The Committee observed that –it was not possible to confirm receipt of Kshs. 20,433,934 by the intended farmers because Nzoia Sacco Society did not provide the requisite remittance documents to demonstrate that the funds had reached the individual beneficiaries. This raises significant concerns regarding the integrity, accountability, and transparency of the disbursement process, particularly where intermediary institutions are responsible for onward transmission of funds to beneficiaries.

Committee Recommendations

The Committee recommends that–

i) Within three months of the adoption of this report, the Accounting Officer (AFA) undertakes a comprehensive beneficiary verification exercise to confirm receipt of funds by every individual farmer as approved. A detailed report, supported by complete documentation—including verified payment records, acknowledgements, bank confirmations, or any other admissible evidence of receipt shall be submitted to the National Assembly and thereafter to the Auditor-General.

ii) Within three months of the adoption of this report, the Accounting Officer (AFA) develops and submits a documented strategy establishing a mandatory verification and audit-trail protocol for all future disbursements made through intermediary institutions. The strategy should incorporate an end-to-end tracking mechanism from disbursement to final receipt by individual farmers; Verification procedures for deceased beneficiaries; and Periodic reconciliation and reporting obligations for all contracted SACCOs, societies, and outgrower institutions to strengthen oversight and prevent misuse of funds.

iii) Within three months of the adoption of this report, the Accounting Officer (AFA), in collaboration with the Ministry responsible for Agriculture and the National Treasury, develops a standardised payment and verification framework for all Government-funded farmers' arrears programmes. The framework should ensure uniformity, safeguard public resources, strengthen internal controls, and enhance accountability across all sugar millers and related institutions.

4.0 Payment of Salary Arrears at Nzoia Sugar Company Limited

991. The Committee heard that, the statement of financial performance as disclosed in Note 13 to the financial statements which further includes of Kshs. 1,464,472,000 reflects disbursement balance Kshs.213,114,000 which was disbursed to Nzoia Sugar company which further includes disbursed an amount of Kshs.150,000,000 for offsetting salary arrears for the period to February, March and April 2023. The figure comprises of Kshs,111,608,429 for Permanent staff, Kshs.17,330,600 for retirees and Kshs.21,060,971 paid to casuals. However, the payment schedule prepared by the Sugar Company and used by AFA for payment indicated that different staff members had duplicate account numbers. Included in the above figures are staff and casuals who may have irregularly been paid double as shown below;

Beneficiaries	**Amount(Kshs.)**
Retirees	5,108,552
Casual arrears	20,985,168
Permanent	17,347,456
Totals	**43,441,176**

In circumstances, the accuracy and regularity of salary arrears amount of Kshs.43,441,176 could not be confirmed.

Management response

992. The management informed the Committee that, the payments of salary arrears by Nzoia Sugar included remittances through Nzoia Sugar SACCO bank Account No. 01120050002700 at Cooperative Bank. All the payments to individual employees were therefore made into this account and subsequently allocated to their respective SACCO accounts within the SACCO.

Committee Observations

The Committee observed that –Kshs. 150,000,000 allocated for the settlement of salary arrears for the months of February, March, and April 2023. However, several staff members were listed with duplicate bank account numbers implying that certain employees, particularly retirees and casual workers, may have irregularly been paid twice.

Committee Recommendations

The Committee recommends that–

Within three months of the adoption of this report, the EACC undertakes an investigation on the payments of salary arrears made to Nzoia Sugar Company employees with a view to establish if

any of the individuals received duplicate or irregular payments and confirm the legitimacy of all amounts paid. Should any officer be found culpable of overpayment, duplicate payment, or irregular disbursement he/she should be subject to recovery action, in line with the Public Finance Management Act and the amounts so involved be subjected to interest at the CBK prevailing rates.

5.0 Unsupported Non-Current Employee Benefit Obligations

993. The Committee heard that, the statements of financial position and as disclosed in Note 32 to the financial statements reflects a non-current employee benefit obligation of Kshs. 1,257,386,000 which is in respect to salaries harmonization arrears. Although the Management explained that the money could not be paid as the entity was still consulting with the Salaries and Remuneration Commission (SRC). The amount was not supported with relevant documentation including approved structure that was used to come up with the amounts in the arrears schedules, interim management committee merger report on employee remunerations after merger, whether there was a committee that was appointed to deliberate and make recommendations on staff arrears after merger and the minutes of such committee and appointment of committee , current employment status of the affected employees and other details of whether all the employees are still in the organization or if some had left the organization due to natural attrition factors including those who left for the now independent Tea Board of Kenya. Further, the management could not explain why they had to provide for such a huge amount without finalizing on the consultation with the SRC.

994. In circumstances, the accuracy, completeness and regularity of the provision of Kshs.1,257,386,000 could not be confirmed.

Management response

995. The management informed the Committee that, the Authority initiated the process of harmonization of terms and conditions of service for staff following operationalization of AFA on 1st August 2014, with all the former Boards and Authority's having different approved salary structures, which were applicable prior to establishment of AFA. Due to the merger, staff continued to be remunerated on different salary structures, even where the job grades were the same. The Authority, in a bid to address the discriminatory practice, initiated the process of harmonization of terms, and sought approval from the Salaries and Remuneration Commission to pay staff arrears backdated to 1st August 2014.

996. The SRC, however, approved the implementation of the job evaluation report 2016 and advised the Authority to effect from 1st July 2020 (Copy of SRC Approval of 19th August 2020)

997. The schedule of arrears are based on the staff who were in post at the commencement of AFA, and has factored in the duration served by all officers up to their exit from employment, within the period 1st August 2014 to 30th June 2020, in view of the approval by SRC effective from 1st July 2020. The exercise was undertaken by the Human Resource and Finance Department staff, as such there was no committee.

998. The Authority has appealed the decision and is consulting with the SRC with a view to have the matter resolved.

999. Since the Authority uses accrual basis of accounting, the provision for the amount is in line with provisions of the IPSAS 19 on provisions, contingent liabilities nd contingent assets. Provision of the amount is part of the requirements for consideration for approval by SRC, which demands confirmation of budgetary provision, before considering a request.

Committee Observations

The Committee observed that–

i) An amount of Kshs. 1,257,386,000 was disclosed as non-current employee benefit obligation of relating to salary harmonization arrears but did not have any verifiable or auditable documentation. However, the arrears could not be paid pending consultations with the Salaries and Remuneration Commission (SRC).

ii) The Management did not justify why such a substantial provision was recorded in the financial statements prior to finalizing consultations with the SRC, especially given that approval was still pending. This raises concerns regarding compliance with applicable legal, regulatory and financial reporting frameworks and internal control processes.

Committee Recommendations

The Committee recommends that–

Within three months of the adoption of this report, the Accounting Officer (AFA) should fast track the approval of Human Resource instruments and seek written SRC approval, for a harmonized and transparent staff remuneration framework for all employees that would ensure consistency, eliminate disparities arising from legacy salary structures, and prevent accumulation of unverifiable arrears. The approved documents should be submitted to the National Assembly and thereafter to the Auditor-General for review.

1.0 Unresolved Prior Year Matters

1000. The Committee heard that, several issues were raised in the audit report of the previous year. However, management has not resolved the issues nor given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circulars.

Management response

1001. The management informed the Committee that, prior year matters are in the process of being resolved.

Committee Observations

The Committee observed that –unresolved prior year issues were not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board hence the Management did not provide the reasons for

the delay in resolving them contrary to Section 68 (2) (l) of the PFM Act CAP 412A that requires accounting Officer to take appropriate measures to resolve any issues arising from audit which may remain outstanding.

Committee Recommendations

The Committee reprimands the then Accounting officer for dereliction of duties and recommends that the Accounting Officer, as a preliminary step, submit a report to the Parliament and the Auditor-General for review, on how it has addressed the recommendation made in respect of this report within three months upon adoption of this report.

1.0 Irregular Investment in Fixed Deposit Account

1002. The Committee heard that, the statement of financial position reflects finance income amount of Kshs.221,265,000 and as disclosed in Note 10. Analysis of the internally generated revenue sources for the entity revealed that the entity had an investment in fixed deposit account held at the National Bank of Kenya. This was contrary to the National Treasury circular No. DGIPE/A/1/10 of 27 November 2018 states that no state corporation should invest their surplus funds in any financial institution/bank without prior approval of the National Treasury and Planning, other than where the investment is in Treasury bills /bonds.

1003. In circumstances, the Authority is in contravention of the Treasury Circular No DGIPE/A/1/10 of 27 November, 2018 which prohibited the investment in financial institutions/banks.

Management response

1004. The management informed the Committee that, these were not surplus funds rather funds budgeted for operational costs which are payable as they occur. Management found it prudent to put it in short term and call deposits instead of leaving the funds in current accounts. Also during the financial year AFA did not have a Board of Directors and therefore could not open a CDS account to enable placement of funds in in Treasury Bills and Bonds. With the Board in place the Authority is in the process of opening a CDS account with the Central Bank to enable it to invest in treasury bills and bonds.

Committee Observations and Recommendations

The Committee deliberated on the issue of Investments in Fixed Deposits in its report for financial year 2020/2021, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

2.0 Long Outstanding Payables

1005. The Committee heard that, the statement of financial position and as disclosed in Note 28 to the financial statement reflects current liabilities balance of Kshs.562,693,000. Review of the supporting ledger revealed that payables amounting to Kshs.145,824,795 have been long

outstanding for over 2 years In the circumstances, the ability of the Authority to meet its obligations when they fall due is doubtful.

Management response

1006. The long outstanding payables is explained below:-

Payee/Name	Amount (KShs)	Response
Kenya Airports Authority (KAA)	66,346,219.48	This relates to outstanding land rent for the HCD HQ offices. The Authority has been negotiating for new terms of the lease with KAA which so far has not been finalized.
Lubulellah and Associates Company	609,000.00	This relates to provision of legal case The books were adjusted accordingly after confirmation that the case has been concluded.
Kibungei and Company Advocate	854,734.00	This relates to provision of legal case The books were adjusted accordingly after confirmation that the case has been concluded.
Munyao, Muthama and Kshsindi Advocate	2,436,000.00	This relates to provision of legal case The books were adjusted accordingly after confirmation that the case has been concluded.
VAS Consultant	1,722,840.00	This was owed to a consultant whose contract was terminated. Since there was no obligation to pay the provision was reversed.
Controller and Auditor General - SUGAR	24,967,000	This relates to provisions for audit fees made by the defunct Kenya Sugar Board. Provisions for external audit fee from the directorates was consolidated and paid by the headquarters on 27th February 2024
Long Outstanding Payables	48,889,001.63	These relate to accounting and bookkeeping errors at the directorates and therefore not payable. This will be adjusted to correct the errors.
TOTAL	**145,824,795.11**	

Committee Observations

The Committee observed that –the payables totaling Kshs. 145,824,795 had remained outstanding for over two years, without settlement, resolution, or adequate justification. However, a significant portion of these payables relate to long-outstanding obligations, some dating back several reporting

periods, including items arising from land rent disputes, unresolved legal provisions, consultancy contract terminations, historical audit fee provisions, and lingering accounting and bookkeeping errors at former directorates.

Committee Recommendations

The Committee recommends that–

i) Within three months of adoption of this report, the Accounting Officer (AFA) undertakes a comprehensive review and cleanup of all long-outstanding payables ensuring that each payable is Verified for legitimacy, supported by appropriate documentation and settled, reversed, or formally written off in accordance with the Public Finance Management (PFM) Act CAP 412A and other applicable accounting standards. A consolidated report detailing the status, justification, and action taken for each payable should be submitted to the National Assembly and to the Auditor-General for review within the stated period.

ii) Within three months of adoption of this report, the Accounting Officer (AFA) develops and submits a robust accounts payable management policy to the National Assembly and to the Auditor-General for review, outlining; Mandatory aging analysis and quarterly review of payables, Timelines for settlement or escalation of outstanding obligations, Procedures for validation and approval of legal, land rent, consultancy, and audit-related payables, Controls to prevent the accumulation of unsupported liabilities.

3.0 Long Outstanding Receivables from Non - Exchange Transactions

1007. The Committee heard that, the statement of financial position and as disclosed in Note 24 to the financial statements reflect an amount of KShs.119,663,000 in respect of receivables from non-exchange transactions. However, review of aging analysis revealed that debts amounting to Kshs.1,966,664 have been long outstanding for a period of more than two years In the circumstances, recoverability of receivables from exchange transactions balance of Kshs.119,663,000 could not be confirmed

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Management response

1008. The management informed the Committee that, this related to medical assistance that was accorded to two officers who were undergoing treatment but had exhausted their annual inpatient allocation. The Officers, Mr. Raymond Kahindi was assisted with Ksh.3,031,830 while Mr. Peter Munyiri was assisted to the tune of Ksh.984,497.91. The Authority has been recovering the amounts on a monthly basis from the officers pay. The balance as at April 2025 is Ksh.617,497 composed of Ksh.150,000 and Ksh.467,497 for Mr. Kahindi and Mr. Munyiri, respectively.The advances are being recovered on a monthly basis from the payroll.

Committee Observations

The Committee observed that–

The debts totaling KShs. 1,966,664 had remained outstanding for more than two years, without adequate justification or evidence of recoverability. The persistence of long-outstanding receivables, particularly those relating to employee-related medical advances, raises serious questions regarding the Authority's; Credit management practices, Monitoring and follow-up mechanisms, Adherence to financial reporting standards, and Ability to accurately determine recoverable receivables.

Committee Recommendations

The Committee recommends that–

Within three months of adoption of this report, the Accounting Officer (AFA) develops and implements a Board approved formal receivables management policy detailing; Timelines for follow-up and escalation of outstanding amounts, Mandatory aging analysis reviews, Processes for verifying recoverability of employee-related advances and Guidelines for writing off irrecoverable receivables, in accordance with the Public Finance Management Act CAP 412A. The documented policy should be submitted to the National Assembly and to the Auditor-General for review

4.0 Dormant Bank Accounts

1009. The Committee heard that, the statement of financial position and as disclosed in Note 21 to the financial statements reflects cash and cash equivalents balance of Kshs.3,095,712,000 which includes money held in various bank accounts of the entity. Review of the available records including the cashbooks, bank statements and reconciliation statements revealed that three bank accounts with a total balance of Kshs.13,117,000 did not have any transactions during the year under review.

1010. Further, the entity maintained a total of twenty-eight (28) bank accounts held in various commercial banks and it was not clear the purpose of all those accounts. This may lead to inefficient management of the accounts, increased administrative costs and complexity in monitoring of the operations of the accounts In circumstances, the efficiency of managing these accounts could not be confirmed.

Management response

1011. The management informed the Committee that–

i) Fibre Directorate - KCB Bank Account 1135213151 - The account at Kenya Commercial Bank was opened for operation of donor funded fund (Cotton classing systems) which ceased its operations. The account has been activated for operations by Miraa, Pyrethrum and Other Industrial Crops Directorate.

ii) Coffee Directorate - Bank Account 300027008 -The Citibank bank account was being used to pay staff salaries for the former Coffee Board of Kenya before the payroll was merged at AFA Headquarters. During the financial year 2023/2024, the Authority was in the process of utilizing the bank account as a revenues collection account but then the Government directive came in directing that all revenues to be channeled through e-citizen platform. The Authority will initiate the process of closing the account.

iii) Sugar Development Levy collection account-Bank Account 01001033092200 .This account will be operational for Sugar Levy collections following the enactment of the Sugar Act 2024

Committee Observations

The Committee observed that–

i) Three bank accounts with a combined balance of Kshs. 13,117,000 had no transactions during the year under review, indicating that these accounts were dormant.

ii) The Authority maintained twenty-eight (28) bank accounts spread across various commercial banks. However, the Authority did not provide a clear rationale or documented justification for maintaining such a high number of bank accounts which may lead to inefficient financial management, increased administrative and banking costs, elevated reconciliation workload, and weak monitoring and oversight over cash resources.

Committee Recommendations

The Committee recommends that–

Within three months of the adoption of this report, the Accounting Officer (AFA) undertakes a comprehensive review and rationalization of all bank accounts maintained by the Authority to identify all dormant, redundant, or inactive accounts, the continued necessity of each account and closure of all accounts deemed non-essential or without justifiable operational purpose. A detailed report outlining the decisions taken and supported by documentary evidence should be submitted to the National Assembly and to the Auditor-General within the timeframe.

5.0 Failure to Operationalize the Cane Testing Unit

1012. The Committee heard that, the statement of financial performance reflects expenditure on special programmes of Kshs.540,278,000 which as disclosed in Note 14 to the financial statements includes expenditure on cane testing units of Kshs,434,643,000. Records provided for audit revealed that the Authority entered into a contract ref AFA/LMCON/31/2020 with a firm in the year 2020, for provision of a comprehensive support and maintenance of eleven (11) Cane Testing Units (CTUs) and upgrade of two (2) pilot Cane Testing Units (CTUs) at Sony Sugar Co. Limited and Nzoia Sugar Co. Limited at a total contract sum of Kshs. 1,395,293,094

Physical verification of the works in the beneficiary sugar companies in September, 2023 and review of project records revealed the following anomalies;

i. Despite the units having been installed in the eleven (11) sugar companies, none has operationalized the Quality-Based Cane Payment System (QBCPS) on the cane delivered rather than on tonnage as no single miller has fully adopted the cane testing unit in its operation Although the Management has explained that the Authority developed regulations The Crops Act 2013, that will enable operationalization, and that the same has been approved by the Sector Technical Working Group (SWAG) committee, the operationalization and adoption of the cane testing units by the sugar companies has still remained impossible due to failure to enact these regulations to law.

ii. Though there is a functioning Laboratory Information Management System capable of capturing primary data, the same was not integrated with the weighbridges, sampling point, payment and data collection systems and neither were there card readers to pick the farmers details in their respective factories. The existing millers' ERP systems have also not been integrated with the cane testing units.
iii. In West Sugar and Sukari Sugar Companies, weighbridges were not aligned to the Cane Testing Units making it difficult to ensure every truck goes through both the cane testing units and the weighbridge.
iv. In the circumstances, the delay in operationalization of the cane testing units may result to cost overruns and intended objective of the project may not be achieved.

Management response

1013. The management informed the Committee that, project begun with installation of 2 pilot CTUs at Nzoia Sugar Company and South Nyanza Sugar Company with the objective of generating technical information on cane testing that would guide establishment of Quality-Based Cane Payment System.

1014. Subsequent to the 2 pilot projects, 9 additional CTUs were installed at 9 sugar mills and commissioned in July 2017. The 2 pilot units were upgraded in 2021 to bring them to the same operational level as the 9 installed later.

1015. To support the operationalization, the following have been undertaken:

i. A manual containing Methods and Procedures for management of Cane Testing Services has been developed.
ii. Technical staff have been deployed at the 11 units to calibrate the quality measurement technology.
iii. Data collection and analysis has been ongoing at the eleven CTUs. Cane quality results have been used for calibration to determine the suitability of the model to predict new samples.
iv. Sensitization of stakeholders has been ongoing to enlighten the affected parties on the proposed changes.
v. Draft Crops (Sugar)(Quality-Based Sugarcane Payment System) Regulations, 2023 have been developed. These await public participation prior to gazettement. Once gazetted, the Regulations will guide the operationalization of the CTUs and make it mandatory for all the sugar factories to use Quality-Based Sugarcane Payment System (QBSPS) to pay farmers.
vi. The purpose of the CTUs is to give information on the content of raw sugarcane delivered to the miller including sucrose content and fiber. The information is given to the mills to be incorporated in the calculation of the payments to the farmer. Tabulation of the payments to the farmer can be done either through an ERP or manually (as some mills without an existing ERP are currently paying its own farmers). Thus, the existence or otherwise of an ERP does not jeopardize in any way operations of the CTUs.

Committee Observations and Recommendations

The Committee deliberated on the issue of Failure to Operationalize Cane Testing Units (CTU) in its report for financial year 2019/2020, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

6.0 Irregular Payments to Authority Staff

6.1 Acting Allowance

1016. The Committee heard that, an audit of the entity's monthly payroll data revealed that between months of January to June twenty-four (24) members of staff had received acting allowances for positions they had held for more than 6 months contrary to the Human Resource Policies and Procedures Manual. The Authority therefore irregularly paid acting allowances amounting to Kshs.44,403,640.

1017. In addition, review of the composition of staff and their respective job placements revealed that a total of twenty-nine (29) members of staff were on acting capacity for more than the stipulated period, The analysis revealed that some staff had their acting positions renewed for more than 3 times, others did not have time limits. This was done instead of the Board filling the positions with substantive personnel, as per the circular that requires the filling of acting positions within 6 months of occurrence.

Management response

1018. The management informed the Committee that, the Authority had been faced with a challenge in addressing human resource related issues due to lack of the approved Human Resource Instruments. The appointment of staff to acting positions was intend to forestall interruptions in service delivery, as approved instruments were awaited. Furthermore, due to the staff shortages experienced due to exits as a result of natural attrition, the Authority has not had adequate staff to fill existing gaps, hence the extension of the acting appointments beyond the stipulated duration.

1019. To address this, the Authority prepared HR Instruments and forwarded for necessary approvals. The process of approval of these HR Instruments have faced a number of hurdles in spite of the Authority's attempts to address the concern, including a court case challenging the instruments.

The Board approved internal advertisement for the vacant positions in September 2024, which was placed in December 2024 and subsequently appointments done for officers on substantive positions with effect from 1st May 2025. This is expected to address the concern on prolonged acting appointment.

Committee Observations

The Committee observed that–

The Authority irregularly paid acting allowances totaling Kshs. 44,403,640 to twenty-four (24) members of staff for positions they had held for more than six months, in contravention of the Human Resource Policies and Procedures Manual.

Further, twenty-nine (29) staff members had been serving in acting positions beyond the prescribed six-month limit, contrary to public service regulations requiring that acting appointments be regularized or substantively filled within six months with instances where acting appointments were renewed multiple times (some more than three times), while others had no defined time limits. This practice undermines established human resource management principles, creates inequitable compensation practices, compromises transparency in staff deployment, and exposes the Authority to irregular expenditure and potential abuse of acting appointments.

Committee Recommendations

The Committee recommends that–

Within three months of the adoption of this report, the Accounting Officer (AFA) should fast track the approval of Human Resource instruments and seek written SRC approval, for a harmonized and transparent staff remuneration framework for all employees that would ensure consistency, eliminate disparities arising from legacy salary structures, and prevent accumulation of unverifiable arrears. The approved documents should be submitted to the National Assembly and thereafter to the Auditor-General for review.

6.2 Special Duty Allowance

1020. The Committee heard that, Audit of the entity's payroll for the year under review revealed fourteen (14) staff that were being paid special duty allowances for more than six (6) months.

1021. In circumstances the Authority incurred irregular staff expenditure and was also in contravention of the Law.

Management response

1022. The management informed the Committee that the Authority had been faced with a challenge in addressing human resource related issues due to lack of the approved Human Resource Instruments. The appointment of staff to perform duties of a higher post (SDA), was intend to forestall interruptions in service delivery, as approved instruments were awaited.

1023. Furthermore, due to the staff shortages experienced due to exits as a result of natural attrition, the Authority has not had adequate staff to fill existing gaps, hence the extension of the acting appointments beyond the stipulated duration.

1024. To address this, the Authority prepared HR Instruments and forwarded for necessary approvals. The process of approval of these HR Instruments have faced a number of hurdles in spite of the Authority's attempts to address the concern.

1025. The Board approved internal advertisement for the vacant positions in September 2024, which was placed in December 2024 and subsequently appointments done for officers on substantive positions with effect from 1st May 2025.

Committee Observations

The Committee observed that–

The Authority had engaged fourteen (14) staff that were being paid special duty allowances for more than six (6) months.

Committee Recommendations

The Committee recommends that–

Within three months of the adoption of this report, the Accounting Officer (AFA) should fast track the approval of Human Resource instruments and seek written SRC approval, for a harmonized and transparent staff remuneration framework for all employees that would ensure consistency, eliminate disparities arising from legacy salary structures, and prevent accumulation of unverifiable arrears. The approved documents should be submitted to the National Assembly and thereafter to the Auditor-General for review.

7.0 Non-Compliance with the One Third of Basic Salary Deduction Rule

1026. The Committee heard that, during the year under review eighty eight (88) employees earned a net salary of than one third (1/3) of the basic Salary for varied months contrary to the provisions of Section 19(3) of the Employment Act, 2007, which states that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages. Staff with over committed salaries may lack funds to meet their needs thus pecuniary embarrassment which leads to low morale.

1027. In the circumstances, Management was in breach of the law.

Management response

1028. The management informed the Committee that, the breach of one third rule for the cases arose from the implementation of the new deductions within the financial year such as revised tax brackets, increased NSSF and SHIF deductions and housing levy deductions, which were beyond the control of the employees and the employer, since these were statutory deductions.

1029. The staff affected have been advised to liaise with other third-party lenders to restructure their loan repayments to be able to accommodate the deductions and be compliant with the law. In addition, the ERP system has also been re-configured to restrict deductions within the approved threshold.

Committee Observations

The Committee observed that–

i) There were eighty-eight (88) employees who received a net salary of less than one-third of their basic salary for various months in contravention of Section 19(3) of the Employment Act, 2007, which stipulates that "The total amount of all deductions which may be made by an employer from the wages of an employee at any one time shall not

exceed two-thirds of such wages." This was a breach of the law and exposed its employees to pecuniary embarrassment, diminished ability to meet personal financial obligations, and potential reduction in morale and productivity.

ii) Non-compliance with the one-third rule also reflects weaknesses in payroll controls, inadequate monitoring of third-party deductions, and failure to enforce statutory limits within the payroll system.

Committee Recommendations

The Committee recommends that–

Within three months of the adoption of this report, the Accounting Officer (AFA) undertakes a comprehensive payroll review with a view to Identify all instances where employee net pay fell below the one-third statutory threshold, determine the causes of non-compliance and undertake administrative action against the affected staff and submit a detailed report to the National Assembly and to the Auditor-General for review.

Within three months of the adoption of this report, the Accounting Officer (AFA) should engage affected employees and facilitate restructuring of third-party loans and deductions through formal agreements with lenders to align repayments with legal requirements and safeguard staff welfare. Such actions should be within the legal and regulatory frameworks governing individual obligations, rights and fair administration of justice. A report on this engagement and status should be submitted to the National Assembly and to the Auditor-General for review.

8.0 Lack of Human Resource Instruments

1030. The Committee heard that, review of human resource records held by the Authority revealed that on commencement of the Crops Act, 2013 on 1 August, 2014, the former regulatory institutions in the Agriculture Sector were merged into Directorates under the Authority. A merger report that was drawn by Interim Management Committee and submitted to the cabinet secretary, Ministry of Agriculture, Livestock and Fisheries in June, 2014 contained proposed organizational chart, proposed staff establishments, proposed human resource manual for Authority staff. Audit revealed that the entity had been using the proposed documents as above, despite a further directive by SCAC for parastatal to develop and obtain approval for human resource instruments. The Authority has engaged a total of one hundred and forty-one (141) and fifteen (15) staff on temporary and contractual basis respectively without the approval of AFA staff establishment policy document.

1031. In circumstances the Authority was contravention to Circular ref. no. OP/CAB.9/1A on Management of State Corporation.

Management response

1032. The management informed the Committee that, the Authority engaged with SCAC to develop and have the Human Resource Instruments approved. Over the years, there have been challenges since the Authority did not have a substantive Board, and the policy direction had given mixed signals

on the continued existence of the Authority, with the Parent Ministry proposing a return to the former Boards, resulting in development of various crop- specific bills.

1033. However, following the appointment of a Board in March 2023, the Authority initiated development of the HR Instruments and submitted for approval, through the Ministry of Agriculture, Livestock and Fisheries. The Instruments were however, challenged in court and the matter has since been determined, resulting in the HR Instruments being declared unconstitutional.

1034. Currently the HR Instruments have been forwarded to the Public Service Commission, for consideration as guided by the Court Judgement in the matter.

Committee Observations

The Committee observed that–

i) The Authority had been using the proposed documents despite a directive by SCAC for parastatals to develop and obtain approval for human resource instruments.

ii) The Authority has engaged a total of one hundred and forty-one (141) and fifteen (15) staff on temporary and contractual basis respectively without the approval of AFA staff establishment policy document.

Committee Recommendations

The Committee recommends that–

Within three months of the adoption of this report, the Accounting Officer (AFA) should fast track the approval of Human Resource instruments and seek written SRC approval, for a harmonized and transparent staff remuneration framework for all employees that would ensure consistency, eliminate disparities arising from legacy salary structures, and prevent accumulation of unverifiable arrears. The approved documents should be submitted to the National Assembly and thereafter to the Auditor-General for review.

1.0 Lack of Human Resource Plans

1035. The Committee heard that, review of Authority's human resource records revealed that on commencement of the Crops Act, 2013 on 1st August, 2014, the former regulatory institutions in the Agriculture Sector were merged into Directorates under the Authority. A merger report that was drawn by Interim Management Committee and submitted to the cabinet secretary, Ministry of Agriculture, Livestock and Fisheries in June 2014 contained proposed organizational chart, proposed staff establishments, proposed human resource manual for AFA staff. Audit revealed that the entity had been using the proposed documents as above, despite a further directive by State Corporations Advisory Committee for parastatal to develop and obtain approval for human resource instruments.

1036. In the circumstances, the Authority did not have human resource plans and were operating without clear planned out structures including recruitment plans.

Management response

1037. The management informed the Committee that, the lack of approved HR Instruments has made it impossible for the Authority to prepare HR plans aimed at identifying current and future hiring, talent management, and data-driven decision-making. The Authority has been awaiting the approval of the HR Instruments (Organization Structure, Grading, Staff Establishment and career guidelines to assist in determining gaps to be filled whenever there are exits.

1038. Currently, the Authority uses the proposed IMC structure and staff establishment to address HR planning issues on a need basis. Staffing needs have been identified and are filled on temporary short-term contracts.

Committee Observations

The Committee observed that–

The Authority did not have human resource plans and were operating without clear planned out structures including recruitment plans.

Committee Recommendations

The Committee recommends that–

Within three months of the adoption of this report, the Accounting Officer (AFA) should fast track the approval of Human Resource instruments and seek written SRC approval, for a harmonized and transparent staff remuneration framework for all employees that would ensure consistency, eliminate disparities arising from legacy salary structures, and prevent accumulation of unverifiable arrears. The approved documents should be submitted to the National Assembly and thereafter to the Auditor-General for review.

2.0 Staff Under Establishment

1039. The Committee observed that, during the year under review, examination of the human resource records provided for audit revealed that the Authority has staff establishment of seven hundred and thirty-six (736) staff against five hundred and twenty-one (521) staff members in post thus resulting in an overall under establishment of two hundred and fifteen (215) personnel.

1040. Further it was noted that the organization's staff establishment of 2014 had not been approved.

1041. In the circumstances, operations of the Authority may be affected by lack of enough staff which at end affect the authority negatively in meeting carrying its mandate.

Management response

1042. The management informed the Committee that, it is indeed true that full operationalization of the functions of the Authority has not been possible due to the lack of adequate staffing numbers. The IMC proposed staff establishment had a positive variance versus staff in post at the commencement of operations of the Authority, necessitating need for new recruitments. The recruitment of new

employees on permanent terms of service was therefore inhibited due to the lack of the approved HR Instruments.

1043. The Authority however as a short-term measure and in a bid to address the gaps, appointed a number of officers to act in higher posts and also engaged crops inspectors and technical staff on short term contracts as the approval of HR Instruments was awaited.

1044. To address other emerging issues, the Authority sought approval from the Cabinet Secretary to include Assistant Director positions, engagement of crops inspectors and temporary recruitments.

Committee Observations

The Committee observed that–

Full operationalization of the functions of the Authority has not been possible due to the lack of adequate staffing numbers arising from lack of proper staff establishment and approved Human Resource Instruments.

Committee Recommendations

The Committee recommends that–

Within three months of the adoption of this report, the Accounting Officer (AFA) should fast track the approval of Human Resource instruments and seek written SRC approval, for a harmonized and transparent staff remuneration framework for all employees that would ensure consistency, eliminate disparities arising from legacy salary structures, and prevent accumulation of unverifiable arrears. The approved documents should be submitted to the National Assembly and thereafter to the Auditor-General for review.

EXAMINATION OF THE REPORT OF THE AUDITOR-GENERAL ON THE AUDITED ACCOUNTS OF TEA BOARD OF KENYA FOR THE FINANCIAL YEARS 2021/2022 TO 2024/2025

Mr. Willy Mutai, Chief Executive Officer Tea Board of Kenya (TBK) accompanied by Mr. John Kariuki (Finance) and Ms. Peris Mudida (Legal Services) appeared before the Committee to adduce evidence on the audited accounts of Tea Board of Kenya for the Financial Years 2021/2022 to 2024/2025.

FINANCIAL YEAR 2021/2022

1.0 Non-Disclosure of Rental Income

1045. The Committee heard that the statement of financial performance reflects Nil amount for rental revenue as disclosed in Note 8 to the financial statements. The statements reflect a comparative amount for rental income of Kshs. 559,000. However, Management did not explain why no rental

income was earned and reported in the year under review yet an amount of Kshs. 559,000 was reported in year ended June, 2021.

1046. In the circumstances, the accuracy and completeness of the Nil balance rental revenue from facilities and equipment could not be confirmed.

Management response

1047. The management informed the Committee that the rental income reported on the FY 2020/2021 related to when Tea Directorate was under AFA which has a lease agreement with the lessee (James Finlay Ltd). However, AFA has since paid the rental income to TBK which has been incorporated in the restated financial statements for FY 2021/22 and 2022/2023 in accordance with International Financial reporting standards (IPSAS).

Committee Observations

The Committee observed that –the Board failed to disclose rent income in the year under review obscuring its true financial performance. However, the funds were eventually remitted by AFA and restated in subsequent years of FY 2021/22 and 2022/23,

Committee Recommendations

The Committee recommends that the Accounting Officer should at all times ensure full disclosure, consistency in reporting and in compliance with the Section 81(3) of the Public Finance Management Act CAP412A that requires the Accounting Officer to prepare Financial statements in a form that complies with the relevant Accounting Standards prescribed and published by the Public Sector Accounting Standards Board from time to time.

2.0 Non-Remittance of Pension

1048. The Committee heard that the statement of financial position reflects an amount of Kshs. 28,512,000 in respect of employee benefit obligation as disclosed in Note 27 to the financial statements. This was a contributory benefit scheme for all full-time employees. The contributions for the employees and the employer were 10% and 20% respectively. However, although salary payments were made net of employees' pension deductions, the pension deductions had not been remitted to the relevant authorities. Although Management explained that a Board of Trustees had already been appointed and that the process was nearing completion, this was not supported by any verifiable records. This was in contravention of Section 19(4) of the Employment Act, 2007 that provides that an employer who deducts an amount from an employee's remuneration in accordance with Subsection (1)(a), (f), (g) and (h) shall pay the amount so deducted in accordance with the time period and other requirements specified in the law, agreement, court order or arbitration as the case may be. In the circumstances, Management was in breach of the law.

Management response

1049. The management informed the Committee that following the enactment of Agriculture and Food Authority Act and the Crops Act 2013, all the former regulatory Boards and Authorities of the various scheduled crops were merged into Agriculture and Food Authority (AFA). All the staff of the Boards and Authorities were transited to AFA with their existing terms and conditions of employment. All the staff of the former Boards and regulatory Authorities were on permanent and pensionable terms with existing pension schemes. However, the staff of Tea Board of Kenya (TBK) were all on 3 year renewable contract term and without any pension scheme. In the year 2020, AFA harmonized the terms and conditions of all employees by converting all staff into permanent and pensionable terms

1050. Following the harmonization of the terms and conditions AFA commenced the process of establishing one pension scheme for all staff. However, the Tea Act came into effect in January 2021 and the staff of the Tea Directorate were transited to the TBK on the same terms and conditions as were existing under AFA in line with section 80 of the Tea Act 2020.

1051. Upon the establishment of the TBK in 2021, the Board immediately commenced the process of establishing an employee pension scheme for its staff. The process involved obtaining approvals from other Government Agencies/Institutions which caused some delays in establishment of the scheme.

1052. After obtaining necessary approvals from the National Treasury and the Retirement Benefits Authority TBK registered Tea Board of Kenya staff retirement benefit scheme in compliance with the Retirement Benefits Act, 2012 and other relevant laws.

1053. Consequently, TBK remitted all pension dues that were subject of the audit query to the Pension Issuer; Jubilee Insurance.

Committee Observations

i) The Committee observed that –the Board failed to remit pension deductions contrary to Section 19(4) of the Employment Act, 2007 that provides that an employer who deducts an amount from an employee's remuneration in accordance with Subsection (1)(a), (f), (g) and (h) shall pay the amount so deducted in accordance with the time period and other requirements specified in the law, agreement, court order or arbitration as the case may be.

ii) The payroll deductions were held in trust by the employer and ought to have been remitted to the relevant agency within the statutory timelines.

Committee Recommendations

The Committee recommends that Accounting Officer must at all times ensure timely submission of statutory deductions in accordance with the Employment Act, 2007 and other governing laws and regulations applicable.

3.0 Incorrectly constituted Board

1054. The Committee heard that the review of the composition of the Board revealed that as at the time of audit, Board of Directors had eight (8) members. This was contrary to Section 7 of the Tea Act, 2020 which provides that the management of the Board shall vest in a Board of Directors consisting of eleven (11) members. In the circumstances, Management was in breach of the law.

Management response

1055. The management informed the Committee that Section 7 of the Tea Act 2020, provides for the constitution of the Board of Directors. Under Section7 (1)(f) Small and medium scale tea growers are required to elect 4 persons to represent them in the Board while large scale tea growers and tea traders are required to elect one person each under section 7(1), (g) and (h) respectively. The Council of Governance are also required to nominate one person of either gender from either the East or West block alternatingly under section 7 (1) (e).

1056. Following the coming into effect of the Tea Act 2020, the process of electing the aforementioned representatives commenced. However, while elections for representatives of small and medium scale tea growers were successfully held, elections for large scale tea growers and tea traders did not take place as Kenya Tea Growers Association (KTGA) contested the election guidelines in Court. The Court issued *ex-parte* orders stopping the elections in January 2021.

1057. Subsequently, the Court case was resolved and elections for the directors representing small and medium tea growers, largescale tea growers and tea trade were undertaken. Elections to represent the director who passed on were also carried out. In addition, the Council of governors nominated their representative to the Board. The Cabinet Secretary gazetted and appointed the representatives to the Board.

Committee Observations

The Committee observed that –the Tea Board of Kenya had eight (8) Board members instead of the required eleven (11). This contravened Section 7 of the Tea Act, 2020 which provides that the management of the Board shall vest in a Board of Directors consisting of eleven (11) members. The absence of a fully constituted Board might have impaired its capacity to effectively execute its oversight mandate.

Committee Recommendations

The Committee recommends that the Appointing Authority should at all times ensure compliance with the Tea Act, 2020 and other governing laws and regulations applicable.

4.0 Appointment of the Acting Chief Executive Officer

1058. The Committee heard that the Chief Executive Officer was appointed in an acting capacity on 01 July, 2021 and the appointment was renewed by the appointing authority four times, with the latest appointment on 12 May, 2022. This resulted in the Officer serving in an acting capacity beyond six (6) months. This was contrary to Section 4.5.6 of the Board's Human Resource Policy and

Procedures Manual (May, 2022) which provides that appointment on acting basis is a temporary measure pending the substantive filling of the vacant post by either recruitment or resumption of duty by the substantive holder of the post. The appointment shall normally be limited to a continuous period of 6 months or until the vacant post is filled whichever is the earlier.

1059. In the circumstances, the Management was in breach of the Board's Human Resource Policy and Procedures Manual (May,2022).

Management response

1060. The management informed the Committee that the Tea Board of Kenya was re-established in 2021 following the enactment of the Tea Act 2020. In 2021, the Ministry of Agriculture commenced the process of constituting the Board of directors by organizing for elections for the various representatives of the Board and appointment of the Principal Secretary's representatives. However, there was no quorum in the Board until February 2022 when the representative of the Principal Secretary Ministry of Agriculture was appointed.

1061. Categorization of TBK was done in January 2022, HR Instruments were approved by SCAC in May 2022. This is what provided for the terms of service of the Chief Executive Officer (CEO).

1062. The process of recruitment of a substantive Chief Executive Officer (CEO) commenced in June 2022 but the first attempt was unsuccessful and the Cabinet Secretary directed that the process be repeated. The recruitment was done and a substantive CEO appointed in November 2023.

1063. In this regard, the acting appointments were necessitated by the lengthy processes which required quorum in the Board, development and approval of HR instruments and recruitment of the substantive CEO by the Board. However, the acting CEO was duly appointed for the term served.

Committee Observations

The Committee observed that –there was delay in having approved Human Resource Instruments and constitution of the full board which contributed to delays in the appointment of the substantive Chief Executive Officer.

Committee Recommendations

The Committee recommends that the Appointing Authority should always ensure timely appointment of substantive Chief Executive Officer and the Board to ensure stable leadership and governance.

5.0 Irregular Payment of Special Duty allowance

1064. The Committee heard that the statement of financial performance reflects employee costs of Kshs. 120,278,000 and as disclosed in Note 12 to the financial statement. This amount includes salaries and allowances of Kshs. 96,486,000. Review of the payroll and other staff records revealed that one employee had served in acting capacity since 01 April, 2021 and earned special duty allowance of Kshs.220,128 during the year. This was contrary to Section 4.6.4 of the Board's Human

Resource Policy and Procedures Manual (May,2022) that provides that the maximum period for payment of special duty allowance is six (6) consecutive months or until the position is filled, whichever is the earlier. During that period, arrangements should be made to fill the higher post in substantive capacity. Where the position is not filled within this period, the Board or Chief Executive Officer may extend the payment period for a further period not exceeding six (6) months or until the position is substantively filled, whichever is earlier. In the circumstances, the Management was in breach of the Board's Human Resource Policy and Procedures Manual (May, 2022).

Management response

1065. The management informed the Committee that the substantive holder of the position of the Director of the then Technical Services Department was appointed Head of Regional Coordination unit in Agriculture and Food Authority (AFA). This necessitated the appointment of the Officer in an acting capacity to head the Technical Services department currently, the Capacity Building Research and Innovation Directorate at TBK.

1066. Upon the establishment of TBK, the officer continued acting in the position of Head of Technical Services pending the development and approval of TBK Organizational Structure. In the approved structure, the Officer was substantively placed as Deputy Director, Capacity Building, Research and Innovation but the position of the head of the Directorate remained vacant. In order to implement the Board's mandate, offer leadership and fill the critical gap, the Directorate needed an Officer to head the Directorate in an acting capacity pending recruitment/confirmation of a substantive holder.

1067. In view of this the Officer was appointed in an acting capacity for more than one (1) year since he was the only Officer with the requisite skills and technical expertise to head the Directorate as the Board sought for funds and approval to implement the approved TBK Organization structure.

Committee Observations

The Board irregularly paid an amount of Kshs. 220,128 as acting allowances to an employee who had been acting for more than six months contrary to Section 4.6.4 of the Board's Human Resource Policy and Procedures Manual (May, 2022) that provides that the maximum period for payment of special duty allowance is six (6) consecutive months or until the position is filled, whichever is the earlier.

Committee Recommendations

Within three months upon adoption of this report, the Inspector-General of State Corporations pursuant to section 19 of the State Corporations Act, Cap. 446 should investigate the matter and surcharge the then Accounting Officer the amount of Kshs.220,128 irregularly paid as acting allowance during their tenure.

6.0 Investment in Fixed deposit Account in Commercial Bank

1068. The Committee heard that the statement of financial position reflects cash and cash equivalents balance of Kshs. 365,168,000 which includes a balance of Kshs. 300,000,000 under fixed deposit

account that the Board held at Cooperative Bank of Kenya Limited as reflected in Note 18 to the financial statements. This was contrary to The National Treasury Circular No.4/2017 dated 02 May, 2017 directing all state corporations and SAGA's to invest surplus funds in Treasury Bills and or Treasury Bonds directly through the Central Bank of Kenya without intermediaries. Further, the Circular directed that all maturing investments of surplus funds previously held in fixed deposits in commercial banks/financial institutions should not be rolled over but retired and invested in Treasury Bills and or Treasury Bonds.

1069. In the circumstances, the Management was in breach of The National Treasury Circular No.4/2017 dated 02 May, 2017.

Management response

1070. The management informed the Committee that the funds were meant for the above staff pension scheme and payment of suppliers and were temporary being held in the account awaiting registration of the pension scheme. The funds have since been transferred to the current account and used to clear pension scheme arrears and the rest used to pay suppliers of fixed assets and tea reforms

1071. Consequently, the issue was not part of an audit query in the FY 2023-2024.

Committee Observations

The Committee observed that –the Board invested in a fixed deposit account at a commercial bank an amount of Kshs.300,000,000 in violation of National Treasury Circular No. 4/2017. The circular explicitly mandates all State Corporations to invest surplus funds in Treasury Bills or Bonds directly through the Central Bank of Kenya (CBK).

Committee Recommendations

The Accounting Officer should at all times ensure that all financial investments are done in accordance with the National Treasury guidelines and other governing laws and regulations applicable.

7.0 Staff under establishment

1072. The Committee heard that, review of the human resource records revealed that the Board had an approved staff establishment of one hundred (100) staff against fifty-eight (58) staff members in post, resulting in an overall under establishment by forty-two (42). Although the Management explained that it was in the process of sourcing for funds to implement the salary structure, The National Treasury approved a phased-out implementation as proposed by the Board and confirmed availability of funds.

1073. In the circumstances, it was not possible to confirm whether the Board had adequate human resource capacity to facilitate effective achievement of is objectives.

Management response

1074. The management informed the Committee that following the enactment of Agriculture and Food Authority Act and the Crops Act 2013, all the former regulatory Boards and Authorities of the various scheduled crops were merged into Agriculture and Food Authority (AFA). All the staff of the Boards and Authorities were transited to AFA.

1075. Following the commencement of the Tea Act, 2020, TBK inherited the staff of the former AFA – Tea Directorate in line with section 80 of the Tea Act.

1076. Categorization of TBK was done in January 2022. TBK subsequently obtained approval for the HR Instruments from SCAC in May 2022. The instruments provide for terms of service of the staff of TBK and the approved Organizational structure with a staff establishment of one hundred (100) against the in-post of fifty-six (56) leading to a total deficit of 44 employees.

1077. Implementation of the approved structure to fill the vacant positions has been hampered by lack of sufficient budget to recruit staff and freezing of employment by the National Treasury. TBK has on several occasions sought for funds and approval to recruit but has been advised by the National Treasury to put the same on hold.

Committee Observations

The Committee observed that –the Board was understaffed as a result of budget constraints that might have hindered the recruitment of adequate staff to facilitate effective achievement of the objectives of the institution.

Committee Recommendations

The Accounting Officer and the Board should engage with the National Treasury through the Parent Ministry to secure adequate funding for recruitment of staff as approved by the Public Service Commission.

FINANCIAL YEAR 2022/2023

1.0 Non-Remittance of Pension

1078. The Committee heard that the statement of financial position and Note 28 to the financial statement reflects Kshs. 44,106,000 in respect of employee benefit obligations. However, although the salary payments were made net of employees' pension deductions and although the Board of directors approved the establishment of the board's staff retirement pension scheme, the deductions had not been remitted to the relevant Authorities. This was in contravention of Section 19(4) of the Employment Act, 2007 and the Retirements Benefit Authority Act, 2012 Section 53 (a) on proceedings for recovery of deductions from employees.

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

Management response

1079. The management informed the Committee that following the enactment of Agriculture and Food Authority Act and the Crops Act 2013, all the former regulatory Boards and Authorities of the various scheduled crops were merged into Agriculture and Food Authority (AFA). All the staff of the Boards and Authorities were transited to AFA with their existing terms and conditions of employment. All the staff of the former Boards and regulatory Authorities were on permanent and pensionable terms with existing pension schemes. However, the staff of Tea Board of Kenya (TBK) were all on 3-year renewable contract term and without any pension scheme. In the year 2020, AFA harmonized the terms and conditions of all employees by converting all staff into permanent and pensionable terms

1080. Following the harmonization of the terms and conditions AFA commenced the process of establishing one pension scheme for all staff. However, the Tea Act came into effect in January 2021 and the staff of the Tea Directorate were transited to the TBK on the same terms and conditions as were existing under AFA in line with section 80 of the Tea Act 2020.

1081. Upon the establishment of the TBK in 2021, the Board immediately commenced the process of establishing an employee pension scheme for its staff. The process involved obtaining approvals from other Government Agencies/Institutions which caused some delays in establishment of the scheme.

1082. After obtaining necessary approvals from the National Treasury and the Retirement Benefits Authority TBK registered Tea Board of Kenya staff retirement benefit scheme in compliance with the Retirement Benefits Act, 2012 and other relevant laws.

1083. Consequently, TBK remitted all pension dues that were subject of the audit query to the Pension Issuer, Jubilee Insurance.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Non-Remittance of Pension in its report for Financial Year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

2.0 Incorrectly constituted Board

1084. The Committee heard that as previously reported, review of the composition of the Board revealed that the board of directors had only eight (8) members. This is contrary to Section 7 of the Tea Act, 2020, which provides that the management of the Board shall vest in the Board of Directors consisting of eleven (11) members. In the circumstances, the Board was in breach of the law.

Management response

1085. The management informed the Committee that Section 7 of the Tea Act 2020, provides for the constitution of the Board of Directors. Under Section7 (1)(f) Small and medium scale tea growers are required to elect 4 persons to represent them in the Board while large scale tea growers and tea traders are required to elect one person each under section 7(1), (g) and (h) respectively. The

Council of Governance are also required to nominate one person of either gender from either the East or West block alternatingly under section 7 (1) (e).

1086. Following the coming into effect of the Tea Act 2020, the process of electing the aforementioned representatives commenced. However, while elections for representatives of small and medium scale tea growers were successfully held, elections for large scale tea growers and tea traders did not take place as Kenya Tea Growers Association (KTGA) contested the election guidelines in Court. The Court issued ex-parte orders stopping the elections in January 2021.

1087. Further, one (1) director representing the small-scale growers who had been elected passed on in May 2023 and elections to replace the director were being awaited.

1088. Subsequently, the Court case was resolved and elections for the directors representing small and medium tea growers, largescale tea growers and tea trade were undertaken. Elections to represent the director who passed on were also carried out. In addition, the Council of Governors nominated their representative to the Board. The Cabinet Secretary gazetted and appointed the representatives to the Board.

Committee Observations and Recommendations

The Committee had deliberated on the issue of incorrectly constituted Board in its report for Financial Year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

3.0 Unapproved Investment in Fixed deposit Account in Commercial Bank

1089. The Committee heard that the statement of financial position and Note 19 of financial statement reflects a cash and cash equivalents balance of Kshs. 179,766,000 which includes a balance of Kshs. 150,000,000 under fixed deposit account that the Board held in a commercial bank. This is contrary to Section 28(1) of the Public Finance Management Act, 2012 which states that; The National Treasury shall authorize the opening, operating and closing of bank accounts and sub accounts for all national government entities in accordance with regulations made under this Act. Although the Management indicated that the account was not new, according to this section, The National Treasury shall authorize the operating of bank accounts.

1090. Further, the Board invested in commercial banks instead of investing surplus funds in Treasury Bills and or Treasury Bonds directly through the Central Bank of Kenya without intermediaries. This is contrary to The National Treasury Circular no. 4/2017 dated 2 May,2017 which directed all state corporations and SAGAs to invest surplus funds in Treasury Bills and or Treasury Bonds directly through the Central Bank of Kenya without intermediaries. The circular further directed that all maturing investments of surplus funds previously held in fixed deposits in commercial banks/financial institutions should not be rolled over but retired and invested in treasury bill and or treasury bonds. In the circumstances, Management was in breach of the law.

Management response

1091. The management informed the Committee that the funds were meant for the above staff pension scheme and payment of suppliers and were temporary being held in the account awaiting registration of the pension scheme. The funds have since been transferred to the current account

and used to clear pension scheme arrears and the rest used to pay suppliers of fixed assets and tea reforms. Consequently, the issue was not part of an audit query in the FY 2023-2024.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Unapproved Investment in Fixed deposit Account in Commercial Bank in its report for Financial Year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

4.0 Lack of Tea Act Regulations

1092. The Committee heard that the Board was officially formed by the Tea Act, 2020. However, as at 30 June, 2023, several regulations had not yet been enacted to operationalize the Tea Act, 2020. Core functions that require regulations for implementation are listed in the table below.

Tea Act, 2020 Section	Functions Needing Regulations
21(2)	Registration of Small-Scale Tea Growers and Medium Scale Tea Growers
23(2)	Registration Of Large-Scale Tea Growers
24	Issuance of Tea Grower Certificates
25(3)	Licensing of Manufacturers
28(3)	Registration of Warehouse Operator
29(3)	Registration of Tea Packers.
33(4)	Registration of Management Agents
35(3)	Registration of Tea Auction Organizers
37(3)	Registration of Commercial Green leaf transporters
38(3)	Registration of commercial Tea Nurseries
48(2)	Tea Value Addition
49(2)	Appointment of Crop Inspectors
53(4)	Establishment of Tea Levy

Management response

1093. The management informed the Committee that following the commencement of the Tea Act in 2021, TBK immediately commenced the process of developing regulations to operationalize the Tea Act as provided for under various sections of the Tea Act. However, before the regulations could be finalized and gazetted several tea industry players filed Petitions in various High Courts across the country challenging several Sections of the Tea Act including sections empowering the Cabinet Secretary to develop regulations. The High Court issued *ex-parte* orders stopping the

operationalization of several sections of the Tea Act including section 74 which gives power to the Cabinet Secretary to operationalize the Act .

1094. The TBK commenced negotiations for an out of Court settlement and all the parties reached an agreement in April 2024. The Court cases were finalized and a decree issued by the Court.

1095. Consequently, development of the following regulations is at an advanced stage. Final Validation of the Tea (Registration and Licensing) Regulations and the Tea (Levy) Regulations was undertaken on 13th and 14th October 2025 and have been forwarded to the Ministry of Agriculture, Livestock Development for further processing.

1096. However, the process of finalizing other regulations is being hampered by lack of resources to undertake public participation with relevant stakeholders.

Committee Observations

The Committee observed that the Board did not have enabling Regulations. The Tea Act faced legal challenges that suspended key provisions of the Act and therefore the regulations could not be gazetted to operationalize the Act.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer in collaboration with Cabinet Secretary-Ministry Agriculture and livestock development and the Attorney General to fast-track the finalization of the Tea Regulations.

5.0 Staff under establishment

1097. The Committee heard that the review of the human resource records and as reported previously, revealed that the Board had an approved staff establishment of one hundred (100) staff against fifty-nine (59) staff members in-post resulting in an overall under establishment by forty-one (41) staff. In the circumstances, the Board may not have adequate human resource capacity to facilitate effective achievement of its objectives.

Management response

1098. The management informed the Committee that following the enactment of Agriculture and Food Authority Act and the Crops Act 2013, all the former regulatory Boards and Authorities of the various scheduled crops were merged into Agriculture and Food Authority (AFA). All the staff of the Boards and Authorities were transited to AFA.

1099. Following the commencement of the Tea Act, 2020, TBK inherited the staff of the former AFA – Tea Directorate in line with section 80 of the Tea Act.

1100. Categorization of TBK was done in January 2022. TBK subsequently obtained approval for the HR Instruments from SCAC in May 2022. The instruments provide for terms of service of the staff

of TBK and the approved Organizational structure with a staff establishment of one hundred (100) against the in-post of fifty-six (56) leading to a total deficit of 44 employees.

1101. Implementation of the approved structure to fill the vacant positions has been hampered by lack of sufficient budget to recruit staff and freezing of employment by the National Treasury. TBK has on several occasions sought for funds and approval to recruit but has been advised by the National Treasury to put the same on hold.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Staff under establishment in its report for Financial Year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

FINANCIAL YEAR 2023/2024

1.0 Lack of Tea Act Regulations

1102. The Committee heard that the Tea Board of Kenya is a State Corporation in the Ministry of Agriculture and Livestock Development established by Tea Act No. 23 of 2020 to develop, regulate and promote tea sub-sector. However, as at 30th June, 2024, several regulations had not yet been enacted to operationalize the Tea Act, 2020. Core functions that require regulations for implementation are listed in the table below.

Section	Functions needing Regulations
21(2)	Registration of Small-Scale Tea Growers and Medium Scale Tea Growers
23(2)	Registration of Large-Scale Tea Growers
24	Issuance of Tea Grower Certificates
25(3)	Licensing of Manufacturers
28(3)	Registration of warehouse operator
29(3)	Registration of Tea Packers
33(4)	Registration of Management Agents
35(3)	Registration of Tea Auction Organizers
37(3)	Registration of Commercial Green leaf transporters
38(3)	Registration of Commercial Tea Nurseries
48(2)	Tea Value Addition
49(2)	Appointment of Crop Inspectors
53(4)	Establishment of Tea Levy

In circumstances, the Board risk having no legal framework for carrying out its core functions as stipulated in the Tea Act, 2020.

Management response

1103. The management informed the Committee that following the commencement of the Tea Act in 2021, TBK immediately commenced the process of developing regulations to operationalize the Tea Act as provided for under various sections of the Tea Act. However, before the regulations could be finalized and gazetted several tea industry players filed Petitions in various High Courts across the country challenging several Sections of the Tea Act including sections empowering the Cabinet Secretary to develop regulations. The High Court issued *ex-parte* orders stopping the operationalization of several sections of the Tea Act including section 74 which gives power to the Cabinet Secretary to operationalize the Act.

1104. The TBK commenced negotiations for an out of Court settlement and all the parties reached an agreement in April 2024. The Court cases were finalized and a decree issued by the Court.

1105. Consequently, development of the following regulations is at an advanced stage.

1106. Final Validation of the Tea (Registration and Licensing) Regulations and the Tea (Levy) Regulations was undertaken on 13th and 14th October 2025 and have been forwarded to the Ministry of Agriculture, Livestock Development for further processing.

1107. However, the process of finalizing other regulations is being hampered by lack of resources to undertake public participation with relevant stakeholders.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Lack of Tea Act Regulations in its report for Financial Year 2022/2023, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

2.0 Irregular payment of Acting and Special Duty Allowances

1108. The Committee heard that the statement of financial performance reflects employee cost of Kshs. 155,767,000 which includes salaries and allowances of Kshs. 117,888,800 as disclosed in Note 12 of the Financial statements. However, the following anomalies were observed:

i. The management irregularly paid acting allowance amounting to Kshs. 294,745 to four (4) staff for more than six (6) months.

ii. The entity's payroll for the year under review revealed that a total of Kshs. 80,368 was paid irregularly to one (1) staff as special duty allowances for more than six (6) months.

1109. This was contravention of Section C. (14) (1) of PSC Human Resource Policies and Procedure Manual for the Public Service of 2026 which states when an Officer is eligible for appointment to a higher post and is called upon to act in that post pending advertisement of the post, he is eligible

for payment of acting allowance at the rate of twenty (20%) of his substantive basic salary. Acting and special duty allowances will not be payable to the officer for more than six (6) months.

1110. In the circumstances, Management was in breach of the human resources policies and procedures.

Management response

1111. The management informed the Committee that following the enactment of Agriculture and Food Authority Act and the Crops Act 2013, all the former regulatory Boards and Authorities of the various scheduled crops were merged into Agriculture and Food Authority (AFA). All the staff of the Boards and Authorities were transited to AFA. Following the commencement of the Tea Act, 2020, TBK inherited the staff of the former AFA – Tea Directorate in line with section 80 of the Tea Act.

1112. Categorization of TBK was done in January 2022. TBK subsequently obtained approval for the HR Instruments from SCAC in May 2022. The instruments provide for terms of service of the staff of TBK and the approved Organizational structure with a staff establishment of one hundred (130) against the in-post of fifty-six (56) leading to a total deficit of 74 employees.

1113. Implementation of the approved structure to fill the vacant positions has been hampered by lack of sufficient budget to recruit staff and freezing of employment by the National Treasury. This has necessitated appointment of staff to critical positions on acting capacity which resulted into Acting and Special Duty Allowances. TBK has on several occasions sought for funds and approval to recruit but has been advised by the National Treasury to put the same on hold.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Irregular payment of Acting and Special Duty Allowances in its report for Financial Year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

3.0 Non-Compliance with Law on Ethnic Composition

1114. The Committee heard that the during the year under review, the total number of employees was one fifty-six (56) which twenty-four (24) or 43% of the number were members of the same ethnic community. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, "all public officers shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community".

1115. In circumstances, the Board was in breach of the law.

Management response

1116. The management informed the Committee that Upon the enactment of the Tea Act 2020 the staff of AFA- Tea Directorate were transited back to the TBK in line with section 80 of the Tea Act.

Since the re- establishment of TBK, no new recruitments have been undertaken hence the ethnic composition has remained the same as was in the AFA- Tea Directorate.

1117. However, TBK developed a new Organizational structure with an approved staff establishment of one hundred and thirty (130) against an in-post of fifty-six (56) staff members. The Board is seeking funds to implement the new structure and address the anomaly of the ethnic imbalance in the new recruitments.

Committee Observations

The Committee observed that –twenty-four (24) or 43% of the Board's employees were members of the same ethnic community contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008, that provides that a single ethnic group should not exceed the mandatory 33.3% threshold.

Committee Recommendations

The Committee recommends that the Accounting Officer should at all times comply with the National Cohesion and Integration Act, 2008.The Board should institute affirmative measures to bridge the ethnic composition gap in future recruitments.

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

1118. The Committee heard that the review of the payroll presented for audit verification revealed that some five (5) employees received a net salary of less than one third of the basic salary. Further, four (4) employees received Nil salary in the month of April. This was contrary to the provisions of Section 19(3) of the employment Act, 17 of 2007 which requires that deductions made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages.

1119. In circumstances, the Board was in breach of the Law.

Management response

1120. The management informed the Committee that violation of one third of the basic salary rule in April 2023 was caused by implementation of the new NSSF rates, Housing Levy and SHIF which saw most of the staff salaries fall below the required threshold.

1121. The Board has however addressed this gap by removing some of the non-statutory staff deductions of the affected staff from the payroll and advised them to remit the deductions outside the payroll.

1122. The staff who received nil salary was necessitated by recovery of imprest in line with the PFM Regulations.

1123. Currently, all staff are in compliance with the One Third of Basic Salary Rule.

Committee Observations

The Committee observed that –five (5) employees received a net salary of less than one third of the basic salary and four (4) employees received Nil salary in the month of April. This contravenes Section 19(3) of the Employment Act, 2007, which stipulates that deductions from an employee's salary shall not exceed two-thirds of the basic salary, thereby guaranteeing at least one-third as net pay. The breach demonstrates weak enforcement of payroll controls and inadequate monitoring of statutory compliance, thereby exposing the institution to risks of pecuniary embarrassment and reputational harm.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer – TBK should submit to the National Assembly documented measures undertaken to strengthen payroll controls through automated payroll validation checks designed to flag any salary processing that violates the one-third rule prior to disbursement. Further, the Accounting Officer should submit documented administrative actions guiding enforcement of the HR Policy Manual on permissible deductions, with emphasis on statutory compliance, and holding responsible officers accountable for lapses in payroll management.

5.0 Failure to prepare of Car loan and Mortgage Financial Statements

1124. The Committee heard that the Tea Board of Kenya has a functional staff car and mortgage scheme; they did not prepare the financial statement. This was contravention of Section 264(3) of the Public Finance Management Act, 2012 which states that the accounting officer shall prepare the financial statements in a form that complies with relevant accounting standards prescribed and published by the Public Accounting Standards Board from time to time.

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

Management response

1125. The management informed the Committee that TBK Staff Car Loan and Mortgage scheme with KCB was inherited from the Agriculture and Food Authority (AFA) in 2021 upon re-establishment of TBK. AFA on the other hand, inherited the staff car and mortgage scheme from the defunct Kenya Sugar Board. The scheme had been established in 2008 with different terms and conditions from the civil servants' mortgage scheme.

1126. Under the Memorandum of Understanding (MOU) between TBK and KCB the loan facilities are advanced by the bank which bears all the risks and interests arising from the loan facility. The role of TBK is only to provide collateral for the loan facilities which does not warrant the preparation of a separate set of financial statements.

1127. However, the Board is in the process of developing regulations in line with the National Treasury guidelines and thereafter develop a separate staff car and mortgage scheme financial statements.

Committee Observations

The Committee observed that –the Board failed to prepare and submit separate financial statements for the Car Loan and Mortgage Schemes contrary to 84 of the Public Finance Management Act, CAP 412A which requires an administrator of fund to prepare financial statements for each financial year for the funds managed by the entity.

Committee Recommendations

Within three months upon adoption of this report, the Fund administrator to ensure that all outstanding financial statements for the Car loan and Mortgage schemes from previous financial years are prepared and submitted to the Auditor General for audit and reporting in the next audit cycle.

6.0 Failure to conduct Governance Audit

1128. The Committee heard that, the entity's board did not initiate governance audit during the year under review. This was contrary to the requirement of Mwongozo code of conduct for State Corporations issued under presidential Executive Order No. 7 dated 25 March 2015, under item 1.13 which states that the Board of Directors in consultations with the State Corporation Advisory Committee is required to initiate governance audit of the company through an Institute of Certified Public Secretaries of Kenya (ISPSK) member and that the governance audit should among other areas cover the governance practices of the organization.In circumstances, the Board is in contravention with Mwongozo code of conduct.

Management response

1129. The management informed the Committee that, following the coming into effect of the Tea Act in 2021, the Board of TBK was partially constituted in January 2022 and comprised of 7 members out of 11 until September 2025 when the Board was fully constituted.

1130. In addition, operationalization of several key provisions of the Tea Act had been suspended by the High Court following the petitions filed by some tea industry stakeholders thereby affecting most of the processes that would be subject to the governance audit. In this regard, the Board has been in the process of setting up internal processes and operational frameworks after the Court cases were lifted.

1131. It was therefore not ideal to have the governance audit as the Tea Board of Kenya was still in the process of putting in place the necessary governance structures including the full constitution of the Board by the Cabinet Secretary for Agriculture. Undertaking a governance audit during this period would have resulted in an incomplete / inaccurate assessment.

Further, governance audit is a specialized and expensive exercise that requires the engagement of an accredited governance auditor through a competitive procurement process. In the FY 2023-2024 the Board faced significant budget constraints and was therefore unable to allocate funds to carry out the exercise.

1132. The process of constituting the Board has now been completed and most of the governance structures and operational framework are now in place. In this regard, the Board is working on securing additional funding to undertake the governance audit.

Committee Observations

The Committee observed that, the Board did not conduct governance audit citing lack of a fully constituted Board and budget constraints in Financial Year 2023-2024 to have hindered the engagement of an accredited governance auditor.

Committee Recommendations

The Committee recommends that, within three months upon adoption of this report, the Board should fastrack the conduct of the governance audit and submit the report to the National Assembly and the Auditor-General for review.

The Accounting Officer should engage with the National Treasury through the parent Ministry to secure the adequate funding to avoid future non-compliance with statutory governance requirements.

7.0 Irregular Composition of Board Committees

1133. The Committee heard that, review of the Board records provided for audit verification including the financial statement and board composition paper revealed that all the four committees of the Board Audit and Risk, Human Resource and Finance, Strategy, Market Promotion and Research and development and Regulations, compliance and capacity building had more than one third of the board members.

1134. Further, most members belonged to more than two committee's contrary to section B.4 of the Head of Public Service Circular No. OP/CAB.9/1A which states that members can only sit in a maximum of two committees. In the circumstances, Management was in breach of the law.

Management response

1135. The management informed the Committee that Section 7 of the Tea Act 2020, provides for the constitution of the Board of Directors. Under Section7 (1)(f) Small and medium scale tea growers are required to elect 4 persons to represent them in the Board while large scale tea growers and tea traders are required to elect one person each under section 7(1), (g) and (h) respectively. The Council of Governors are also required to nominate one person of either gender from either the East or West block alternatingly under section 7 (1) (e).

1136. Following the coming into effect of the Tea Act 2020, the process of electing the aforementioned representatives commenced. However, while elections for representatives of small and medium scale tea growers were successfully held, elections for large scale tea growers and tea traders did not take place as Kenya Tea Growers Association (KTGA) contested the election guidelines in Court. The Court issued *ex-parte* orders stopping the elections in January 2021.

1137. Further, one (1) director representing the small-scale growers who had been elected passed on in May 2023 and elections to replace the director were being awaited.

1138. Therefore, at the time of constituting the committees TBK Board only had seven (7) members against the full complement of eleven (11) members envisaged under the Tea Act 2020. The

reduced Board size created several practical constraints which made it difficult to comply with section B.4 of the Head of Public Service Circular No. OP/CAB.9/1A which states that members can only sit in a maximum of two committees.

1139. Mwongozo requires each Committee to have a minimum of three (3) members and also provide for independence rotation and skills mix. With seven (7) members, it was not possible to constitute all the mandatory Committees while maintaining separation and independence given the limited number of the directors. The same individuals were therefore required to serve in multiple Committees.

1140. Subsequently, the Court case was resolved and elections for the directors representing small and medium tea growers, largescale tea growers and tea trade were undertaken. Elections to represent the director who passed on were also carried out. In addition, the Council of Governors nominated their representative to the Board. The Cabinet Secretary for Agriculture gazetted and appointed the representatives to the Board enabling the reconstitution of the Committees in compliance with the circular No. OP/CAB.9/1A.

Committee Observations

The Committee observed that, there was Irregular Composition of Board Committees of which some of the Board Members served in more than two Committees contrary to the Head of Public Service Circular of 11 March 2020.

Committee Recommendations

The Committee recommends that the Board must at all times comply with the governing laws, procedures, regulations, as well as the Mwongozo Code of Governance for State Corporations and other relevant circulars and other governing laws and regulations applicable.

8.0 Board involvement in the Management of the Entity operations

1141. The Committee heard that, review of the records provided for audit including the payment vouchers revealed that the Board undertook activities that are of management in nature namely, consultative forum, West rift caucus, among others. This is in contrary of section D.2 of the Head of Public Service Circular No. OP/CAB.9/1A on management of state corporations which states that the board oversight in fieldwork or projects can be secured through the executive team lead by the Chief Executive Officer, internal audit or other government agencies under the framework of one Government approach. Analysis of board budget expenditure as per statement of comparison of budget and actuals revealed that the approved budget of board expenses reflected Kshs. 20,680,000 against actual expenditure of Kshs. 28,698,000 leading to unauthorized expenditure of Kshs. 8,018,000. In circumstances, the Board is in contravention of the Public Service Circular.

Management response

1142. The management informed the Committee that during the year under review, the Board was tasked with supervising elections for smallholder tea factories pursuant to a court decree issued on 11th April 2024. As a result, the Board Members had the overall role of supervising the elections.

Committee Observations

The Committee observed that–

i. The Board spent Kshs. 8,018,000 above the approved budget contrary to Section 12 of the State Corporations Act, CAP 446. The section provides that no state corporation shall, without the prior approval in writing of the Minister and the Treasury, incur any expenditure for which provision has not been made in an annual estimate prepared and approved in accordance with section 11.

ii. The Board engaged in managerial operational activities such as consultative forums and regional caucuses in violation of *Mwongozo* and the Head of Public Service Circular No. OP/CAB.9/1A on management of state corporations which provides that the role of the Board is strictly limited to strategy, policy formulation and oversight, while day-to-day operations are the preserve of the Chief Executive Officer and Management.

Committee Recommendations

The Committee reprimands the then Board of Directors for breach of the State Corporations Act, CAP 446 and *Mwongozo* and the Head of Public Service Circular No. OP/CAB.9/1A and

9.0 Staff under establishment

1143. The Committee heard that during the year under review, examination of the human resource records provided for audit revealed that the Board had an approved staff establishment of one hundred (100) staff against fifty-six (56) staff members in post, resulting in an overall under establishment by forty-four (44) with some posts having zero employees. In the circumstances, the Board lacked the requisite staffing levels to be able to run the day-to-day activities thereby adversely affecting delivery of its mandate as stipulated by law.

1144. In the circumstances, it was not possible to confirm whether the Board had adequate human resource capacity to facilitate effective achievement of is objectives.

Management response

1145. The management informed the Committee that following the enactment of Agriculture and Food Authority Act and the Crops Act 2013, all the former regulatory Boards and Authorities of the various scheduled crops were merged into Agriculture and Food Authority (AFA). All the staff of the Boards and Authorities were transited to AFA.

1146. Following the commencement of the Tea Act, 2020, TBK inherited the staff of the former AFA – Tea Directorate in line with section 80 of the Tea Act.

1147. Categorization of TBK was done in January 2022. TBK subsequently obtained approval for the HR Instruments from SCAC in May 2022. The instruments provide for terms of service of the staff of TBK and the approved Organizational structure with a staff establishment of one hundred (100) against the in-post of fifty-six (56) leading to a total deficit of 44 employees.

1148. Implementation of the approved structure to fill the vacant positions has been hampered by lack of sufficient budget to recruit staff and freezing of employment by the National Treasury. TBK has on several occasions sought for funds and approval to recruit but has been advised by the National Treasury to put the same on hold.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Staff under establishment in its report for Financial Year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

FINANCIAL YEAR 2024/2025

1.0 Lack of Tea Act Regulations

1149. The Committee heard that the as reported previously, The Tea Board of Kenya is a State Corporation in the Ministry of Agriculture and Livestock Development established by Tea Act No. 23 of 2020 to develop, regulate and promote tea sub-sector. However, as at 30 June, 2025, several regulations had not yet been enacted to operationalize the Tea Act, 2020. Core functions that require regulations for implementation are listed in the table below.

Section	Functions needing Regulations
21(2)	Registration of Small-Scale Tea Growers and Medium Scale Tea Growers
23(2)	Registration of Large-Scale Tea Growers
24	Issuance of Tea Grower Certificates
25(3)	Licensing of Manufacturers
28(3)	Registration of warehouse operator
29(3)	Registration of Tea Packers
33(4)	Registration of Management Agents
35(3)	Registration of Tea Auction Organizers
37(3)	Registration of Commercial Green leaf transporters
38(3)	Registration of Commercial Tea Nurseries
48(2)	Tea Value Addition
49(2)	Appointment of Crop Inspectors
53(4)	Establishment of Tea Levy

Management response

1150. The management informed the Committee that following the commencement of the Tea Act in 2021, TBK immediately commenced the process of developing regulations to operationalize the Tea Act as provided for under various sections of the Tea Act. However, before the regulations could be finalized and gazetted several tea industry players filed Petitions in various High Courts across the country challenging several Sections of the Tea Act including sections empowering the Cabinet Secretary to develop regulations. The High Court issued *ex-parte* orders stopping the operationalization of several sections of the Tea Act including section 74 which gives power to the Cabinet Secretary to operationalize the Act.

1151. The TBK commenced negotiations for an out of Court settlement and all the parties reached an agreement in April 2024. The Court cases were finalized and a decree issued by the Court.

1152. Consequently, development of the following regulations is at an advanced stage. Final Validation of the Tea (Registration and Licensing) Regulations and the Tea (Levy) Regulations was undertaken on 13th and 14th October 2025 and have been forwarded to the Ministry of Agriculture, Livestock Development for further processing.

1153. However, the process of finalizing other regulations is being hampered by lack of resources to undertake public participation with relevant stakeholders

Committee Observations and Recommendations

The Committee had deliberated on the issue of Lack of Tea Act Regulations in its report for Financial Year 2022/2023, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

2.0 Compensation of Employees- Irregular payment of Acting and Special Duty Allowances

The Committee heard that the included in this expenditure is acting allowances of Kshs. 936,786 and special duty allowances of Kshs. 532,889, totaling Kshs.1,469,675. A review of the relevant personal files established that these allowances were irregularly paid to ten (10) officers who had served in acting and special duty roles for periods exceeding twelve months, extending from the prior financial year. This was contrary to Section C.15 of the Human Resource Policies and Procedures Manual for the Public Service.

In the circumstances, Management was in breach of the human resources policies and procedures.

Management response

1154. The management informed the Committee that following the enactment of Agriculture and Food Authority Act and the Crops Act 2013, all the former regulatory Boards and Authorities of the various scheduled crops were merged into Agriculture and Food Authority (AFA). All the staff of the Boards and Authorities were transited to AFA.

1155. Following the commencement of the Tea Act, 2020, TBK inherited the staff of the former AFA – Tea Directorate in line with section 80 of the Tea Act

1156. Categorization of TBK was done in January 2022. TBK subsequently obtained approval for the HR Instruments from SCAC in May 2022. They have further been reviewed by Public Service Commission (PSC) in 2025. The instruments provide for terms of service of the staff of TBK and the approved Organizational structure with a staff establishment of one hundred (130) against the in-post of fifty-six (56) leading to a total deficit of 74 employees.

1157. Implementation of the approved structure to fill the vacant positions has been hampered by lack of sufficient budget to recruit staff and freezing of employment by the National Treasury. This has necessitated appointment of staff to critical positions on acting capacity which resulted into Acting and Special Duty Allowances.

1158. TBK has on several occasions sought for funds and approval to recruit but has been advised by the National Treasury to put the same on hold.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Compensation of Employees- Irregular payment of Acting and Special Duty Allowances in its report for Financial Year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

3.0 Non-Compliance with Law on Ethnic Composition

The Committee heard that the review of employee records revealed that the entity had fifty-six (56) of whom twenty-four (24) representing 43 percent, belonged to the same ethnic community. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which requires that all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community.

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

Management response

1159. The management informed the Committee that upon the enactment of the Tea Act 2020 the staff of AFA- Tea Directorate were transited back to the TBK in line with section 80 of the Tea Act. Since the re- establishment of TBK, no new recruitments have been undertaken hence the ethnic composition has remained the same as was in the AFA- Tea Directorate.

1160. However, TBK developed a new Organizational structure with an approved staff establishment of one hundred and thirty (130) against an in-post of fifty-six (56) staff members. The Board is seeking funds to implement the new structure and address the anomaly of the ethnic imbalance in the new recruitments.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Non-Compliance with Law on Ethnic Composition in its report for Financial Year 2023/2024, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

4.0 Failure to Deduct and File Monthly Returns on Procurement Capacity Building Levy.

The Committee heard that, during the financial year under review the Board entered into contracts with various suppliers for the works, goods delivery and service provision. However, the Board did not deduct and remit to the Public Procurement Regulatory Authority (PPRA) Levy, at the rate of zero point zero three per centum (0.03%) of the value of the signed contract, exclusive of applicable taxes from the contract value at the time of making payments for such contracts. Further, the Board did not submit returns, contrary to Section 9 of the Public Procurement Capacity Building Levy Order, 2023 which requires procuring entities to maintain monthly records in Form SL.1 and submit the returns through the Public Procurement Information Portal. In the circumstances, Management was in breach of the law.

Management response

1161. The management informed the Committee that the oversight was noted and the Board has commenced deducting Public Procurement Regulatory Authority (PPRA) Levy at the rate of zero point zero three per centum (0.03%) of the value of the signed contract.

1162. Currently, the PPRA is conducting a procurement and disposal assessment and contract performance audit for the FY 2024-25 including payment of the levy and TBK will comply with recommendations arising from the audit.

Committee Observations

The Committee observed that, the Board's failed to deduct and remit the 0.03% of Public Procurement Capacity Building Levy contrary to Public Procurement Capacity Building Levy Order, 2023.

Committee Recommendations

The Accounting Officer should at all times ensure compliance with the Public Procurement Capacity Building Levy Order, 2023 and other governing laws and regulations applicable.

5.0 Failure to Prepare Car Loan and Mortgage Financial Statements

The Committee heard that the Statement of Financial Position reflects Securities and Deposits of Kshs. 807,843,889 as disclosed in Note 25 to the financial statements. Included in the amount are staff mortgage and staff car loan of Kshs.673,143,262 and Kshs.50,872,527, respectively. However, the financial statements for the car and mortgage were not prepared by the Board, contrary to Section 164(3) of the Public Finance Management Act, 2012, which requires the accounting officer to prepare financial statements in a form that complies with the relevant accounting standards prescribed and published by the Public Accounting Standards Board.

Management response

1163. The management informed the Committee that TBK Staff Car Loan and Mortgage scheme with KCB was inherited from the Agriculture and Food Authority (AFA) in 2021 upon re-establishment of TBK. AFA on the other hand, inherited the staff car and mortgage scheme from the defunct

Kenya Sugar Board. The scheme had been established in 2008 with different terms and conditions from the civil servants' mortgage scheme.

1164. Under the Memorandum of Understanding (MOU) between TBK and KCB the loan facilities are advanced by the bank which bears all the risks and interests arising from the loan facility. The role of TBK is only to provide collateral for the loan facilities which does not warrant the preparation of a separate set of financial statements.

1165. However, the Board is in the process of developing regulations in line with the National Treasury guidelines and thereafter develop a separate staff car and mortgage scheme financial statements.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Failure to Prepare Car Loan and Mortgage Financial Statements in its report for Financial Year 2023/2024, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

6.0 Failure to Establish Tea Fund

1166. The Committee heard that Section 54 of the Tea Act, 2020 requires the Board to establish and manage a Tea Fund comprising monies appropriated by the National Assembly, tea levy collections, approved sources and grants or donations, to be applied for income or price stabilization and research and development. However, the audit revealed that the Tea Fund had not been set up as at the time of the review. In the circumstances, Management was in breach of Section 54 of the Tea Act, 2020.

Management response

1167. The management informed the Committee that, Section 53 of the Tea Act, 2020 establishes a tea levy at the rate of one per centum and a hundred per centum on tea exports and tea imports respectively. According to Section 53(5), fifty per centum shall be applied by the Board for income or price stabilization for tea growers.

1168. In this regard, the seed money for establishment of the Tea Fund was to be derived from the tea levy which was to be charged on tea exports and imports in accordance with Section 53 of the Tea Act, 2020. However, a court case against implementation of Section 53 was filed in 2021 thus impending operationalization of both Sections 53 and 54 of the Tea Act, 2020.

1169. In addition, National Assembly has not allocated any budget towards the tea fund since 2021 as envisaged under section 54 of the Tea Act 2020 thus making it difficult to operationalize the fund.

1170. Following the finalization of the Court case, the Board is at an advanced stage of finalizing the Tea Levy Regulation to operationalize section 53 of the Tea Act 2020.

Committee Observations

The Committee observed that–

The Board failed to operationalize the Tea Fund established under Section 54 of the Tea Act, 2020. The fund is the primary vehicle for achieving the Act's objectives regarding price stabilization and research and its absence undermines the legislative intent of the tea industry reform.

Although there was a court case challenging Section 53 (Tea Levy) that significantly hampered the Board's ability to mobilize "seed money" for the Fund, the Committee notes that the Fund's composition under Section 54(2) of the Tea Act is not limited to levies but also includes monies appropriated by the National Assembly and grants.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer in collaboration with Cabinet Secretary-Ministry Agriculture and livestock development to operationalize the Tea Fund.

The Committee recommends that within three months upon adoption of this report, the National Treasury shall ensure adequate budgetary allocation for operationalizing the Tea Fund.

1) Understaffing at the Board

1171. The Committee heard that the review of the payroll data and the Board's approved staff establishment revealed that the Board had a staff establishment of one hundred positions (100). However, only fifty-six (56) were filled, leaving a shortage of forty-four (44) staff members. This lack of adequate staffing hampers effective discharging of the mandate of the Board. This is contrary to Section 16. (1) of the Tea Act, 2020 which requires that the Board may employ such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Board under this Act and upon such terms and conditions of service as the Board may determine.

1172. Inadequate staffing may affect the Board's ability to effectively deliver on its mandate, leading to service delivery gaps.

Management response

1173. The management informed the Committee that following the enactment of Agriculture and Food Authority Act and the Crops Act 2013, all the former regulatory Boards and Authorities of the various scheduled crops were merged into Agriculture and Food Authority (AFA). All the staff of the Boards and Authorities were transited to AFA.

1174. Following the commencement of the Tea Act, 2020, TBK inherited the staff of the former AFA – Tea Directorate in line with section 80 of the Tea Act.

1175. Categorization of TBK was done in January 2022. TBK subsequently obtained approval for the HR Instruments from SCAC in May 2022. The instruments provide for terms of service of the staff of TBK and the approved Organizational structure with a staff establishment of one hundred (130) against the in-post of fifty-six (56) leading to a total deficit of 74 employees

1176. Implementation of the approved structure to fill the vacant positions has been hampered by lack of sufficient budget to recruit staff and freezing of employment by the National Treasury. TBK has on several occasions sought for funds and approval to recruit but has been advised by the National Treasury to put the same on hold.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Understaffing at the Board in its report for Financial Year 2021/2022 observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

2) Failure to Conduct Governance Audit

1177. The Committee heard that the entity's Board did not initiate governance audit during the year under review. This was contrary to the requirement of Mwongozo code of conduct for State Corporations issued under presidential Executive Order No.7 dated 25 March, 2015, under item1.13 which states that the board of directors in consultations with the State Corporation Advisory Committee is required to initiate governance audit of the company through an institute of certified public secretaries of Kenya (ICPSK) member and that the governance audit should among other areas cover the governance practices of the organization.

1178. In the circumstances, the adequacy of governance oversight could not be assured, as the Board failed to initiate the mandatory governance audit required under the Mwongozo Code of Conduct for State Corporations.

Management response

1179. The management informed the Committee that following the coming into effect of the Tea Act in 2021, the Board of TBK was partially constituted in January 2022 and comprised of 7 members out of 11 until September 2025 when the Board was fully constituted.

1180. In addition, operationalization of several key provisions of the Tea Act had been suspended by the High Court following the petitions filed by some tea industry stakeholders thereby affecting most of the processes that would be subject to the governance audit. In this regard, the Board has been in the process of setting up internal processes and operational frameworks after the Court cases were lifted.

1181. It was therefore not ideal to have the governance audit as the Tea Board of Kenya was still in the process of putting in place the necessary governance structures including the full constitution of the Board by the Cabinet Secretary for Agriculture. Undertaking a governance audit during this period would have resulted in an incomplete / inaccurate assessment.

1182. Further, governance audit is a specialized and expensive exercise that requires the engagement of an accredited governance auditor through a competitive procurement process. In the FY 2023-2024 the Board faced significant budget constraints and was therefore unable to allocate funds to carry out the exercise.

1183. The process of constituting the Board has now been completed and most of the governance structures and operational framework are now in place. In this regard, the Board is working on securing additional funding to undertake the governance audit.

Committee Observations and Recommendations

1184. The Committee had deliberated on the issue of Failure to Conduct Governance Audit in its report for Financial Year 2023/2024 observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

EXAMINATION OF THE REPORT OF THE AUDITOR-GENERAL ON THE AUDITED ACCOUNTS OF THE NATIONAL SOCIAL SECURITY FUND FOR THE FINANCIAL YEAR 2024/2025.

Mr. David Koross, Managing Trustee/CEO National Social Security Fund was accompanied by Ms. Mr. Ronald Nyamosi (General Manager Finance), Marietta Mutinda (Finance Manager), Mr. Peter Muiruri (Manager Property Development) and Ms. Carolyne Mutunga (Marketing Officer) appeared before the Committee to adduce evidence on the Audited accounts of National Social Security Fund for the Financial Year 2024/2025.

FINANCIAL YEAR 2024/2025

1.0 Budgetary Control and Performance

1185. The Committee heard that, the statement of comparison of budget and actual amounts reflects final development budget of Kshs.5,505,000,000 and actual expenditure on comparable basis of Kshs.3,914,742,225 resulting to an underutilization of Kshs.1,590,257,775 or 29% of the budget. Significant underutilization of development budget affected the Fund's ability to implement planned activities and projects, may have impacted negatively on members' return through reduced investment income.

Management response

1186. The management informed the Committee that, the Fund's capital budget for 2024/2025 financial year was Kshs. 5,505,000,000 and the Fund managed to spend/commit Kshs. 3,914,742,225 as at 30 June 2025 resulting to an absorption of 71%. The main reason for under absorption of 29% is the late approval of the budget by the line ministry and National Treasury which was received on 7th April 2025. The unspent capital budget was held as part of the Fund's investments assets and generated returns to the benefit of members.

Committee Observations

The Committee observed that–

The Fund registered a significant underutilization of its development budget by Kshs.1,590,257,775 (29%) against a final approved budget which might have negatively impacted on members' returns by way of investment income.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure at all times that the budgets are realistic, achievable, and always adhere to annual work plans, procurement plans, and

revenue collection schedules in compliance with Regulation 44(2) of the PFM (National Government) Regulations, 2015.

2.0 Revocation of Irregularly Issued Land Title Deed

1187. The Committee heard that, the statement of net assets available for benefit and as disclosed in Note 24 to the financial statements reflects investment property balance of Kshs.35,447,457,956 net of provisions for the cost of undeveloped land located in Upper Hill Nairobi. The Fund purchased land from a private developer for Kshs.115,000,000. However, the title deed was revoked through Kenya Gazette Notice No. 3460 of 1 April 2010 on the grounds that though the title was allocated and issued to a private developer the parcel had been reserved for public purposes under the relevant provisions of the Constitution, Government Land Act (Cap 280) and the Trust Land Act (Cap.288). The Fund filed the case in court and is currently awaiting a determination.

Management response

1188. The management informed the Committee that, this matter was raised by OAG in the 2023/2024 financial year. The Title being held by the Fund was degazetted and the possession of the property given to P.S. Treasury to hold for Judiciary.

1189. The Fund instituted Nairobi ELC 153 Of 2018- National Social Security Fund Board of Trustees VS. Le-kuna Limited & 3 Others, seeking recovery of Kshs. 20 million from Lekuna Limited being the purchase price paid by the Fund for property known as L.R. No 209/11642 (Community). The matter is still pending in Court and is scheduled for pretrial conference on 1 April 2026 to confirm compliance by the parties and for purposes of fixing a hearing date. Further investigations by the Ethics and Anti-corruption commission are ongoing on the manner in which the land was acquired and the Fund's title revoked, and possession given to the Judiciary.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Revocation of Irregularly Issued Land Title Deed in the Seventh PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

3.0 Unachieved Performance Targets

1190. The Committee heard that, the review of the strategic objectives indicated the following unachieved targets:

Key Performance Indicator	Target 2024-2025	Actual 2024-2025	Underperformance
New member registration	650,000	611,037	38,963

Performance contract rating	2.90%	2.68%	0.22%
Closure of legacy audit queries	100%	76%	24%
Customer satisfaction	84%	71.25%	12.75%
Benefits turnaround	10 days	9 days	1 day

Failure to achieve key performance targets may affect the Fund's ability to deliver on its mandate.

Management response

1191. The management informed the Committee that–

i) New member registration- the Fund targeted to register 650,000 new members during the year 2024/2025 but was able to register 611,037 new members which is 94% achievement on target despite the economic conditions.

ii) Performance contract rating. The Fund targeted to achieve a performance contracting rating of 2.9% in the year 2024/2025. The Fund achieved a performance contracting rating of 2.68% which is a better score as the fund overachieved the target by 0.22%.

iii) Closure of legacy audit queries- the Fund has continued to implement measures to address the legacy challenges that led to audit queries and by the end of 2024/2025 financial year, 76% of issues had been addressed leaving only 24% which management is actively engaged in solving.

iv) Customer satisfaction- the fund achieved a satisfaction index of 71.25% out a target of 84% representing a performance of 87.25%. Management has laid measures to further improve benefits processing turnaround time to 1 day in the next 2 years to fully achieve the customers satisfaction index target.

v) Benefits turn around- the Fund targeted to achieve 10 days turnaround time in benefit processing in the year 2024/2025. The Actual turnaround time achieved was 9 days which much better than the set target of 10 days.

Committee Observations.

The Committee observed that–

The under-performance of income against the approved budget indicated unrealistic or over-optimistic revenue projections. The Fund based its projections of revenue and expenditure on weak assumptions and hence substantially unachieved targets.

Committee Recommendations

The Committee recommends that Management to develop and implement a robust performance improvement plan with specific timelines for addressing underperformance in each Key Performance Indicators (KPI), by intensifying member registration drives and invest in customer experience improvement initiatives. The progress should be submitted to the National Assembly and the Auditor-General for review on compliance.

4.0 Non- Performing Investments in Unquoted Equities

1192. The Committee heard that, the statement of net assets available for benefits and as disclosed in Note 22a to the financial statements reflects unquoted equities balance of Kshs.199,486,740. Review of the investment ledger revealed that the Fund held 11,393,460 shares in unquoted equities whose value of Kshs.199,486,780 has not appreciated over the past four (4) years. Management's failure to take remedial action regarding the non-performing investments such as addressing potential impairment or divestment affects the long-term financial sustainability of the Fund and value addition to the Members' contributions.

1193. In the circumstances, the value for money from the investment on unquoted equities amounting to Kshs.199,486,740 could not be confirmed.

Management response

1194. The management informed the Committee that, it acknowledges the audit observation. This is a prior year audit query, and the background was comprehensively covered in 2021/2022 financial year audit report.

1195. The National Treasury, which is the majority shareholder, recently indicated intentions to privatize the bank through listing or selling the bank to a strategic investor. The Board of Trustees is keenly following up the development with the intention of exiting at the earliest opportunity.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Non- Performing Investments in Unquoted Equities in the Seventh PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

5.0 Non-Performing Investments in Quoted Equities

1196. The Committee heard that, the statement of net assets available for benefits and as disclosed in Note 23 to the financial statements reflects quoted equities of Kshs.85,151,448,962. The investments include shares held in three (3) companies valued at Kshs.401,818,470 as at 30 June, 2025 whose value decreased by Kshs.47,083,730 or 10.5% from Kshs.448,902,200 as at 30 June, 2024.

1197. In the circumstances, value for money from the continued holding of the quoted investment of Kshs.401,818,470 in three (3) companies could not be confirmed.

Management response

1198. The management informed the Committee that– the 3 companies cited in the audit report are: - MTN Uganda Shares, Nation Media Group and Umeme Uganda.

a) MTN Uganda

The decrease in the valuation of the MTN Uganda, as reported in the financial statements, from KES 283,848,546.40 in 2024 to KES 262,015,575.14 in 2025 is attributable to the disposal of 19,905,113 units during the year under audit, which sale generated a gain of Kshs. 68.5 million to the benefit of members. The price of MTN Uganda actually appreciated from Kshs. 5.94 in 2024 to Kshs. 9.38 in 2025, representing an increase of Kshs. 3.44 per share or 58% value gain.

b) Nation Media Group

The drop-in valuation of Nation Media Group shares held from Kshs. 84,661,904.03 (2024) to Kshs. 65,124,541.56 (2025) was due to price depreciation from Kshs. 16.90 (2024) to 13 (2025) signifying price drop of 3.90. The decline in the share price is attributable to a combination of structural industry shifts, cyclical economic pressures, and company-specific challenges. The Fund appointed Fund managers are keenly monitoring performance of this share price against performance of Nation Media Group with view of making a divestiture decision with no significant loss to the Fund.

c) Umeme Uganda

The drop-in valuation of Umeme Uganda shares as reported from Kshs. 80,391,793.74 (2024) to KES.74,678,352.94 was due market price movement from Kshs. 16.06 (2024) to 14.92 (2025). The decline resulted from the suspension of trading from end of March 2025 mid-June 2025, during the transition of its electricity distribution concession back to the government and the uncertainty surrounding the compensation amount. When trading resumed, the share price fell below its pre-suspension level, reflecting continued market uncertainty and the loss of revenue following the end of the concession.

The counter remains actively traded, and the Fund continues to monitor it closely to ensure the investment delivers value to members.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Non-Performing Investments in Quoted Equities in the Seventh PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

6.0 Outstanding Taxes

1199. The Committee heard that, the statement of net assets available for benefits, as disclosed in Note 34(a) to the financial statements reflects taxes payable of Kshs.13,063,846, which may be subject to penalties and interest. This was contrary to Regulation 23 (2a) of the Public Finance Management (National Government) Regulations, 2015 which states that, an Accounting Officer shall comply with any tax, levy, duty, pension, commitments, and audit commitments as may be provided for by legislation. In the circumstances, Management was in breach of the law.

Management response

1200. The management informed the Committee that the outstanding tax liability of Kshs. 13, 063,846 was as a result of a reconciliation which was ongoing with KRA by the time of audit. The reconciliation has since been concluded, outstanding taxes agreed on and settlement done.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Outstanding Taxes in the Seventh PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

7.0 Irregular Payment of Acting and Special Duty Allowances

1201. The Committee heard that the financial statements reflects staff cost of Kshs.5,658,570,624. Review of the monthly payrolls revealed that the Fund paid acting allowance of Kshs.6,502,2275 and special duty allowances of Kshs.14,697,717 totalling to Kshs.21,199,945 paid to several employees who served for periods exceeding the stipulated six (6) months. Without Board's approval. This was contrary to Section C4 and C15 of the Public Service Commission Human Resource Policies, May 2016 and Section 4 of the National Social Security Fund Human Resource Policies and Procedures Manual dated February 2024, which states that an officer may be appointed in an acting capacity for a period of at least thirty days not exceeding a period of six months. In the circumstances, Management was in breach of the law.

Management response

1202. The management informed the Committee that the fund carried out a job evaluation and came up with a new structure and also developed new human resource instruments which received approval in the 2023/2024 and implementation is ongoing.

1203. Recruitments to fill the vacant positions have been undertaken as follows:

i) Recruitment of General Managers and Managers that was successfully undertaken and majority of vacancies filled by March 2025.

ii) Regional Managers recruitment that was concluded by December 2025

iii) Vacant Managers positions were advertised and applications closed on 23rd of February 2026 and shortlisting is currently ongoing.

1204. The amounts paid as noted by the auditor relate to the remuneration paid to the officers who were still serving on acting capacity in the intervening period during the financial year as the process of filling the offices substantively was underway.

1205. With the continued expansion of the Fund's business, the Board has commenced another circle of job evaluation that will ensure right sizing of the establishment and ensuring all functions are manned adequately without creating an overlap. The job evaluation exercise is expected to be completed in good time to avoid the situation recurring.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Irregular Payment of Acting and Special Duty Allowances in the Seventh PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

8.0 Fund's Premises Rented Out without Valid Lease Agreements

1206. The Committee heard that, the statement of changes in net assets available for benefits and as disclosed in Note 8 to the financial statements reflects investment income amount of Kshs.55,774,467,944 which includes rent income of Kshs.1,007,336,723. Review of records revealed that eight (8) tenants objected increment of rent, obtained court injunctions and have consistently underpaid and failed to pay rent regularly resulting to accumulated balance of Kshs.5,183,306. Further, other five (5) tenants were occupying the premises without signed lease agreements, despite the Fund's efforts to regularize the agreements. This has denied the Fund rent due for the use of its premises.

1207. In the circumstances, the Fund has not realized value for money from the continued occupancy of the office space by non-paying tenants.

Management response

1208. The management informed the Committee that it confirms that indeed there were 8 tenants in the Social Security House Mombasa who objected to the review of rates chargeable by the Fund and went to court and obtained court injunctions and consistently underpaid or failed to pay rent to a tune of Kshs.5,183,306. However, the court matter has since been concluded where the Fund was allowed engage with tenants willing to accept the new terms or otherwise evict.

1209. On 9th October 2025, management issued a 60 days' notice to terminate or alter terms of tenancy under provisions of section 4(2) of the Landlord and Tenant (Shops, Hotels & Catering Establishments) Act. The notice expired on 31st December, 2025. On 1st January 2026, the protected tenants were invoiced rent as per the Fund approved rates. Two (2) tenants vacated the premise and Fund let the space to new tenants. Six (6) tenants objected the rent and lease regularization and threatened to proceed to court again. Management has resolved to evict/distress the six (6) tenants from 1st April 2026 for vacant possession since they have defaulted their rent

payment obligation for the quarter January – March 2026 and pursue the tenants for recovery of the Kshs. 5,183,306 arrears.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Fund's Premises Rented Out without Valid Lease Agreements in the Seventh PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

9.0 Idle Properties in Nairobi Central Business District

1210. The Committee heard that, the statement of net assets available for benefits as disclosed in Note 24 to the financial statements reflects investment property balance of Kshs.35,447,457,956. The balance includes value of five (5) properties located at Nairobi Central Business District valued at Kshs.4,022,000,000 as at 30 June, 2025. The properties remained idle during the year under review, contrary to Section 1.5.2 of Fund Investment Policy statement, 2020 which requires that assets structured and invested in a prudent manner at all times.

1211. In the circumstances, Management was in breach of the law while beneficial ownership to the properties could not be confirmed.

Management response

1212. The management informed the Committee that the Fund wishes to confirm that the ownership of the Kenyatta Avenue property is not in dispute as it holds the title to the property. The Fund was in the process of amalgamating the multiple titles into one. That process has since been completed and the amalgamated title is in the name of the Fund.

1213. The Board of Trustees approved development of the property in August 2025 and the Fund has procured an EPC+F contractor to develop the property. Attached are the documents of title and ongoing development approvals.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Idle Properties in Nairobi Central Business District in the Seventh PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

10.0 Property, Plant and Equipment

1214. The Committee heard that the statement of assets available for benefit and as disclosed in Note 25 to the financial statement reflects property, plant and equipment balance of Kshs.470,954,966. The following unsatisfactory matters were however noted: -

i) Failure to Dispose Obsolete Assets

Review of property, plant and equipment records revealed the Fund holds obsolete assets amounting of Kshs.5,843,000 which were earmarked for disposal and a committee constituted but the disposal was not done. This was contrary to Regulation 180(1) and (2) of Public Procurement and Asset Disposal Regulation, 2020 provides that an Accounting Officer shall be primarily responsible for ensuring that the procuring entity fulfills its asset disposal obligations and that user departments identify items due for disposal and capture them in the annual disposal plan.

Management response

1215. The management informed the Committee that it acknowledges that there was delay in disposing the obsolete assets. Management has put in place an Asset Disposal committee pursuant to section 163(1) of PPADA 2015. The committee which has since started working on the mandate as clearly prescribed in section 177 (1) of the Public Procurement and Asset Disposal Regulations (PPADR) 2020. The fund is aiming to conclude the disposal process before the end of 2025/2026 financial year.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Failure to Dispose Obsolete Assets in the Seventh PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

6.0 Delayed Construction of Boundary Wall at Plot in Bamburi

1216. The Committee heard that, the statement of net assets available for benefits and as disclosed in Note 27 to the financial statements reflects assets under construction balance of Kshs.1,265,325,610 which includes construction of a boundary wall for a plot in Bamburi of Kshs.10,152,732. As previously reported, the initial contract was awarded at a contract price of Kshs.16,563,900 with an expected completion period of eight (8) weeks from 12 March, 2017. However, the works were suspended due to encroachment by a water pipeline and underground cables. Although the suspension was lifted on 21 March, 2018, the contract was terminated after 81% of completion since the contractor was unable to complete the work.

1217. Subsequently, another contractor was engaged on 28 September, 2020 at a contract price of Kshs.6,233,094 to complete the remaining works within eight (8) weeks. However, as at the time of the audit in October, 2025, the construction of the wall had not been completed, eight years after the expected completion period. This was contrary to Section 9 of the contract, which allows the procuring entity to terminate the agreement in writing if the contractor fails to fulfil their obligations under the agreement.

1218. Further, Management did not provide site inspection reports, meetings minutes between the Contractor, the Fund's Management and the Project Manager or the project status report as at 30 June, 2025, for audit verification.

1219. In the circumstances, the value for money spent on the boundary wall could not be confirmed

Management response

1220. The management informed the Committee that the construction of the fence got frustrated by the construction of a major interchange at the site which is still under construction. The fence is approximately 80% completed. The boundary is secured all round. The outstanding works is additional security grills (50%) and finishes to the walling.

1221. The Fund has since terminated the contract and is in the process of procuring a contractor to complete the outstanding items.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Delayed Construction of Boundary Wall at Plot in Bamburi in the Seventh PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

7.0 Staff Mortgage and Loans

1222. The Committee heard that, the statement of net assets available for benefit and as disclosed in Notes 29 and 30 to the financial statements reflects staff mortgage scheme deposits and staff loans of Kshs.1,329,439,690 and Kshs.135,217,038 respectively. The following unsatisfactorily matters were however noted: -

i) Failure to Prepare and Submit Financial Statements for Staff Mortgage Scheme and Staff Car Loan

The Committee heard that, the financial statements for the Staff Mortgage Scheme and Staff Car Loan have not been prepared and submitted to the Auditor-General for audit contrary to Section 84(1) and (3) of Public Finance Management Act, 2012, which states that the administrator of a national public fund established by the Constitution or an Act of Parliament shall prepare financial statements for the fund for each financial year in a form prescribed by the Accounting Standards Board and Not later than three months after the end of each financial year, the administrator of a national public fund shall submit the financial statements prepared under this section to the Auditor-General.

Management response

1223. The management informed the Committee that, the financial statements for staff mortgage and car loan scheme have been prepared and submitted to the Auditor General for audit. There is a copy of the statements submitted and acknowledged by the Office of the Auditor General for review.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Failing to Prepare and Submit Financial Statements for Staff Mortgage Scheme and Staff Car Loan in the Seventh PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

11.1 Operationalization of Staff Mortgage and Car Loan Fund without Regulations

1224. The Committee heard that, the Fund Administrator has not developed regulations to guide the implementation of the car loan and mortgage schemes as required by the Salaries and Remuneration Commission circular reference No. SRC/ADMI/CIR/1/13 VOL. III (128) of 17 December, 2014.

Management response

1225. The management informed the Committee that the staff Loans Policy & Regulations Manual NSSF/HRM/PD/17 has since been approved and its now operational and a copy of the approved staff loans policy and regulations was provided for review.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Operationalization of Staff Mortgage and Car Loan Fund without Regulations in the Seventh PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

11.2 Lapsed Agreement with Mortgage Scheme Administrator

1226. The Committee heard that, the long-term deposits amounting to Kshs.681,992,097 held with a mortgage scheme administrator. The agreement with the mortgage scheme administrator was signed on 17 December, 2012 for an initial duration of five (5) years with an option to renew. However, after the lapse of the first term on 16 December, 2017 there is no evidence of renewal. This was contrary to Section 68 (2) of the Public Finance Management, Act 2012 which requires that an accounting officer shall ensure that all contracts entered into by the entity are lawful and are complied with.In the circumstances, Management was in breach of laws.

Management response

1227. The management informed the Committee that, the Administration agreements with the three banks managing the NSSF Staff Mortgage Scheme have been reviewed and renewed for three (3) years. And there are copies of the mortgage administration agreements with the service providers attached for review.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Lapsed Agreement with Mortgage Scheme Administrator in the Seventh PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

8.0 Long Outstanding Advance Payment on Stalled Embakasi Scheme Project

1228. The Committee heard that, the statement of net assets available for benefits and as disclosed in Note 31 to the financial statements reflects receivables and prepayments of Kshs.10,201,624,713. The balance includes deposits and prepayments balance of Kshs.291,319,174 of which Kshs.290,422,874 consists of advances and deposits to suppliers, including a deposit of Kshs. 215,883,806 paid to a contractor for Nyayo Estate Phase VI Construction Project.

1229. Further, as previously reported, the contract for construction of 324 units at Nyayo Embakasi was signed on 21 February 2013 for seventy-eight (78) weeks from 2 June, 2013 to 30 November, 2014 at a total cost of Kshs.2,155,407,742. However, the construction stalled. Although, Management explained that the project stalled due to lack of approval of change of user by Nairobi City County Government, no evidence was provided to support this explanation. As at the time of audit October, 2025, only forty-four (44) units had been constructed.

1230. In addition, the works were certified at Kshs.274,675,066 yet the contractor had been paid Kshs.227,900,500 in addition to mobilization fee of Kshs.215,540,774 resulting to overpayment of Kshs.168,766,208. Management explained that the contractor had been requested to refund the overpayment, however, at the time of audit in October, 2025 no refund had been received.

1231. In the circumstances, Management was in breach of the law and the recovery of the advance payment appear doubtful.

Management response

1232. The management informed the Committee that, the project stalled because the Fund could not obtain the requisite Change of User approvals for some of the parcels earmarked for the project. The completed units were handed over to the Fund and sold as planned.

1233. The Fund Board of Trustees has approved procurement of a contractor to undertake the pending project.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Long Outstanding Advance Payment on Stalled Embakasi Scheme Project in the Seventh PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

9.0 Returned Benefits

1234. The Committee heard that, the financial statements reflects an amount of Kshs.163,521,928 relating to returned benefits. Review of the schedules revealed unclaimed member benefits that have been outstanding for a long period of time some dating to 1985. In addition, an increment of Kshs.5,044,358 with returned benefit was noted during the year under review. It was not clear why the returned benefits have remained outstanding for a long period investigation identification of beneficiaries and subsequent payment.

1235. In the circumstances, long outstanding returned benefits reflects weak internal controls over reconciliation and underscores the urgent need for strengthened reconciliation and follow up to safeguard member funds.

Management response

1236. The management informed the Committee that over the years the Fund has employed a great deal of effort to establish contact with the beneficiaries for purposes of settling the benefits. The effort includes using media adverts, use of the Fund's website and using the local administration to reach out to the members and or their beneficiaries.

1237. Management has further rolled out an exercise of re-examining the original records of the members which will then be shared with other government agencies like the National Registration Bureau to gather any more useful information that can help reach the members.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Returned Benefits under Non-Compliance with the Unclaimed Financial Assets, Act 2011 in the Seventh report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein

10.0 Unallocated Member Contributions

1238. The Committee heard that, the financial statements disclose contributions from members of Kshs.81,939,367,930 which includes Kshs.12,085,218 in member contributions received during the year that had not been allocated to the individual member accounts. As a result, the amount was being held in the suspense accounts.

1239. In the circumstances, the risk of unallocated payments being irregularly applied is high.

Management response

1240. The management informed the Committee that, it acknowledges the existence of unallocated contributions which results from employers returns which contain errors especially wrong member number and ID number, or truncated numbers, or unregistered employees hence posing a challenge in identifying and posting the contributions to respective members accounts.

1241. The Fund has put in place a robust process for identifying and correcting such cases on a continuous basis.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Unallocated Member Contributions in the Seventh PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

11.0 Delays in Allocating Client Payments

1242. The Committee heard that the statement of net assets available for benefits, as disclosed in Note 31 to the financial statements, reflects net receivables and prepayments balance of Kshs.10,201,624,713. The balance includes clearing balances of negative Kshs.11,828,322. However, no explanation was provided for the delays in allocating the amounts into the relevant accounts. The existence of clearing accounts poses the risk of unauthorized reallocation of client payments. In the circumstances, the controls over receipting of client payments are weak.

Management response

1243. The management informed the Committee that, the amount of Kshs. 11,828,322 relate to various clearing accounts representing transactions which are yet to be fully settled. Management has increased its efforts in clearing these unallocated amounts with a target completion date of 30th June 2026.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Delays in Allocating Client Payments in the Seventh PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

12.0 Long Outstanding Reconciliation Items

1244. The Committee heard that, the financial statements discloses payables and accruals balance of Kshs.2,310,425,348 which includes payable due to vendors of Kshs.633,635,888 which further includes Goods Receipt (GR) and Invoice Receipt (IR) clearing account balances of Kshs.202,270,153. However, the balances have been long outstanding with some dating back to 2012/2013 financial year. Further, Management did not provide satisfactory explanations for the delay in clearing / settling the balances.

1245. In the circumstances, the effectiveness of the internal controls over goods and invoice receipts clearing process could not be confirmed.

Management response

1246. The management informed the Committee that, the GR/IR account is a temporary clearing account in SAP used to manage timing differences between goods received and invoices received. When a Goods Receipt (GR) is posted, inventory is debited and the GR/IR account is credited. When an Invoice Receipt (IR) is posted, the GR/IR account is debited and the vendor account is credited. This ensures that the financial statements reflect accurate liabilities and inventory values. The amount of Kshs. 202,270,153 relate to goods receipts notes for deliveries in the month of May and June 2025, awaiting presentation of invoices for posting. The entries for earlier periods have since been cleared.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Long Outstanding Reconciliation Items in the Seventh PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

13.0 Lack of Account Receivables Management Policy

1247. The Committee heard that, the statement of net assets available for benefit reflects and as disclosed in Note 31 to the financial statements reflects receivables and prepayment of Kshs.10,201,624,713 Further, Note 33 to the financial statements reflects total provisions on assets amounting Kshs.2,605,263,789 out of which provisions amounting Kshs.1,075,983,804 relate to doubtful accrued income and provision for doubtful debts. However, Management had not developed or approved accounts receivables policy to guide on the control and management of the receivables. This was contrary to Regulation 43(1)(d) of Public Finance Management (National Government) Regulation, 2015, which states that an Accounting Officer shall manage, control and ensure that policies are carried out efficiently and wastage of public funds is eliminated.

1248. In the circumstances, the effectiveness of internal controls on management of accounts receivables could not be confirmed.

Management response

1249. The management informed the Committee that, the Fund's practice was that policies guiding the management of receivables are contained in different policy documents depending of the item in question. For example, policies on management of receivables arising from member contribution is contained in the respective member contribution management policy, TPS debtors in the TPS policy as well as finance manual for policies guiding on the other receivables. Also, the Fund has a Bad debt provision and write of policy that is applicable.

Following the Auditor's recommendation, Management has since developed a debt management policy for a unified receivables management.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Lack of Account Receivables Management Policy in the Seventh PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

EXAMINATION OF THE REPORT OF THE AUDITOR-GENERAL ON THE AUDITED ACCOUNTS OF NATIONAL HOSPITAL INSURANCE FUND (SOCIAL HEALTH AUTHORITY) FOR THE FINANCIAL YEARS 2021/2022 -2024/2025

Dr. Mercy Mwangangi, Chief Executive Officer Social Health Authority accompanied by Mr. Jonathan Leisen (Director, Finance) and Mr. Golda L. Akolo (Director- Benefits & Claims), appeared before the Committee to adduce evidence on the audited accounts of the National Hospital Insurance Fund (Social Health Authority) for the Financial Years 2021/2022 – 2024/2025

FINANCIAL YEAR 2021/2022

1.0 Property Plant and Equipment

1.1 Disputed ownership of land

1250. The Committee heard that, the statement of financial position and as disclosed in Note 23 to the financial statements reflects property, plant and equipment balance of Kshs.12,997,610,657 which includes land valued at Kshs.298,589,665. Included in this balance is an amount of Kshs.93,712,675 for land measuring 10 hectares situated in Karen. The ownership of this parcel of land is in dispute and the matter is in Court. In the circumstances, the ownership of land valued at Kshs.298,589,665 could not be confirmed.

Management response

1251. The management informed the Committee that the DCI engaged the Chief Land Registrar from Ministry of Lands, the Land Surveyor from Survey of Kenya, Chief Valuer from Nairobi City County Government and all parties who hold titles to the land. DCI requested NHIF to surrender the original titles for purposes of investigation and the letter surrendering the title to DCI were submitted for review. The Directorate of Criminal Investigations Ref No. DCI/IB/LFIU/SEC/4/4/1/VOL.XLVI/125 dated 21st August 2023 advised the Fund to fence the property and to follow up with ODPP on the case in court.

1252. NHIF wrote to Ministry of Lands, Public Works and Urban Development requesting costing of the fence which the Ministry replied via their letter Ref: QD 108/GEN/VOL. XII/45 dated 18th May 2023 with the cost estimates; , this cost is factored in the budget for this financial year 2025/2026. The current status of the matter indicates that the criminal matter is still ongoing Nairobi Criminal Case NO. E341 of 2023 - Republic vs Peter David Leparkwo & Fredrick Kimemia Kimani.

Committee Observations and Recommendations

The Committee had deliberated on the issue of disputed ownership of land in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

1.2 Doubtful Work-In-Progress at Karen Land

1253. The Committee heard that the statement of financial position and as disclosed in Note 23 to the financial statements reflects property, plant and equipment balance of Kshs.12,997,610,657 which includes capital work in progress balance of Kshs.1,444,687,484 relating to payments for drawings and designs for the proposed Resource Centre. Although the issue had been discussed by the Public Investment Committee (PIC), no action appears to have been taken on the PIC recommendations that the Fund should expeditiously pursue the prosecution and conclusion of the case to its logical conclusion. In the circumstances, the validity and existence of capital work in progress balance of Kshs.1,444,687,484 could not be confirmed.

Management response

1254. The management informed the Committee that the following are the litigations commenced by the Consultants in respect to the Karen Medical Centre of Excellence:

i. High Court Civil Suit No. 504 of 2016: National Hospital Insurance Fund Vs. Baseline Architects Ltd.
ii. Rebman Ambalo Malala T/A Ujenzi Consultants Vs NHIF HCCC NO. 25 of 2016
iii. Comm Case No. 255 of 2016 - NHIF Vs. Eng. Peter Scott and Manga and Associates
iv. Civil Suit No. 176 of 2017 – Professional Consultants Ltd –Vs- NHIF

1255. This matter was presented to the committee and in the 21st Report of PIC, Parliament recommended that: The Fund fast tracks the hearing and determination of case HCCC.ELC NO.691 of 2011; and the Fund secures the disputed parcel of land through fencing and hire a competent security firm to guard the property until the case is fully determined. NHIF vs Crownline Freighters and Others, Nairobi ELC No. 691 of 2011 (as consolidated with ELC 152 of 2018), was mentioned before the court on 9th May 2022. During the mention, the court granted the parties additional time to file relevant documents. The Fund filed its defence on 25th October 2022.

1256. The case proceeded to hearing on 22nd and 23rd April 2024 and the hearing is ongoing.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Doubtful Work-In-Progress at Karen Land in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

2.0 Construction of Multi Storey Car Park

1257. The Committee heard that as previously reported, the Fund entered into an agreement with a local construction firm for construction and completion of a multi storey car park at a contract sum of Kshs.909,709,305 which was revised to Kshs.1,179,611,756. Review of records provided for audit revealed that the project commenced in May, 2002 and completed at a cost of Kshs.3,342,120,239 in July, 2008, five (5) years after the scheduled completion date of August, 2003. Further, expenditure totalling to Kshs.626,635,998 and Kshs.4,706,521 was incurred in 2009/2010 and 2010/2011 respectively on the car park increasing its total cost to Kshs.3,973,462,758 resulting to a contract variation of Kshs.3,063,753,453 or 337% of the original contract.

1258. Although the issue has been discussed by the Public Investment Committee, no action has been taken on the Committee Recommendations that the Ethics and Anti-Corruption Commission should institute and fast track investigation on the project. As at the time of this audit in March,

2023, no progress report had been received from the Commission. In the circumstances, validity and accuracy of buildings balance of Kshs.7,570,290,280 could not be confirmed.

Management response

1259. The management informed the Committee that the matter was presented to the 21st PIC Committee, where it recommended that Ethics and Anti-Corruption Commission should fast track investigations into the procurement process of the Multi-Storage Car Park, with a view of preferring charges against all those found culpable of defrauding the Fund. The matter was therefore referred to EACC as directed by Public Investment Committee and EACC commenced investigations by requesting for original documentation. In September 2022 the Fund's CEO was invited by EACC to record a statement on the status of the documents. EACC guided that they would give way forward.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Construction of Multi Storey Car Park in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

3.0 Short Term Deposits (Investments)

1260. The Committee heard that the statement of financial position and as disclosed in Note 32 to the financial statements reflects short term deposits (investments) balance of Kshs.13,388,971,803 which is net of provision for impaired investments. As previously reported, the provision includes an amount of Kshs.49,500,000 which had been deposited by the Fund on 26 June, 2001 with the Consolidated Bank Limited. The entire deposit of Kshs.49,500,000 was offset by the Bank against a guarantee executed by the former Fund Chief Executive Officer on behalf of Euro Bank Limited. It is not clear and the Management has not explained the circumstances under which the Fund's deposit was used as a guarantee by the then Chief Executive Officer.

The Public Investment Committee recommended in the 21st report that;

i. The then Chief Executive Officer (CEO) of NHIF be held accountable for any losses incurred in the irregular investment of the surplus funds in Consolidated Bank and therefore be surcharged for Kshs.40,065,205, being the value of the un-deposited cheque No.022477 of 23 September, 2002 from Euro Bank;

ii. The then Consolidated Bank's CEO and Finance Manager should be held accountable for colluding with NHIF to mismanage the invested funds;

iii. In view of the fact that the Fund had no capacity to provide guarantee for a loan to a private bank, Consolidated Bank should pay the amount of Kshs.49.5 million owed to the Fund;

iv. The then Senior Management of Consolidated Bank including the then Managing Director, and Finance Manager should also be held accountable for colluding with NHIF to mismanage the invested funds.

v. The former Managing Director of Consolidated Bank should be surcharged for the funds that were advanced to Euro Bank in overnight lending. He should further be held accountable for the Kshs.49.5 million which the Bank could not recover from the Fund and consequently offset the same against the fixed deposits of NHIF.

vi. NHIF should relentlessly pursue Consolidated Bank for recovery of Kshs.49,500,000. (vii) NHIF CEO must ensure that all financial investments by the Fund are done in accordance with Treasury Circular No.10 of 1992 and Section 28(1) of the Public Finance Management Act, 2012.

vii. However, no action appears to have been taken by Management to recover the loss of Kshs.49,500,000. In the circumstances, the value and existence of the short-term deposits (investments) balance of Kshs.13,388,971,803 could not be confirmed.

Management response

1261. The management informed the Committee that the Fund acknowledges the 21st PIC committee report observation that action be taken by relevant government agencies as recommended in its 19th report. PIC also recommended in its 21st Report that the query should be excluded from subsequent Reports of the Auditor General, provided that the management make full disclosure of this unresolved matter in its financial statements as required by International Accounting Standards no. 37. Management has since continued to make full disclosure of the matter in its annual reports as recommended in the 21st PIC committee report.

1262. The Fund is however still following up with the Consolidated Bank for the refund of the Kshs. 49,500,000.00 as evidenced by the various correspondence between the Fund and the Bank listed and submitted for review:

i. Letter Ref: HF/C/831 Z29/VOL 3/02 dated 18th October 2017 to Consolidated Bank from NHIF authorizing the bank to place Kshs. 17,916,661.90 as a six months Fixed Deposit Receipts (FDR). The bank had confirmed that the then CEO of NHIF had deposited Kshs. 9million and USD 64,930 on 15th April 2003 which was credited to the bank's internal account number 016000002100 which translated to Kshs. 17,916,661.90.

ii. Letter from Consolidated Bank to NHIF dated 31st July 2018 to communicate the Bank's resolution to pay NHIF Kshs. 17.9 million as an investment for a period of one year renewable but also reiterated that the Kshs. 49.5 million matters had earlier been fully explained/ventilated in previous correspondences and discussions. iii) Letter Ref: HF/C/831 Z29/VOL III/15 dated 22nd November 2018 to Consolidated Bank from NHIF communicating the board resolutions directing NHIF management to carry out due diligence in respect to (i) above.

iii. Letter Ref: HF/C/831 Z29/VOL III/17 dated 3rd May 2019 to Consolidated Bank from NHIF requesting the Bank to deposit Kshs. 17,916,661.90 that the Bank had suggested to invest on behalf of the Fund.

iv. Letter Ref: HF/C/831 Z29/VOL III/24 dated 15th November 2019 to Consolidated Bank from NHIF communicating the recommendations of the Inspector General of State Corporations on the guarantee of the Fund to a private company and requesting to deposit the funds to the NHIF Bank account at NBK.

v. Letter from Consolidated Bank to NHIF dated 20th November 2019 responding to NHIF's letter dated 15th November 2019 suggesting discussions to find amicable solutions to the long outstanding matter.

vi. Letter Ref: HF/C/831 Z29/VOL III/036 dated 14th June 2024 to Consolidated Bank from NHIF requesting the bank to repay the amount of Kshs. 49.5million to NHIF without further delay and bring the issue to a close.

vii. A follow up letter of the same has been made to Consolidated bank vide letter Ref: SHA/CNF/ADT/VOL1/(30) date 21st August 2025.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Short Term Deposits (Investments) in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

4.0 Unquoted Investments

1263. The Committee heard that the statement of financial position reflects unquoted investment balance of Kshs.310,892,640 as disclosed in Note 29 to the financial statements. The amount includes a loan balance of Kshs.256,692,640 advanced to Moi Teaching and Referral Hospital (MTRH) at an interest rate of 3% per annum. However, the signed financing agreement indicating the terms and conditions of the loan including the purpose and the repayment period was not provided for audit. In addition, the unquoted investment balance includes Consolidated Bank shares of Kshs.54,200,000 which are not traded and for which no dividends have been paid in the past and therefore this investment is impaired.

1264. In the circumstances, the accuracy and completeness of un-quoted investments of Kshs.310,892,640 could not be confirmed.

Management response

1265. The management informed the Committee that the contract has since been signed by both parties. The signed contract between MTRH and NHIF was provided for review. The Fund continues to

recover the loan from MTRH's claim payment at the rate of Kshs. 3,019,164 per month. The loan repayment is ongoing, and the balance currently stands at Kshs. 99,008,600 as of 30th June 2025.

1266. The Ordinary shares held at Consolidated Bank Ltd, comprise 590,000 ordinary shares valued at Kshs.11,800,000 and 2,120,000 preference shares valued at Kshs.42,400,000 totaling to Kshs.54,200,000 as shown in the letter provided for review from Consolidated Bank dated 4th April 2018. Management, having explored all recovery options, made provisions as provided for in its policies, considering the investment as impaired and its recoverability doubtful. It has therefore created a provision to reflect this position in its books beginning in the financial year 2022/23. The extracts of audited financial statements of the Fund for the year ended 2022/2023 were provided for review.

Committee Observations and Recommendations

The Committee had deliberated on the issue of unquoted investments in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

5.0 Variances Between Financial Statements and System Generated Balances

1267. The Committee heard that the comparison of the statement of surplus or deficit and other comprehensive income amounts with those generated from the system generated revealed the following variances:

i. The statement of surplus or deficit and other comprehensive income reflects benefits expenses amount of Kshs.68,655,055,557 while the system extracts reflects Kshs.61,881,857,408 resulting to an unexplained and unreconciled variance of Kshs.6,773,198,149.

ii. Note 20 to the financial statement reflects compensation of employees amount of Kshs.4,861,960,470 while the system extracts reflects Kshs.4,812,220,675 resulting to an unexplained and unreconciled variance of Kshs.49,739,793.

1268. In the circumstances, the accuracy and completeness of the benefits expenses and compensation of employees amounts could not be confirmed.

Management response

1269. The management informed the Committee that most claims are processed through the e-claim system, but some benefits are processed manually through the accounts payable module. These claims will not be included in e-claims system generated data but will form part of the overall benefits expenditure in the financial statements. Additionally, the e-claims system extract data includes benefit data for claims verified and processed during the year but relating to admissions and visit dates for periods before the financial year 2021/2022 of Kshs. 6,773,198,149 as pointed out by the auditor.

1270. The benefit expenses of Kshs68,655,055,557 include claims verified and processed within the financial year 2021/2022. The admissions and visit dates falling between 1st July 2021 and 30 June 2022 as per accrual basis of accounting and can be broken down as below:

E-Claims System Benefits Data	**Amount**
E-claimS (System Extract)	61,881,857,408
Less: Prior period claims	-5,044,576,541
Sub-total	**56,837,280,867**
Add Accounts Module Benefits	
WIBA Claims	9,653,707,602
Administrative Expenses	396,121,691
Capitation	631,237,726
IBNR Actuarial Estimate FY2021/22	1,136,707,671
Sub-total	**11,817,774,690**
Total Benefits	**68,655,055,557**

Committee Observations

The Committee observed that–

i) There were significant variances relating to benefits expenses and compensation of employees between the amounts disclosed in the financial statements and those generated from the e claims system and other system extracts in the amounts of Kshs. 6,773,198,149 and Kshs. 49,739,793 respectively. These variances were not reconciled and thus not accurate.

ii) The management indicated that the system generated benefits data included Kshs.6,773,198,149 relating to claims verified during the year but whose admission/visit dates fell in prior periods or were incurred but not reported in the year. In this respect, while accrual accounting permits recognition based on service dates, the prior period amounts were not clearly disclosed or reconciled and the lack of clear mapping between system data and financial statement figures hampers auditability.

iii) The reconciliations between e claims system, accounts payable module, actuarial IBNR estimates, and manual adjustments were not being formally documented and validated affecting the traceability and justification of reported amounts.

iv) There were significant variances relating to benefits expenses and compensation of employees between the amounts disclosed in the financial statements and those generated from the e claims system and other system extracts in the amounts of Kshs. 6,773,198,149 and Kshs. 49,739,793 respectively. These variances were not reconciled and thus not accurate.

v) There were some benefits that were processed manually through the accounts payable module and therefore not captured in the e claims system. The Parallel processing through different systems introduces data integrity risks and prevents real time consolidation which increases the likelihood of misstatements or omissions.

vi) The management indicated that the system generated benefits data included Kshs.6,773,198,149 relating to claims verified during the year but whose admission/visit dates fell in prior periods or were incurred but not reported in the year. In this respect, while accrual accounting permits recognition based on service dates, the prior period amounts were not clearly disclosed or reconciled and the lack of clear mapping between system data and financial statement figures hampers auditability.

vii) The reconciliations between e claims system, accounts payable module, actuarial IBNR estimates, and manual adjustments were not being formally documented and validated affecting the traceability and justification of reported amounts.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer-SHA should submit to the National Assembly and the Auditor-General a comprehensive report on the measures taken by the Management to ensure that System generated data (e claims), Manual accounts payable transactions, Financial statements and Actuarial IBNR adjustments are regularly reconciled, documented and independently reviewed to enhance transparency and accuracy. The measures should encompass prioritizing:

i. Integration of the accounts payable module with the e claims system

ii. Automation of workflows to reduce manual entries

iii. Implementation of system controls to prevent double counting or omission of transactions.

iv. Establish standard operating procedures (SOPs) for benefits expense recognition

v. Enhance quality review of financial statements before submission

vi. Ensure all balances are supported by schedules derived directly from system reports.

6.0 Unapproved Ex-Gratia Expenses

1271. The Committee heard that the statement of surplus or deficit and other comprehensive income reflects National Police Service (NPS) and Kenya Prisons Service (KPS) Scheme expenses of Kshs.9,884,509,523 as disclosed in Note 9 of the financial statements which includes an amount of ex-gratia expenses of Kshs.286,797,493. However, the approved contract limit was Kshs.200,000,000 resulting to a variance of Kshs.86,797,493 whose approval from the Ministry of Interior and National Administration was not provided for audit.

1272. In the circumstances, the propriety and validity of ex-gratia expenses of Kshs.86,797,493 could not be confirmed.

Management response

1273. The management informed the Committee that there were payroll related transactions that were manually computed due to inadequacies in the system. Transactions such as gratuity payments, payments to staff who had retired, and adjustment journal entries are processed manually through the normal accounts payable module. These entries will not be included in system generated payroll data but will form part of the total amount for employee compensation/staff cost.

Committee Observations

The Committee observed that-

i) The statement of surplus or deficit and other comprehensive income under National Police Service (NPS) and Kenya Prisons Service (KPS) Scheme expenses includes ex-gratia expenses of Kshs. 286,797,493. The approved contract limit for ex-gratia payments was Kshs. 200,000,000, resulting in an excess expenditure of Kshs. 86,797,493. However, the Management did not provide evidence of approval from the Ministry of Interior and National Administration to support this excess expenditure.

ii) Although the Management explained that certain payroll-related transactions such as gratuity payments, payments to retired staff, and adjustment journal entries were manually processed due to system inadequacies, it did not address the lack of authorization for expenditures exceeding the approved contract limit.

Committee Recommendations

The Committee recommends that within three months upon the adoption of this report, the Accounting Officer – SHA shall submit to the National Assembly and the Auditor-General a detailed report outlining corrective measures taken to strengthen accountability and compliance relating to ex-gratia payments.

7.0 Unsupported Expenditure

3.1 Surgical Packages under the National Health Scheme

1274. The Committee heard that the statement of surplus or deficit and other comprehensive income reflects National Health Scheme expenses of Kshs.27,353,750,116 as disclosed in Note 6 of the financial statements. The amount includes payments for surgical packages and surgeries of Kshs.27,208,800 whose contracts were not provided for audit and Kshs.1,290,000 which were not recorded in the theatre registers both totaling to Kshs.28,488,800.

Management response

1275. The management did not respond to the audit issue.

Committee Observations

The Committee observed that –an amount of Kshs. 27,208,800 was paid for surgical packages and surgeries, for which supporting contracts were not provided for audit. In addition, Kshs.1,290,000 in surgical payments that were not recorded in the theatre registers, resulting in unsupported expenditures amounting to Kshs.28,488,800. However, the Management did not provide a response to clarify or justify the absence of contract documentation and missing theatre register entries.

Committee Recommendations

Within three months upon adoption of this report, the Accounting Officer – SHA shall submit to the National Assembly and the Auditor-General a detailed report outlining the actions taken to address the control weaknesses related to surgical package payments. The report should include measures taken by the current management to strengthen contract management controls, including proper filing, custody, and retrieval of agreements supporting all medical procedures and related payments.

5.7 Board Expenses

1276. The Committee heard that the statement of surplus or deficit and other comprehensive income reflects Board expenses of Kshs.32,166,770 as disclosed in Note 21 to the financial statements. The amount includes Kshs.5,830,000 incurred on Board meetings that were not supported by Board minutes and signed attendance registers.

Management response

1277. The management informed the Committee that the Board minutes for the period under audit were confirmed in the subsequent meetings and the minutes were forwarded to the Chairman's office for his execution. The minutes were duly executed and filed at the CEO's office. The signed attendance registers for meetings held during the period were provided for review.

Committee Observations

The Committee observed that–

The Accounting Officer failed to ensure that eligible payments are supported by the appropriate authority and documentation, that is board minutes and attendance registers in accordance with Regulation 104 of the PFM (National Government) Regulations, 2015.

Committee Recommendations

The Committee reprimands the then Accounting Officer for breach of Regulation 104 of the PFM (National Government) Regulations, 2015.

7.3 Transport Operating Expenses

1278. The Committee heard that the statement of surplus or deficit and other comprehensive income reflects other operating expenses of Kshs.2,850,096,833 as disclosed in Note 22 to the financial statements which includes transport operating expenses amount of Kshs.204,744,920. The amount includes Kshs.106,570,126 which was not supported by procurement documents including call for bids, requisition from department, signed contracts, letters of award, letters of acceptance, professional opinion, opening minutes and evaluation minutes.

1279. In the circumstances, the propriety, accuracy and completeness of Kshs.28,488,800; Kshs.5,830,000 and Kshs.106,570,126 on surgical packages, board and transport operating expenses respectively all totalling Kshs.140,888,926 could not be confirmed.

Management response

1280. The management informed the Committee that the surgical and board expenses issues raised above have been answered under notes 7.1 and 7.2 respectively. On the issue of transport expenses, the contract for Hiring Motor vehicles was to expire on 5th April 2022 as per the notification of award provided for review. The user department requested an extension of the existing contract for a period of 3 months on 1st April 2022 through an Internal Memo Ref: HF/TR/4/1/28. The procurement department notified the service provider of the management intention to extend the contract under the same terms and conditions. The Services provider (Cupstone Travel Ltd) wrote back to the Fund accepting the offer.

1281. After acceptance by the services provider, the evaluation committee appraised and recommended for extension of the services. The evaluation committee gave their recommendations, and the Head of Supply Chain Management made a professional opinion for the accounting officer approval that led to the drafting and signing of the Contract. The process therefore was above board and all procurement laws were adhered to from procurement of the service at the beginning to extension of the contract.

Committee Observations

i. The Committee observed that, the Fund incurred transport operating expenses amounting to Kshs.106,570,126, which were not supported by the requisite procurement documentation, including call for bids, requisitions, signed contracts, letters of award and acceptance, professional opinions, opening minutes, and evaluation minutes.

ii. While management provided explanations and appended documents relating to the extension of the vehicle hire contract, the absence of original procurement support records raises significant concerns regarding compliance with the Public Procurement and Asset Disposal Act, (PPADA), CAP 412C, as well as adherence to the principles of transparency, accountability, and value for money.

Committee Recommendations

The Committee reprimands the then Accounting Officer and the Head of the Procuring Unit of the Fund for dereliction of duty. It further directs that the Accounting Officer-SHA to ensure that all future procurement processes are fully supported by complete and verifiable documentation including bids, requisitions, contracts, evaluation minutes, professional opinions, and related records prior to the processing of any payments.

8.0 Payments to Hospitals for Linda Mama Services without Contract

1282. The Committee heard that the statement of surplus or deficit and other comprehensive income reflects Linda Mama benefits expenses amount of Kshs.4,493,259,781 which includes a payment of Kshs.1,608,200. However, the contract between the Fund and supplier was not provided for audit.

1283. In the circumstances, the accuracy and completeness of Kshs.1,608,200 on Linda Mama benefit expenses could not be confirmed.

Management response

1284. The management informed the Committee that it confirms that the contract for St. Leonard's Hospital was fully executed at the time of audit and available for review. The extracts of the contract document, letters of extension of contracts used as basis of payments was provided for review.

Committee Observations

The Committee observed that, the Fund incurred Linda Mama benefit expenses amounting to Kshs.1,608,200. However, the contract between the Fund and the supplier was not availed for audit review. While management indicated that the contract with St. Leonard's Hospital had been fully executed and provided extracts of the contract and letters of extension, the lack of original contract documentation at the time of audit raises concerns regarding compliance with the Public Procurement and Asset Disposal Act, (PPADA), CAP 412C, and adherence to the principles of accountability and transparency.

Committee Recommendations

The Committee reprimands the then Accounting Officer and the Head of the Procuring Unit for failure to ensure that duly executed contracts were provided during audit verification exercise. The Committee further directs the Accounting Officer-SHA to strengthen controls over contract management and documentation, ensuring that proper filing, and accessibility for audit review.

9.0 Overpayment in Other Operating Expenses

9.1 Hospitality/Entertainment

1285. The Committee heard that the statement of surplus or deficit and other comprehensive income reflects other operating expenses of Kshs.2,850,096,833 as disclosed in Note 22 to the financial statements. The amount includes hospitality and entertainment expenses of a contract sum of Kshs.5,379,900 and actual payment of Kshs.6,388,019 resulting to an overpayment of Kshs.1,008,118. This was contrary to Paragraph 129 (2) on contract requirements which states that the contract, which shall be in writing, shall set out either (a) the maximum amount of money that can be paid under the contract or (b) the maximum amount of time that can be paid for under the contract.

Management response

1286. The management informed the Committee that the extra cost was related to supply of hospitality and entertainment items during stakeholder engagements. Suppliers were separately prequalified and those in the prequalified list were requested to provide quotations on need basis as per list of prequalified suppliers.

Committee Observations

i. The Committee observed that –the Fund made an overpayment of Kshs.1,008,118 on hospitality and entertainment expenses, in contravention of Paragraph 129(2) of the Public Procurement and Asset Disposal Act (PPADA), CAP 412C, which requires that contracts must expressly stipulate either (a) the maximum amount payable under the contract or (b) the maximum duration covered by the contract.

ii. Although management explained that additional costs were incurred in supplying hospitality and entertainment items during stakeholder engagements, and that suppliers were drawn from a prequalified list, the Committee noted that the payment exceeded the contractual ceiling. This lapse undermines compliance with procurement law and compromises the principles of transparency, accountability, and value for money.

Committee Recommendations

The Committee reprimands the then Accounting Officer and the Head of the Procuring Unit for failing to enforce contract terms and control expenditure within approved limits. The Committee further directs the Accounting Officer-SHA to;

i. Ensure strict adherence to contract provisions, particularly with respect to payment ceilings and timelines, as mandated under the Public Procurement and Asset Disposal Act CAP 412C;

ii. Strengthen internal controls to prevent excess or unauthorized payments beyond contractual obligations; and

iii. Enforce accountability measures against officers responsible for lapses in contract management, thereby safeguarding public resources and reinforcing compliance with the Public Procurement and Asset Disposal Act CAP 412C.

9.2 Legal Expenses

1287. The Committee heard that the statement of surplus or deficit and other comprehensive income reflects other operating expenses of Kshs.2,850,096,833 as disclosed in Note 22 to the financial statements. Included in the amount is legal expenses of Kshs.247,896,305 out which Kshs.91,643,848 was paid for cases which had an estimate amount of Kshs.13,997,651. This resulted to unexplained nor reconciled overpayment of Kshs.77,646,197 which was also contrary to schedule 6(1)(b) of the advocates remuneration.

1288. In the circumstances, the propriety, accuracy and completeness of Kshs.1,008,118 and Kshs.77,646,197 on hospitality/entertainment and legal expenses respectively both totalling Kshs.78,654,315 could not be confirmed.

Management response

1289. The management informed the Committee that the amount pointed out as an overpayment by the audit is as a result of difference in the approach used in computation. The Fund pays the Advocates fees based on the provisions of the Advocates Remuneration Order. The calculations prepared for each of the matters were presented for review.

Committee Observations

The Committee observed that–

i. The Fund paid Kshs.91,643,848 for cases that had an estimated cost of Kshs.13,997,651 resulting to an unexplained and unreconciled overpayment of Kshs.77,646,197, contrary to the provisions of Schedule 6(1)(b) of the Advocates Remuneration Order.

ii. While management explained that the variance arose from differences in the computation approach and indicated that payments were based on the Advocates Remuneration Order, the Committee noted that the documentation provided did not adequately reconcile the overpayment, thereby raising concerns on compliance, accountability, and prudent use of public resources.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer-SHA seeks the services of the Office of the Attorney-General to carry out a legal audit/review of the payments involved with a view to establish their regularity and recover any excess amounts paid with the legal provisions and submit a report to the National Assembly.

10.0 Failure to Prepare Car Loan and Mortgage Fund Financial Statements

1290. The Committee heard that the statement of financial position reflects long term deposits of Kshs.1,346,231,679 as disclosed in Note 28 to the financial statements. The amount includes car loan amount of Kshs.57,222,743 and mortgage balance of Kshs.1,289,008,936 which are utilized to advance staff loans at interest rate of 5%. However, the financial statements for car loan and mortgage were not provided for audit.

In the circumstances, the accuracy and completeness of car loan balance of Kshs.57,222,743 and mortgage balance of Kshs.1,289,008,936 could not be confirmed.

Management response

1291. The management informed the Committee that the two mortgage schemes have been running for over twelve years with the KCB Savings & Loan scheme being the oldest with over 20 years. The Car loan scheme is administered by the National Bank of Kenya Ltd whereas the Mortgage Scheme is managed by the Kenya Commercial Bank Ltd. The generation of financial statements has not been a requirement before and management over the years reports the two scheme balances under the Long-term Deposits.

1292. Management has since held meetings with officers from OAG and agreed to have the financial statements prepared beginning with 2023/24 as a base year. The 2023/24 financial statements for the Car loan and Mortgage Scheme were presented for audit and a certificate issued as evidenced was provided for review.

Committee Observations

The Committee observed that –the Fund did not prepare the financial statements for car loan and mortgage in the amounts of car loan Kshs.57,222,743 and mortgage balance Kshs.1,289,008,936 contrary to Section 84(1) of the Public Finance Management Act CAP 412A requires the administrator of a national public fund established by the Constitution or an Act of Parliament to prepare financial statements for the fund for each financial year in a form prescribed by the Accounting Standards Board.

Committee Recommendations

The Committee reprimands the then Accounting officer for breach of Section 84 of the Public Finance Management Act CAP 412A and further directs the Accounting Officer-SHA to prepare the financial statements and submit to the Auditor-General for review and reporting in the subsequent audit cycle.

11.0 Erroneous Claims – NHS Outpatient Expenses

1293. The Committee heard that the statement of surplus or deficit and other comprehensive income reflects National Health Scheme amount of Kshs.27,353,750,116 as disclosed in Note 6 to the financial statements. The amount includes outpatient expenses of Kshs.4,965,797,649 being capitation payments to facilities out of which Kshs.4,154,448 were amounts under NHS expenses. These amounts were claims under case code 05 (the code for medical outpatient visits) that ranged between Kshs.100 to Kshs.118,720 for individual members. However, NHS outpatient care package is covered under capitation and no claims are expected under case code 05 for NHS.

1294. In the circumstances, the propriety, accuracy and completeness of NHS Expenses of Kshs.4,154,448 could not be confirmed.

Management response

1295. The management informed the Committee that the entries posted to the NHS Outpatient Expenses under case code 05 were as a result of miscoding. This, however, does not have any financial implication on the overall benefits expenditure as no funds were lost as a result. In order to mitigate on the above anomaly, management budgeted for the procurement of a new ERP in the FY 2023/24 with enhanced capabilities and backend configurations to address the gaps that were in the NHIF system. This was however set aside due to transition to SHA.

Committee Observations

The Committee observed that –the Fund incurred National Health Scheme (NHS) expenses amounting to Kshs.4,965,797,649 as outpatient expenses representing capitation payments to facilities. Out of these, Kshs.4,154,448 was recorded under NHS expenses as claims coded under case code 05 (medical outpatient visits), with individual claims ranging between Kshs.100 and Kshs.118,720. The Committee noted that under the NHS framework, outpatient care is covered through capitation, and therefore no claims should have raised under case code 05 for NHS members.

Committee Recommendations

The Committee reprimands the then Accounting Officer and the Head of ICT/Finance Units for failure to ensure proper system controls and accurate coding of NHS transactions.

The Committee further directs the Accounting Officer-SHA , to within three months upon adoption of this report, submit a comprehensive report detailing mechanisms pit in place to strengthen system controls and back-end configurations to prevent miscoding of claims and ensure accurate classification of NHS expenditures and to;

i. Expedite the implementation of a robust Enterprise Resource Planning (ERP) system with enhanced capabilities to address gaps identified in the NHIF system, ensuring data integrity and reliability of financial reporting.

ii. Institute accountability measures against officers responsible for lapses in coding and expenditure control.

iii. Submit a detailed reconciliation and corrective action plan to the Committee, demonstrating how miscoded entries will be addressed and prevented in future.

1.0 Trade Payables

1296. The Committee heard that the statement of financial position reflects trade (claims payable) payables amount of Kshs.3,804,837,246 as disclosed in Note 38 to the financial statements.

1297. Focus was given to the trade payable due to the materiality of the balance after the fund introduced Incurred but Not Reported (IBNR) reserves in Note 36 to the financial statement which serves as an estimate of the liability for claim-generating events that took place but have not yet been reported to the insurer or self-insurer. The sum of IBNR losses plus incurred losses provides an estimate of the total eventual liabilities for losses during a given period. The Fund's IBNR

estimates are computed on a quarterly basis. These estimates are then shared with management for inclusion in the financial statements and supported by a certification by a competent actuarial consultant.

1298. In addition, claims totaling to Kshs.7,661,706,361 paid in the financial year 2020/2021 but for prior years were reversed and posted to IBNR Reserves for the financial years 2020/2021 whereas claims totaling to Kshs.6,835,120,522 paid during the year but relating to prior periods were posted to the IBNR Reserves in the current year.

Management response

1299. The Management did not respond to the audit issue.

Committee Observations

The Committee observed that–

i. The Fund's trade (claims payable) payables amounting to Kshs.3,804,837,246, included Incurred But Not Reported (IBNR) reserves as an estimate of liabilities for claim-generating events that have occurred but have not yet been reported. The Fund's IBNR estimates are computed quarterly, shared with management, and supported by certification from a competent actuarial consultant.

ii. In addition, claims totaling Kshs.7,661,706,361, paid in the financial year 2020/2021 but relating to prior years, were reversed and posted to IBNR reserves for 2020/2021. Similarly, claims totaling Kshs.6,835,120,522, paid during the year but relating to prior periods, were posted to IBNR reserves in the current year. These adjustments highlight the need for strengthened controls over claims recognition and reserve postings to ensure accuracy, propriety, and completeness of liabilities reported.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer-SHA to submit an actuarial report for all IBNR and Reported But Not Paid Reserve from a qualified and certified professional Firm to the National Assembly and the Auditor-General for review and reporting in the subsequent audit cycle.

1.0 Other Matter

1.1 Budgetary Control and Performance

1300. The Committee heard that the statement of comparison of budget and actual amounts reflects revenue budget of Kshs.87,408,632,049 and actual revenue on comparable basis of Kshs.78,158,543,610 resulting to revenue shortfall of Kshs.9,250,088,439 or 11% of the budget. Similarly, the Fund spent Kshs.68,655,055,557 on benefits expenses against approved budget of Kshs.75,126,426,869 resulting to under absorption of Kshs.6,471,371,312 or 9% of the budget.

1301. There is need for the Fund to review its budget making process with a view to developing a vibrant budget implementation follow up mechanism and feedback process to ensure that all projects and activities are implemented as planned for the Fund to meet its mission and objectives for the benefits of the citizens.

Management response

1302. The management informed the Committee that the Fund established a revenue target of Kshs.87,408,632,049, primarily derived from member contributions and premiums. Targets were not achieved due to unprecedented challenges:

i. COVID-19 Pandemic Impact
ii. Economic Challenges
iii. Global Economic Factors
iv. Sector-Specific Challenges

1303. The Fund acknowledges that the performance shortfall was significantly influenced by external economic and global factors that were beyond management's control and could not have been reasonably anticipated during the budget preparation process.

Committee Observations

The Committee observed that –the Fund realized an under absorption of Kshs.6,471,371,312 or 9% of the budget coupled with a revenue shortfall of Kshs.9,250,088,439 or 11% of the budget. This implied that the planned activities were impacted negatively.

Committee Recommendations

The Committee recommends that –

The Accounting Officer-SHA must consistently ensure that budgets are realistic, attainable, and aligned with annual work plans, procurement plans, and revenue collection schedules, in accordance with Regulation 44(2) of the PFM (National Government) Regulations, 2015. In addition, the Authority should review its budget formulation process and establish a robust budget implementation monitoring and feedback mechanism to guarantee that all projects and activities are executed as planned, enabling the Fund to achieve its mission and objectives for the benefit of the citizens.

2.0 Unresolved Prior Year Matters

1304. The Committee heard that in the audit report of the previous year, several issues were raised under the Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates.

Management response

1305. The Management did not respond to the audit issue.

Committee Observations

Committee observed that the accounting officer had several unresolved prior year matters. However, section 31 (1) Public Audit Act, CAP 412B provides that a State organ or a public entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit

Committee Recommendations

The Committee recommends that –

The Accounting officer should at all times comply with the provisions of section 31 (1) of the Public Audit Act, CAP 412B.

1.0 Irregular Contract Awards

1306. The Committee heard that the statement of surplus or deficit and other comprehensive income reflects other operating expenses of Kshs.2,850,096,833 as disclosed in Note 22 to the financial statements. The amount includes hospitality/entertainment expenses of Kshs.40,603,881 out of which Kshs.11,362,992 was in respect to contracts that were awarded/executed several months after the supplies were made. This was contrary to Section 135(1) of the Public Procurement and Asset Disposal Act, 2015 which states that the existence of a contract shall be confirmed through the signature of a contract document incorporating all agreements between the parties and such contract shall be signed by the accounting officer or an officer authorized in writing by the accounting officer of the procuring entity and the successful tenderer.

1307. In the circumstances, Management was in breach of the law.

Management response

1308. The management informed the Committee that the amount relates to hospitality expenses for some branches that were executed late. Delays in the Branch contract execution are caused by the processing requirements and communication between service providers, branch office and the Headquarters.

1309. Management directed all cost centres to initiate procurement of goods and services six months prior to the end of an ongoing contract.

Committee Observations
The Committee observed that–

i. The Fund incurred hospitality and entertainment expenses amounting to Kshs.11,362,992, relating to contracts that were awarded and executed several months after the supplies had already been delivered. This practice was in contravention of Section 135(1) of the Public Procurement and Asset Disposal Act (PPADA), 2015, which requires that the existence of a contract be confirmed through a duly signed contract document incorporating all

agreements between the parties, executed by the Accounting Officer (or an authorized officer) and the successful tenderer prior to implementation.

ii. Management explained that delays in contract execution were attributed to processing requirements and communication challenges between service providers, branch offices, and headquarters. However, the Committee noted that awarding contracts after delivery of goods and services constitutes a clear breach of procurement law and reflects deficiencies in procurement planning and budgeting, thereby undermining transparency, accountability, and value for money.

Committee Recommendations

i. The Committee reprimands the then Accounting Officer and the then Head of the Procurement Unit for failure to ensure timely execution of contracts in accordance with statutory requirements.

ii. The Committee further directs the Accounting Officer-SHA to enforce strict compliance with procurement laws by ensuring that all cost centers initiate procurement processes well in advance to avoid delays and irregularities in contract management. Where lapses occur, the Accounting Officer shall institute accountability measures against responsible officers to safeguard public resources and reinforce adherence to statutory and governance frameworks.

2.0 Irregular Awards under AGPO

1310. The Committee heard that the statement of surplus or deficit and other comprehensive income reflects other operating expenses of Kshs.2,850,096,833 as disclosed in Note 22 to the financial statements. The amount includes Kshs.22,751,390 for supplies awarded under the Access to Government Procurement Opportunities (AGPO) category but their respective AGPO certificates were not provided for audit. This was contrary Section 53(6) of the Public Procurement and Asset Disposal Act, 2015 which states that all procurement and asset disposal planning shall reserve a minimum of thirty per cent of the budgetary allocations for enterprises owned by women, youth, persons with disabilities and other disadvantaged groups.

1311. In the circumstances, Management was in breach of the law.

Management response

1312. The management informed the Committee that the at the time these procurements were being conducted, the officers did not have a tool to verify the authenticity of the submitted certificates suppliers under preference and reservation where disadvantaged groups. Way forward: All procurement officers were informed through memo HF/C/814 VOL.XXXIII/013 and further guided on how to verify the certificates online.

Committee Observations

The Committee observed that–

i. The Fund incurred hospitality and entertainment expenses amounting to Kshs.22,751,390 for supplies awarded under the Access to Government Procurement Opportunities (AGPO) category. However, the respective AGPO certificates were not availed for audit verification.

ii. The failure to validate AGPO certificates undermined the integrity of the preference and reservation scheme, exposed the Fund to irregular awards, and constituted a breach of Section 53(6) of the Public Procurement and Asset Disposal Act (PPADA), CAP 412C, which requires that procurement and asset disposal planning reserve a minimum of thirty per cent of budgetary allocations for enterprises owned by women, youth, persons with disabilities, and other disadvantaged groups.

iii. The lack of a tool to verify the authenticity of submitted certificates at the time of procurement, was a gap that reflects weaknesses in procurement controls and oversight, thereby compromising compliance, accountability, and the credibility of the AGPO framework.

Committee Recommendations

i. The Committee reprimands the then Accounting Officer and the then Head of Procurement Unit for failure to ensure proper verification of AGPO certificates prior to contract award.

ii. The Committee recommends that the Accounting Officer of SHA enforces strict compliance with AGPO requirements by ensuring that all certificates submitted under preference and reservation schemes are verified for authenticity before contract award. Further, institute accountability measures against officers responsible for lapses in verification, to safeguard the integrity of the AGPO framework and reinforcing compliance with statutory requirements.

3.0 Unapproved Foreign Trips

1313. The Committee heard that Note 21 to the financial statements reflects Board expenses of Kshs.32,166,770. The amount includes Kshs.5,924,604 incurred on foreign trips. However, an approved by Cabinet Secretary was not provided for audit. This was contrary to part D 9 of the Office of the President Circular No.SH/1/6/X1V dated 19 October, 2018 which states that all public officers will require to seek clearance to make foreign travel from their respective Cabinet Secretary. In addition, professional opinion on of air tickets was approved procurement on 16 May, 2022 after the participants had already departed on 07 May, 2022 and 08 May, 2022.

1314. In the circumstances, Management was in breach of the law.

1315. In respect to the above trip, approvals for each of the Board members were obtained from

Management response

1316. The management informed the Committee that the Head of Public Service who is the overall authority on approvals for overseas travels. The said approvals covering the three Board members were shared with the two Ministries who released their officers to attend the event. Approvals as received from Ministry of Public Services through the Ministry of Health as guided by policies and circulars.

Committee Observations

The Committee observed that–

i. The Fund incurred Board expenses amounting to Kshs.5,924,604 on foreign trips. However, approval by the respective Cabinet Secretary was not availed for audit verification. This was contrary to Part D(9) of the Office of the President Circular No. SH/1/6/XIV dated 19 October 2018, which requires all public officers to seek clearance for foreign travel from their respective Cabinet Secretary.

ii. There were lapses in the procurement process where the professional opinion on the procurement of air tickets was approved on 16 May 2022, after the participants had already departed on 07 May 2022 and 08 May 2022. The sequence of events demonstrates non-compliance with procurement and governance requirements, thereby undermining accountability and transparency in the management of public resources.

iii. While management explained that approvals for the Board members were obtained from the Head of Public Service and shared with the relevant ministries, The Committee observed that –the absence of Cabinet Secretary clearance and the delayed procurement approvals constituted a breach of established government policy and circulars.

Committee Recommendations

i. The Committee reprimands the then Accounting Officer and the then Head of the Procurement Unit for failure to ensure compliance with government circulars and timely procurement approvals for foreign travel.

ii. The Committee recommends that the Accounting Officer-SHA enforces strict adherence to the requirements of the Office of the President Circular No. SH/1/6/XIV, ensuring that all foreign travel by public officers is cleared by the respective Cabinet Secretary prior to departure. Further, institute accountability measures against officers responsible for lapses in compliance, thereby safeguarding public resources and reinforcing adherence to statutory and policy frameworks.

4.0 Failure to Segregate Critical Functions

1317. The Committee heard that the review of user privileges revealed that some staff had excessive rights on the system which is critical functions to the Fund. This violates the principle of segregation of duties (shared responsibilities) and that of least privilege and increases risk of errors and fraud being undetected. This was contrary to Regulation 23 (1)(c) of the Public Finance Management (National Government) Regulations, 2015 that requires maintenance of effective systems of internal control and the measures taken to ensure that they are effective.

1318. In the circumstances, Management was in breach of the law.

Management response

1319. The management informed the Committee that the Staff shortage especially at the Branch office level resulted in some users having multiple rights to allow for continuity of work. NHIF progressively dealt with the staff shortage and ensured that various user departments reassigned

the system rights appropriately. However, the respective systems maintain logs and audit trails as control.

Committee Observations

The Committee observed that–

i. There were staff members assigned excessive user rights within the Fund's system, thereby performing critical functions without adequate segregation of duties. This contravenes the principles of segregation of responsibilities and the least privilege rule, which are essential for safeguarding system integrity. This was contrary to Regulation 23(1)(c) of the Public Finance Management (National Government) Regulations, 2015, which requires the maintenance of effective systems of internal control and measures to ensure their effectiveness.

ii. There were weaknesses in internal controls where reliance on system logs and audit trails alone was insufficient to mitigate the risks associated with inadequate segregation of duties as cited by the management.

Committee Recommendations

The Committee recommends that the Accounting Officer-SHA ensures strict compliance with the Public Finance Management Regulations by enforcing segregation of duties and restricting user rights to the principle of least privilege. Further, address staff shortages through timely recruitment, redeployment, or restructuring to prevent the need for excessive user privileges as well as institute accountability measures to curb lapses in controls.

5.0 Claims Without Received Date

1320. The Committee heard that the review of claims data extracted from the QVTerm system established that there were outpatient claims worth Kshs.39,376,886 that were paid. However, the claims did not have received date or the user ID of the person who received the claim. It was not possible to confirm whether a claim was submitted within the 90 days from the date of discharge. This was contrary to Paragraph 5.2 of Financial Management Policy, 2017 which states that claims should be submitted for payments within ninety (90) days from the date of discharge.

1321. In the circumstances, Management was in breach of the law.

Management response

1322. The management informed the Committee that the receiving date is automatically generated by the system at the point the receiving officer captures the visit information. The Fund ran on two systems, whereby the claims highlighted were raised through the e-claim system which captured the receiving date. It was, however, noted that, whereas the receiving date was captured, the report generated from the Fund's ERP did not include the receiving date field.

1323. It has been established by management that data sitting in the e-claims system did not automatically populate to the ERP system.

1324. Envisaged system improvements to synchronize both the e-claim system and the ERP reporting system.

Committee Observations

The Committee observed that –outpatient claims totaling Kshs. 39,376,886 were paid without capturing the received date or the user ID of the receiving officer. Although the receiving date was recorded in the e-claim system, the ERP reporting system did not reflect this field due to lack of synchronization between the two systems. This deficiency resulted in incomplete audit trails and weakened accountability in the claims processing framework.

Committee Recommendations

The Committee recommends that, within three months upon adoption of this report, the Accounting Officer-SHA should submit a comprehensive report detailing the measures undertaken to:

i) Achieve full system synchronization between the e-claim system and the ERP reporting system to ensure all mandatory fields are consistently captured.

ii) Enforce policy compliance with the statutory timelines for submission, supported by automated alerts for non-compliant claims.

iii) Strengthen management accountability by instituting clear timelines and monitoring mechanisms for system integration and compliance oversight.

6.0 Clustered Staff Debtors in the Payroll System

1325. The Committee heard that the review of data from the payroll system revealed that salary advance, training levy and Imprest recovery were all clustered under one column (staff debtors). This was contrary to Regulation 23 (1)(c) of the Public Finance Management (National Government) Regulations, 2015 which states that an Accounting Officers shall, in accordance with Article 226(2) of the Constitution and Section 68(1) of the Act, be accountable to the National Assembly for maintaining effective systems of internal control and the measures taken to ensure that they are effective.

1326. In the circumstances, Management was in breach of the law.

Management response

1327. The management informed the Committee that all debt relating to staff have been categorized as staff debtor in the payroll system. Debt is then accounted for in the financial system separately based on the nature of staff debt. Deduction entries (which include but are not limited to salary advances, imprest recoveries and any surcharges) are done through preparation of Pay Change Advises.

Committee Observations

The Committee observed that –salary advances, training levy, and imprest recoveries were all clustered under a single column labeled staff debtors in the payroll system which compromises the integrity of financial records, obscures the nature of staff liabilities, and weakens accountability in payroll management. This was a breach of Regulation 23(1)(c) of the Public Finance Management (National Government) Regulations, 2015, which requires Accounting Officers to maintain effective systems of internal control in line with Article 226(2) of the Constitution and Section 68(1) of the PFM Act.

Committee Recommendations

The Committee recommends that, within three months upon adoption of this report, the Accounting Officer-SHA should submit a detailed report outlining measures taken to improve the current system by disaggregating staff debt categories in the payroll system, strengthening internal controls and enhancing accountability mechanisms through periodic reconciliation of payroll and financial system records, supported by clear audit trails in compliance with the legal provisions.

7.0 Work Executed Before Signing Contracts

1328. The Committee heard that the review of Information Communication Technology (ICT) related contracts revealed contracts valued at Kshs.306,303,703 were executed before the contracts were signed and cases of unsigned contracts were noted. This was contrary to Section 135 (3) and (4) of Public Procurement and Asset Disposal Act, 2015 which states (4) No contract is formed between the person submitting the successful tender and the accounting officer of a procuring entity until the written contract is signed by the parties.

1329. In the circumstances, Management was in breach of the law.

Management response

1330. The management informed the Committee that it related to services whose contracts cover periods longer than one year. The contract is renewed annually and there are times when the renewal process takes longer beyond the lapsed contract period. The vendor is then expected to continue providing the services as stoppage would lead to the grinding of operations to a halt. This does not lead to loss of funds as payments are not processed without the support of valid contracts.

Committee Observations

The Committee observed that –the Fund executed ICT-related contracts valued at Kshs. 306,303,703 prior to formal signing of the contract, with instances of unsigned contracts also noted contrary to Sections 135(3) and (4) of the Public Procurement and Asset Disposal Act, CAP 412C, which explicitly provides that no contract is formed between a successful tenderer and the Accounting Officer of a procuring entity until a written contract is duly signed by both parties.

Committee Recommendations

i. The Committee reprimands the then accounting Officer and the then head of procurement unit for breach of the Public Procurement and Asset Disposal Act, CAP 412C.

ii. Further, the Committee recommends that, within three months upon adoption of this report, the Accounting Officer-SHA should develop and submit a documented strategy for ensuring strict compliance with the Public Procurement and Asset Disposal Act, CAP 412C, strengthened contract management processes, enhanced accountability mechanisms and implemented risk mitigation measures to safeguard against exposure to legal disputes and financial irregularities arising from unsigned or prematurely executed contracts.

8.0 Irregular Claims

1331. The Committee heard that the review of list of claims submitted to the Fund for settlement revealed that one facility submitted one thousand two hundred and thirty (1230) claims with a value of Kshs.25,360,500. However, the facility was not on the list of declared/empaneled facilities. This was contrary to Section 5 (1)(b) and Section 22(1) of National Health Insurance Fund Act, No. 9 of 1998 which states the Board shall pay from the Fund, a benefit to an empaneled or contracted health care provider for an expense incurred by the provider, for the provision of health care services through the centralized healthcare provider management, to the number of beneficiaries determined by the Board.

1332. In the circumstances, Management was in breach of the law.

Management response

1333. The management informed the Committee that in reference to the query raised on the empaneling and contracting of Reale Medical Center and Reale Hospital Limited. They take note that there has been a structured formal engagement and transactions between NHIF and Reale Medical Centre.

1334. At the time accreditation of Reale medical clinic, NHIF standards and guidelines manual 2006 which provided for gazettement for only inpatient facilities sufficed and for outpatient facilities, a letter of offer sufficed together with the accreditation assessment report and accreditation fee. The manual, letter of offer, captured accreditation report and the accreditation fee receipt were provided for review.

1335. We also take note that the Reale hospital limited here mentioned is co-owned by Reale medical center (Code 0017480). The Reale Hospital Limited came to existence in 2014 and it was duly empaneled as both inpatient and Outpatient as per the supporting documents provided for review. However, during the gazettement process there was a mix-up, and it was inadvertently gazetted as Reale Medical center as per the gazette notice provided for review which is an outpatient facility not subject to gazettement.

Committee Observations

i. The Committee observed that –Reale Medical Center submitted 1,230 claims valued at Kshs. 25,360,500, despite not being on the list of declared/empaneled facilities. This contravenes Section 5(1)(b) and Section 22(1) of the NHIF Act, No. 9 of 1998, which restricts payments to empaneled or contracted healthcare providers. This implied that the claims were processed and paid to a facility that was not properly gazetted/empaneled, thereby exposing the Fund to legal and compliance risks.

ii. The documentation provided (manual, letters, accreditation reports, gazette notice) confirms accreditation activities but does not fully cure the breach of statutory requirements.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer-SHA should submit a report to the National Assembly on the measures taken to strengthening Accreditation, Gazettement Processes and accountability to deter or prevent similar occurrences in future.

9.0 Violation of One-Third Rule on Basic Pay

1336. The Committee heard that the review of payroll data revealed four hundred and eighty-five (485) employees were receiving net salaries that were less than a third of their basic pay. This was contrary to Section 19(3) of the Employment Act, 2007 that states that deduction against salary should not exceed two-thirds of basic salary.

1337. In the circumstances, Management was in breach of the law.

Management response

1338. The management informed the Committee that following the reconciliation of salaries records for period in question, the Department realized that net salaries of the said members of staff were below the required one third rule of basic salary. Human Resource Policy and Procedures Manual Extract.

1339. On recognizing this gap, the management through a memo dated 10th March 2022 Ref: HF/HR/22 VOL VI/91 communicated to all staff on the need to adhere to the one third of basic salary.

1340. In the circumstances, Management was in breach of the law.

Committee Observations

The Committee observed that –certain employees received net salaries less than one-third of their basic pay. This contravenes Section 19(3) of the Employment Act, 2007, which stipulates that deductions from an employee's salary shall not exceed two-thirds of the basic salary, thereby guaranteeing at least one-third as net pay. The breach demonstrates weak enforcement of payroll controls and inadequate monitoring of statutory compliance, thereby exposing the institution to risks of pecuniary embarrassment and reputational harm.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer – SHA should submit to the National Assembly documented measures undertaken to strengthen payroll controls through automated payroll validation checks designed to flag any salary processing that violates the one-third rule prior to disbursement. Further, the Accounting Officer should submit documented administrative actions guiding enforcement of the HR Policy Manual on permissible deductions, with emphasis on statutory compliance, and holding responsible officers accountable for lapses in payroll management.

10.0 Irregularities on Human Resource

10.1 Irregular Promotions

1341. The Committee heard that the review of staff movement in the last three (3) years revealed that nine (9) employees were promoted but they did not meet the minimum requirement as set out in the NHIF Career Guideline dated August 2020. In addition, Management did not provide any proof that advertisement(s) were done for the positions. This was contrary to paragraph 2.34.3 of NHIF HR Policy and Procedures Manual dated August, 2020.

Management response

1342. The management informed the Committee that during the period, the fund had a huge management gap after a voluntary separation incentive from 2018. To bridge the gap and to ensure continuity and effective service delivery, there was an urgent need to fill the critical management positions from within. Management considered officers who were performing those roles then. The officers were subjected to a competency assessment in line with the Public Service Commission Circular of 11th March 2020.

1343. The appointments were made based on the Human Resource Procedures Manual (Revised 2020) Section 2.34.1 and 2.34.2.

Committee Observations

The Committee observed that, over a period of three (3) years, nine (9) employees were promoted without meeting the minimum requirements set out in the NHIF Career Guideline dated August 2020, and no evidence of advertisement was provided, contrary to paragraph 2.34.3 of the NHIF HR Policy and Procedures Manual (August 2020). This breach undermines the spirit of career progression and erodes the principles of transparency, meritocracy, and fairness in staff advancement.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer – SHA should submit to the National Assembly the approved Human Resource instrument that outlines, among other matters, career progression, together with documented measures undertaken to ensure strict adherence to the SHA Career Guideline and HR Policy Manual provisions on promotions. This submission should include evidence of transparent advertisement and competitive recruitment processes that safeguard integrity, fairness, and statutory compliance in staff career progression.

10.2 Failure to Deduct PAYE

1344. The Committee heard that Ten (10) employees with disabilities with gross salary above Kshs.150,000 were not deducted pay as you earn (PAYE). This was contrary to Legal Notice No. 36, of The Persons with Disabilities Act (No. 14 of 2003). Further, eight (8) staff members not in the approved list of Persons with Disabilities (PWD) provided for audit were benefiting from tax

exemption allowed for PWD. This was contrary to Paragraph 4 of Persons with Disabilities (Income Tax Deductions and Exemptions) Order, 2010.

Management response

1345. The management informed the Committee that the ten (10) employees with disabilities with gross salary above Kshs.150,000 who were not being taxed contrary to Legal Notice No. 36, of The Persons with Disabilities Act (No. 14 of 2003), all the ten (10) staff listed are earning gross salary above the Kes 150,000/=, however on computation of tax; we need to reduce the allowable deductions/exemptions to be able to compute the tax payable.

1346. Payroll records confirms that all the ten officers listed are Persons Living with Disabilities. Their gross salaries less Pension contribution, NSSF and Personal Relief takes their taxable income to below the tax threshold.

1347. On the eight (8) staff members not in the approved list of Persons with Disabilities (PWD) and benefiting from tax exemption, they have provided the department of Human Resource with the said requirements and were awarded the tax exemption.

Committee Observations

The Committee observed that –certain employees with disabilities who earned gross salary above Kshs. 150,000, were not subjected to Pay As You Earn (PAYE) deductions contrary to Legal Notice No. 36 of the Persons with Disabilities Act (No. 14 of 2003).

In addition, eight (8) staff members who did not have the pre-requisite registration as Persons with Disabilities (PWD) were nonetheless benefiting from tax exemptions reserved for PWD. This was contrary to Paragraph 4 of the Persons with Disabilities (Income Tax Deductions and Exemptions) Order, 2010.

These irregularities reflect weaknesses in payroll administration and non-compliance with statutory tax provisions, thereby exposing the institution to risks of revenue loss and regulatory sanction.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer – SHA should submit to the National Assembly documented measures undertaken to ensure strict compliance with the provisions of the Persons with Disabilities Act and the Income Tax Deductions and Exemptions Order, 2010. This should include evidence of proper payroll controls to guarantee accurate computation of taxable income, enforcement of PAYE deductions for employees earning above the statutory threshold, and verification of eligibility for tax exemptions to prevent unauthorized benefit. Further, the Accounting Officer should provide documented administrative actions holding responsible officers accountable for lapses in payroll management and ensuring adherence to statutory tax obligations.

10.3 Discrepancies in Payment of Salaries and Allowances

1348. The Committee heard that the review of payrolls for the year under review revealed that one (1) staff member was overpaid in basic pay, fifteen (15) staff members were overpaid in house allowances, two (2) staff members were overpaid in commuter allowances and seventeen (17) staff members overpaid in acting allowance. This was contrary to the letter Ref. No. SRC/TS/NHIF/3/39 (38) dated January 2019.

1349. In the circumstances, Management was in breach of the law.

Management response

1350. The management informed the Committee that the Overpayment of basic pay – The arrears for the above officer staff personal number No 2278 were lamped together with the basic salary. The officer had not been awarded his annual increment for the year 2021, which had fallen due effective July 2021.

1351. Overpayment of House allowance – The fifteen staff had been promoted on various dates to a higher grade as reflected in their salaries. However, their grading had not been adjusted accordingly in the system, this was corrected to display the correct grades in the system.

1352. Two officers in grade HF 7 and HF 6; had been on disciplinary action, where upon their representation to the Human Resource Advisory Committee the resolutions on their cases was reduction in Rank pursuant.

1353. Staff Number 0669 had been inadvertently earning house allowance above his salary grade, the same was rectified through PCA Doc No. 9408 and overpayment recovered accordingly.

Committee Observations

The Committee observed that, a certain staff member was overpaid in basic pay, others were overpaid in house allowances, others were overpaid in commuter allowances, yet others were overpaid in acting allowance. These payments were contrary to the provisions of letter Ref. No. SRC/TS/NHIF/3/39 (38) dated January 2019.

Committee Recommendations

The Committee recommended that –

i. The Committee reprimands the then Accounting Officers and the then Board for breach of the provisions of letter Ref. No. SRC/TS/NHIF/3/39 (38) dated January 2019.

ii. Within three months upon adoption of this report, the Inspector General of State Corporations to investigate the discrepancies in accordance with section 19 of the State Corporations Act, CAP 446 and surcharge and recover from the then Accounting Officer (s) and Board members the monies irregularly paid to the staff members.

1.0 Staff Establishment Grading Structure

1354. The Committee heard that the approved staff establishment list grading structure indicates that HF 14 is for Office Assistant and HF 1 is for Chief Executive. However, this differs with the master roll/compliment list where HF 1 is for Office Assistant and HF 14 is for the Chief Executive.

In the circumstances, the effectiveness of the Fund's grading structure could not be confirmed.

Management response

1355. The management informed the Committee that the initial HR grading structure was such that the CEO was on HF 15 whereas the lowest grade was on HF 1. The process of mapping staff to the new grading structure began in August 2020. However, this process was halted to allow for the review of the structure and HR Instruments in line with NHIF's transformational journey towards the achievement of Universal Health Coverage. The Board as guided by the Ministry of Health (MOH) through various correspondences, for instance a letter referenced Ref. No. MOH/HR/5/1/20 dated 23rd November 2021 initiated the process of reviewing the existing HR Instruments. The Board in its meeting held on 30th November 2022 directed Management to implement the approved HR Instruments which included the grading structure where the CEO was graded as HF1 and the lowest being HF14 for Office Assistant. The above grading structure has since been adjusted accordingly in the system.

Committee Observations

The Committee observed that –the approved staff establishment grading structure provided for HF 14 to be designated for Office Assistant and HF 1 for Chief Executive Officer. However, the master roll reflected a contradictory arrangement in which HF 1 was assigned to Office Assistant and HF 14 to Chief Executive Officer. This inconsistency created uncertainty and hindered confirmation of the effectiveness of the Fund's grading structure.

Committee Recommendations

The Committee recommends that, within three months upon the adoption of this report, the Accounting Officer–SHA should ensure the development and approval of comprehensive Human Resource instruments to govern and guide the Authority in the application of the grading structure to eliminate discrepancies, enhance clarity, and strengthen accountability in staff establishment management.

2.0 Irregularities on Claim Reimbursements

1356. The Committee heard that an assessment of controls over claim process using sampled branches revealed the following irregularities:

i. Claim number 16855376 had an invoice amount of Kshs.200,000 but the amount preauthorized, claimed and paid was Kshs.250,000. Similarly claim number 38100425 had an invoice amount of Kshs.4,000, but amount claimed and paid was Kshs.40,000. Also claim

No.17305160 had invoice amount of Kshs.36,946 but the claim was preauthorized and paid at Kshs.40,350.

ii. Claim number 40719590 was indicated in the discharge summary and invoice as dental, yet case code 05 was used instead of case code 09. Consequently, an invoice amount of Kshs.19,000 was raised for the beneficiary who was under the National Police and Prisons Service Scheme instead of contract amount of Kshs.2,500.

iii. In claim number 17577593 fitting of a hearing aid was claimed, preauthorized and paid as a major surgery (case code 07), at Kshs.150,000.

iv. Claim number 17196609 was paid at Kshs.570,350. However, the claim was preauthorized and raised for treatment of schizoaffective disorder/schizophrenia, but the invoice included an operation theatre and a minor procedure, yet the discharge summary had no indication that the same were required.

1357. In the circumstances, the effectiveness of controls on claims could not be confirmed.

Management response

1358. The management informed the Committee that–

i. In the contract cycle 2018-2022, the package amount for total hip replacement in Government facilities level V and VI was up to 250,000. NHIF reimburses to facilities the package amount. In the contract 2018-2021 (extended to 2022) clause 8.3 and sub-clauses 8.4.2 prescribe the scope of coverage, to include post operative follow-up. The approval was based on request and contract amount. Similarly claim number 38100425 had an invoice amount of Kshs.4,000, but amount claimed and paid was Kshs.40,000. The management had identified the error and initiated the recovery process of the Kshs. 36,000 from the facility as shown by the letter dated 24th February 2022. 38100425 is an outpatient claim at Nairobi West. The recovery letter done to the facility was presented for review.

ii. Approvals were granted according to the NHIF Board approved rates and payments made based on the package provider payment principles. In this case, no overpayment is demonstrated as the payment mechanism is not fees for service, which could incentivize overbilling or service fragmentation. Therefore, this is a miscoding issue, and no funds were lost in the event.

iii. Case code for orthopedics and other medical devices was not available during the contract period in review and the same (code 22) was introduced with the new contract 2022/24 cycle, effective from 1st July 2023. Consequently, medical devices used to be approved under code 07 for major surgeries. This also is a miscoding issue which was noted and it was confirmed that there were no funds lost as the client received the hearing aids.

iv. The patient, Mercy Liona, underwent 4 sessions of electro-convulsive therapy (ECT), which is a method of treatment for mental disorders, especially for those with severe depression and schizophrenia that is refractive to medical treatment; the procedure is done under general anesthesia. The case code was not there before but it has now been created.

Committee Observations

The Committee observed that–

i. Several claims were reimbursed at amounts exceeding the invoiced figures, including cases where claims were preauthorized and paid at values significantly higher than the documented invoices. Instances of miscoding were also noted, resulting in inappropriate categorization of treatments and payments that did not align with contractual provisions.

ii. In addition, certain claims included procedures not supported by discharge summaries, raising concerns regarding the accuracy and integrity of the claims process. These inconsistencies undermined the reliability of the control environment, and the effectiveness of claims management could not be confirmed.

Committee Recommendations

The Committee recommends that, within three months upon the adoption of this report, the Accounting Officer–SHA should develop and formally document comprehensive control and validation mechanisms aimed at: -

i. Strengthening internal controls governing the claims process,

ii. Validating claims to ensure that amounts correspond strictly with invoiced figures and contractual provisions,

iii. Incorporate code-matching protocols to eliminate miscoding errors,

iv. Periodic reconciliations to detect and correct anomalies and duplicate claims promptly.

v. Safeguarding the integrity of the reimbursement process, prevent financial loss, and reinforce accountability in claims management.

1359. A copy of the developed instruments, together with evidence of recoveries made as a result of enhanced controls, should be submitted to the National Assembly.\

3.0 Weak Linda Mama Program Controls

1360. The Committee heard that the statement of surplus or deficit and other comprehensive income reflects Linda Mama Program expenses of Kshs.4,164,582,667 as disclosed in Note 16 to the financial statements. However, users at branch level could not extract from the system supporting documents including encounter forms, discharge summaries/treatment notes and hospital invoices.

1361. In the circumstances, the effectiveness of Linda Mama Program controls at branch levels could not be confirmed.

Management response

1362. The management informed the Committee that the Visits summary and invoice were used to pay Linda mama claims both for outpatient and inpatient and applied to ANC and PNC.

Committee Observations

The Committee observed that –the Fund incurred Linda Mama Program expenses amounting to Kshs.4,164,582,667 as disclosed in the financial statements. However, users at branch level were unable to extract from the system supporting documentation such as encounter forms, discharge summaries, treatment notes, and hospital invoices. This limitation raised concerns regarding the

adequacy of accountability and transparency in the management of program expenditures, and the effectiveness of controls at branch level could not be confirmed.

Committee Recommendations

The Committee recommends that, within three months upon the adoption of this report, the Accounting Officer–SHA should develop and implement robust control mechanisms to ensure that all supporting documentation for its program claims is automated and readily accessible across all units of the Authority for authorized personnel. These mechanisms should provide reliable support for financial reporting and verification, thereby enhancing transparency, safeguarding program funds, and reinforcing accountability in the management of the Linda Mama Program. A copy of the developed instruments, together with evidence of improved documentation and retrieval processes, should be submitted to the National Assembly.

4.0 System Weakness in Generating Financial Statements

1363. The Committee heard that the review of QVTerm System revealed that system was not fully configured to produce the financial statements, but data was extracted through excel, analyzed and summarized to come up with amount reflected in the financial statement. Comparison of supporting schedules for NHS expenses with sampled member statements extracted from the ERP system indicated twenty-eight (28) claims of Kshs.266,000 were in member statements but were not included in the financial statements.

1364. In the circumstances, the effectiveness of controls of QVTerm system to generate financial statements could not be confirmed.

Management response

1365. The management informed the Committee that to be able to prepare financial statements, QVTerm schedules were saved in Ms excel formats generated from the system based on a set criterion for reporting purposes. It is therefore likely that claims may be reported differently if, for instance, they were paid in the current period but were for admissions/ visit dates for previous period. Such reports are reconciled to ensure that they reflect the reporting period.

Committee Observations

The Committee observed that –the Fund Enterprise Resource Planning (ERP) system was not fully configured to generate financial statements directly thus generating inaccurate and incomplete financial statements.

Committee Recommendations

The Committee recommends that the Accounting Officer–SHA should ensure that the installed ERP is fully configured, and all modules are operational to enable all aspired functionalities are as per user needs and specifications to strengthen controls for accuracy, reliability, and transparency

in financial reporting. The Office of the Auditor-General shall review the system and report in the subsequent audit cycle.

5.0 Staff Establishment Not Mapped in the Payroll System

1366. The Committee heard that the review of payroll data with staff establishment revealed inconsistencies in the designations and departments between the two documents.

1367. In the circumstances, the effectiveness of controls of staffing and payroll management could not be confirmed.

Management response

1368. The management informed the Committee that the process of mapping began in August 2020; however, it was halted to allow review of the structure and HR Instruments in line with NHIF new journey for Implementation of UHC. The Board, as guided by the Ministry of Health (MOH) through various correspondences for instance a letter referenced Ref. No. MOH/HR/5/1/20 dated 23rd November 2021, initiated the process of reviewing the Instruments. The Board in its meeting held on 30th November 2022 directed Management to implement the approved HR Instruments. Subsequently, and with the coming into effect of the SHI Act, public service has since approved the SHA organization structure together with the other HR instruments. The same are currently being implemented.

Committee Observations

The Committee observed that –there were inconsistencies in designations and departmental allocations reflected in the payroll and hence compromised the accuracy and reliability of staffing and payroll records.

Committee Recommendations

The Committee recommends that, within three months upon the adoption of this report, the Accounting Officer–SHA should ensure the development and approval of comprehensive Human Resource instruments to govern and guide the Authority in the application of the grading structure to eliminate discrepancies, enhance clarity, and strengthen accountability in staff establishment management.

6.0 Weak Controls over Imprest Issuance and Surrender

1369. The Committee heard that the review of imprest general ledger revealed the following control deficiencies:

i. A sample of imprest surrendered revealed six (6) instances where one imprest warrant was used to support surrender of more than one imprest and thirteen (13) instances where different imprests were erroneously captured as having been issued using one imprest warrant.

ii. Analysis of imprest code register and imprest register extracted from QVTerm revealed five hundred and twenty-seven (527) imprest payments that were made to payees who were not in the imprest code register.

1370. In the circumstances, the effectiveness of controls of imprest surrender and recording could not be confirmed.

Management response

1371. The management informed the Committee that–

i. Upon detailed review, management established that these instances do not represent actual duplication or the use of a single warrant to surrender multiple imprests. Instead, they were as a result of errors made during manual entry of warrant numbers in the description field. Management wishes to state that all the above imprests have been surrendered. To address these issues and enhance control, management has implemented several measures to reduce manual input in the imprest process. Further, management is working with the new ERP developer to system enhancements based on these recommendations.

ii. Majority of imprest in schedule XXVII relates to non-staff who include Board members and civil servants who are not issued with E codes but instead are issued with N codes to undertake various activities jointly with NHIF. Therefore, there is no unauthorized payment for services not rendered since N codes are part of NHIF imprest records and fully authorized at the time of issuance of N codes and undertaking activities.

E code 5620 of PF NO 1119 is for Anthony Odongo who has already exited the Fund, while E-code 00475 PF NO 1449 is for Anthony Omondi Odongo who is still in employment. E code 02192 was deactivated, and E-code 2194 is the only active account.

Committee Observations

Committee observed that there were several control deficiencies in the management of Imprests contrary to the provision of Regulations 91 to 93 of the PFM (National Government) Regulations, 2015 on the management of imprest.

Committee Recommendations

The Committee recommends that –

The Accounting Officers should ensure compliance with the PFM (National Government) Regulations, 2015 and other governing laws and regulations as applicable.

7.0 Inadequate IT Contingency Planning

1372. The Committee heard that the Management has not put in place approved business continuity, disaster recovery plans and comprehensive back up procedures. Further, backups were not tested for successful restoration. This was contrary to Regulation 110(1) of the Public Finance Management (National Government) Regulations, 2015 that requires the Accounting Officer of a

national government entity to institute appropriate access controls needed to minimize breaches of information confidentiality, data integrity and loss of business continuity.

1373. In the circumstances, the effectiveness of controls of backups and data recovery could not be confirmed.

Management response

1374. The management informed the Committee that the Existing Disaster Recovery Plan and Business Continuity Plan were reviewed by both management and Board. However, full approval was halted to allow for the transition process

i. Reviewed Disaster Recovery Plan
ii. Reviewed Business Continuity Plan

The SHA aligned documents are currently being considered for approval by the Board.

Committee Observations

The Committee observed that –the Fund Management had not put in place approved business continuity and disaster recovery plans and comprehensive backup procedures tested for successful restoration contrary to Regulation 110(1) of the Public Finance Management (National Government) Regulations, 2015, which requires the Accounting Officer of a national government entity to institute appropriate access controls to minimize breaches of information confidentiality, ensure data integrity, and safeguard business continuity.

Committee Recommendations

The Committee recommends that, within three months upon the adoption of this report, the Accounting Officer–SHA should ensure the development, approval, and implementation of comprehensive business continuity and disaster recovery plans, together with robust backup procedures including periodic testing of backups to confirm successful restoration. A copy of the approved instruments, together with evidence of implementation and testing, should be submitted to the National Assembly.

8.0 Inadequate IT Security and Governance

1375. The Committee heard that the Fund did not have an approved Security Policy and Procedures and therefore the information systems may not be adequately safeguarded against emerging IT risks. In addition, Board and Senior Management intent as spelt out in the ICT Policy document may not be achieved. Further, the Information Technology (IT) controls at application, network and database level were inadequate, which may affect the confidentiality, integrity and availability (CIA) of data used in preparation of the financial statements.

1376. In the circumstances, the effectiveness of controls to guard emerging IT risks and (IT) controls at application, network and database level could not be confirmed.

Management response

1377. The management informed the Committee that the relevant ICT policies have been developed and reviewed by management. The final documents are currently being considered by the Board for approval.

Committee Observations

The Committee observed that –the Fund did not have an approved Security Policy and Procedures, thereby exposing its information systems to emerging IT risks. In addition, IT controls at the application, network, and database levels were found to be inadequate, posing potential risks to the confidentiality, integrity, and availability of data used in the preparation of financial statements. In the circumstances, the effectiveness of controls to safeguard against emerging IT risks and ensure robust IT governance could not be confirmed.

Committee Recommendations

The Committee recommends that, within three months upon the adoption of this report, the Accounting Officer–SHA should ensure the formal approval and implementation of comprehensive IT Security Policies and Procedures for establishing adequate controls at the application, network, and database levels to safeguard data confidentiality, integrity, and availability, while aligning with best practices in IT governance are put in place. A copy of the approved policies, together with evidence of implementation, should be submitted to the National Assembly.

9.0 Non-Adherence to Contract Terms on Payment of Capitation

1378. The Committee heard that the review of capitation summaries revealed that payments were not being made within the first thirty (30) days of the capitation period as stipulated on the Schedule of Payments and Payment Terms for the Outpatient Care Packages in hospital Contracts. Delay in payment of capitation is breach of contract that may negatively impact on services to members.

In the circumstances, the effectiveness of controls on capitation could not be confirmed.

Management response

1379. The management informed the Committee that the Capitation data was generated by the NHIF branches at the beginning of every quarter and summaries shared with the healthcare providers. It was a contractual requirement for the healthcare providers to present capitation invoices as soon as the data for the quarter is populated and shared to enable the Fund to begin the processing of capitation payments. This, however, was not the case as some facilities took time. Payment processing heavily relied on when and how prompt the facilities presented their invoices for payment. In some cases, payment processing went beyond the 30-days because of delay in submission of invoices by the hospitals.

The payment model for outpatient treatment has since been revised with primary healthcare disbursements being done monthly in arrears based on actual hospital visits recorded in the system.

Committee Observations

The Committee observed that –payments were not being made within the first thirty (30) days of the capitation period as stipulated in the Hospital contracts.

Committee Recommendations

The Committee recommends that the Accounting Officer should always ensure adherence to Payment Terms for the Outpatient Care Packages in hospital Contracts

FINANCIAL YEAR 2022/2023

1.0 Unsupported Benefit Expenses

1380. The Committee heard that the statement of profit or loss and other comprehensive income reflects total benefit expenses amounting to Kshs.70,886,855,120 as disclosed in Note 6 to 18 to the financial statements. However, analysis of the benefits expenses revealed that supporting schedules for various schemes amounting to Kshs.94,219,905 lacked details of member numbers, identification numbers, hospital names, employer codes and in some instances the claim amounts contained negative values.

1381. Further, schedules for administration expenses balance of Kshs.673,197,316 for various enhanced schemes lacked details on the actual activities carried out, items procured, number of parties receiving services and payee details. In some instances, the payee columns included description information instead of payee names.

In the circumstances, the accuracy and completeness of benefit expenses amount of Kshs.767,417,221 could not be confirmed.

Management response

1382. The management informed the Committee that the payments mentioned above relate to claim reversals that are done mainly to return an incomplete or erroneous claim back to the branch or hospital to correct specific errors or adjustments.

1383. In addition, claims reversal are carried out at the stage where the claims have already been posted to the ledger. The key record for the ledger is an Accounts Payable Document number which does not carry the detailed information of member, disease coding information, case codes, hospital name and employer code among other details.

1384. The reversal transactions typically aim to correct errors or adjust amounts without revealing the full specifics of the original claim to maintain privacy and confidentiality. Therefore, to maintain a clear and concise record, only essential information is included in reversal entries.

1385. Further, being reversals, the claim amounts are reflected as negatives which are then deducted from the total claims figure to give the correct value.

Committee Observations

The Committee observed that –the benefit and administration expenses were not adequately supported by detailed records with several schedules lacking essential information such as member identifiers, hospital names, employer codes, and payee details, while some claim amounts appeared as negative values. In addition, administration expense schedules did not clearly outline the activities undertaken or the parties involved which affected the accuracy and completeness of the reported expenses.

Committee Recommendations

The Committee reprimands the then Accounting Officer for breach of Regulation 104 of the PFM National (Government Regulations) 2015 which requires that payments are supported by the appropriate authority and documentation.

2.0 Unsupported Other Operating Expenses

1386. The Committee heard that the statement of profit or loss and other comprehensive income and Note 22 to the financial statements reflects other operating expenses amounting to Kshs.2,920,271,196. The balance includes an amount of Kshs.2,475,593,076 whose schedules lacked details on the activities carried out, items procured, number of recipients and nature of services rendered and payee details. In some cases, the payee columns included description information instead of payee names.

1387. In the circumstances, the accuracy and completeness of other operating expenses amount of Kshs.2,475,593,076 could not be confirmed.

Management response

1388. The management informed the Committee that the Payments for activities like air tickets, hire of vans and leasing of motor vehicles which are procured for groups of staff members usually travelling for the same activity e.g, trainings, workshops and other field work exercises. During the payment process, details of the parties and activities are included in the supporting documents to the payment vouchers. However, only limited information is captured in the system due to limitation in the field size although the details are retained in the Payment Vouchers.

1389. The same case applies when processing payments for leasing and hire of vans. The invoices are paid in batches whereby only the invoice numbers are fed into the description field. Supporting documents, however, contain all other details.

Going forward the system will be reviewed and reconfigured to allow for capturing more details and further provide for separation of the expenditures. Where possible, procurements will also be separated based on cost center/activity.

Committee Observations

The Committee observed that –other operating expenses amounting to Kshs.2,475,593,076 were not adequately supported by detailed records with several schedules lacking essential information

such as activities carried out, items procured, number of recipients and nature of services rendered and payee details.

Committee Recommendations

The Committee reprimands the then Accounting Officer for breach of Regulation 104 of the PFM National (Government Regulations) 2015 which requires that payments are supported by the appropriate authority and documentation.

3.0 Other Receivables

3.1 Long Outstanding Receivables

1390. The Committee heard that the statement of financial position and Note 30 to the financial statements reflects other receivables balance of Kshs.447,201,868. The amount includes hospital and creditors surcharge amount of Kshs.142,832,138 out of which Kshs.25,594,275 has been outstanding since the year 2018 and whose recoverability was doubtful.

In the circumstances, the accuracy and recoverability of creditor's surcharge balance of Kshs.142,832,138 could not be confirmed.

Management response

1391. The management informed the Committee that the surcharges of Ksh. 142,832,138 involved 101 healthcare facilities being surcharged. The surcharges were initiated based on various reasons such fraud, overpayment or duplicated payments which were observed through audit findings or observations by respective branch offices in course of processing the claims.

The recovery was initiated by debiting respective hospital ledger account to automatically recover any claim submitted for payment until the entire amount is fully recovered before any payment is made to the hospital concerned. As of 30th June 2023, an amount of Ksh. 11,418,618.84 had been recovered from the facilities leaving a balance of Ksh.131, 413, 513.91. However, for the facilities that do not submit claims we have initiated a process of issuing demand notices with a view of collecting the surcharge. SHA will be seeking to recover the outstanding amounts in full as it settles the outstanding NHIF debt.

Committee Observations
The Committee observed that–

i. **Amount of Kshs.142,832,138 in respect of hospital and creditors surcharge had been outstanding for long with amount of Kshs.25,594,275 being outstanding since the year 2018 and whose recoverability was doubtful.**

ii. The management indicated that a balance of Ksh.131, 413, 513.91 after recovery was initiated by debiting respective hospital ledger accounts to automatically recover any claim submitted for payment until the entire amount is fully recovered. However, the recovery efforts appeared ineffective considering the minimal amount so far recovered

and that the debt arose of economic criminal activities inform of fraud, overpayment or duplicated payments.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer-SHA to submit the lists of debtors with the respective amounts owing, evidence of the cause for surcharge including fraud, overpayment or duplicated payments to the DPP for upfront prosecution and recovery of the amounts involved with interest at the CBK prevailing rates.

3.2 Lost Computers

1392. The Committee heard that the balance includes an amount of Kshs.17,421,235 on sundry debtors out of which Kshs.2,832,000 relates to lost computers. However, the report provided for audit did not give details on the progress and status of the matter or action taken and there was no evidence that the computers were insured.

1393. In the circumstances, the existence, ownership and recoverability of lost computers amounting to Kshs.2,832,000 could not be confirmed.

Management response

1394. The management informed the Committee that as was correctly noted by the Auditor General, the Sundry debtors account includes 16 desktop computers valued at Kshs. 2,832,000 that were lost during transit from NHIF head office to the NHIF satellite office in Isiolo, where they were meant to be distributed to various NHIF satellite and window offices. An investigation was launched, and disciplinary measures were taken against the individuals involved, as detailed below:

i. **Daniel Kibiti**
The Driver Mr. Daniel Kibiti was Charged in Meru Law Courts vide case file no. 461/225/2016 with two counts of stealing the motor vehicle contrary to Section 268(1) as read with Section 278 A of the Penal Code and the second count of stealing computers contrary to Section 268 (1) as read with section 275 of the Penal Code Laws of Kenya. However, the Court withdrew and discharged the officer for lack of sufficient evidence.

A report dated 11th July 2016 was done by the Chief Security Officer. The officer was issued with a suspension letter Ref. HF/P/1397/23 dated 28th June 2016. The Officer appeared before the staff Advisory Committee on 18th December 2019, 29th April 2020 and 13th May 2020 to respond to the charges of gross misconduct. The Staff Advisory Disciplinary Committee on 17th December 2021 resolved to lift the suspension and re-designate the officer to senior support staff and issue a first warning letter. The Officer was re-designated on 28th June 2022 to the position of an Office Assistant.

ii. **Naman Kinyua Kamoyo**

The Officer was interdicted vide letter Ref. HF/P/1206 dated 13th July 2016 pending further investigations with respect to the disappearance of Motor vehicle Reg. No. KBB 431 S and 16 desktop computers. A report dated 11th July 2016 was done by the Chief Security Officer. The Officer appeared before the staff Advisory Committee on 9th November 2016. The officer was reinstated back to his earlier position on 21st December 2016.

iii. **Daniel M. Muchiri**

The Officer was interdicted vide letter Ref. HF/P/1788 dated 13th July 2016 pending further investigations with respect to the disappearance of Motor vehicle Reg. No. KBB 431 S and 16 desktop computers. A report dated 11th July 2016 was done by the Chief Security Officer. The Officer appeared before the staff Advisory Committee on 9th November 2016. The officer was reinstated back to his earlier position on 21st December 2016.

The items had initially been presented in PPE schedule on acquisition but then transferred to Sundry debtors from the year 2020 and thereafter a provision was made on the same as shown in the year under review. This was to fairly present the loss of equipment as well as the recovery follow-up through the disciplinary procedures instituted. This movement was reflected in the audited report and financial statements for the year 2020/21.

Committee Observations

The Committee observed that –the Fund lost sixteen 16 desktop computers valued at Kshs. 2,832,000 during transit from NHIF head office to the NHIF satellite office in Isiolo. Although, the Fund had the matter investigated and actions taken against the alleged culprits no recoveries were made from the officers and no evidence that any claim was lodged against the insurer.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer-SHA to submit to the National Assembly documentary evidence that the computers were insured. In absence of insurance compensation, the Accounting Officer -SHA initiates recovery from the then Fund Accounting Officer who failed to insure the assets in transit or claim compensation from the insurer.

4.0 Unsupported Statutory Contributions

1395. The Committee heard that the statement of profit or loss and other comprehensive income reflects total revenue amount of Kshs.81,596,356,297. Included in the amount are statutory contributions of Kshs.4,377,783,721 from five (5) schemes. However, the amount was not supported with detailed schedules indicating the dates the money was received, E-slip reference numbers and customer code numbers. Further, the schedules provided reflected amounts in block figures instead of showing a breakdown on monthly basis of each member's contribution.

1396. In the circumstances, the accuracy and completeness of statutory contributions amounting to Kshs.4,377,783,721 could not be confirmed.

Management response

1397. The management informed the Committee that the national health scheme contribution schedules were bulky and took some time to extract, but they have since been provided. The printed copies for sample pages were provided for review. It's important to note that the NHS contribution under Note 6 excludes statutory contributions from managed schemes which are accounted for under their respective schemes as per their notes in the financial statements.

Committee Observations

An amount of Kshs.4,377,783,721in respect of statutory contributions from five (5) schemes were not supported with detailed schedules indicating the dates the money was received, E-slip reference numbers and customer code numbers. This might have negatively affected the service delivery to the concerned members deemed to be in default for the period the contributions remained unmatched.

Committee Recommendations

The committee recommends that within three months upon adoption of this report, the Accounting Officer – SHA submits to the National Assembly a documented strategy on statutory contributions from unmatched contributors are channeled to the unclaimed Assets Authority with evidence of remittance.

5.0 Benefit Expenses

5.1 Unexplained Overpayment on National Health Scheme Expenses

1398. The Committee heard that the statement of profit or loss and other comprehensive income reflects National Health Scheme expenses balance of Kshs.34,362,413,090. However, the amount includes payments of Kshs.963,737,709 while their specified limits was Kshs.501,561,060 resulting to unexplained overpayments of Kshs.462,176,649 as shown below:

Benefit	Specified Limit Kshs.	Payments Made Kshs.	Overpayment Kshs.
Normal Delivery	370,000	1,709,953	1,339,953
C-Section	930,000	2,207,800	1,277,800
Rehabilitation	1,260,000	4,606,500	3,346,500
Minor Surgery	43,950,000	73,384,853	29,434,853
Major Surgery	401,960,000	687,788,129	285,828,129
Specialized Surgery	4,500,000	8,133,678	3,633,678
Basic Chemotherapy	20,700,000	46,285,883	25,585,883
Complex Chemotherapy	2,700,000	3,468,000	768,000
MRI	5,271,060	21,387,950	16,116,890
CT-Scan	19,920,000	114,764,963	94,844,963
Total	**501,561,060**	**963,737,709**	**462,176,649**

1399. In the circumstances, the accuracy and completeness of the National Health Scheme expenses of Kshs.963,737,709 could not be confirmed.

Management response

1400. The management informed the Committee that the process of authorization, approval and processing of claims is an informed interactive system wide process that begins with defined benefits, approved package rates, contracting of declared healthcare service providers and adherence to the set criteria as member's access healthcare. The National Scheme expenses balance amounting to Kshs.434,232,656 were not overpayments, rather they were combined packages per claim for MRI, CT-SCAN, Basic and complex Chemotherapy, Ultrasound, PET Scan, Kidney transplant, Radiotherapy and Rehabilitation but the data provided picked the cost of one package.

1401. NHIF carried out regular review of claims whereby any detected anomalies as well as any overpayment were immediately remedied through recovery systems.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Unexplained Overpayment on National Health Scheme Expenses under Double Payments for Specialized Benefit Packages in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

5.2 Overpayment on Parastatal Scheme Expenses Overpayment Above Specified Limits

1402. The Committee heard that, the statement of profit or loss and other comprehensive income reflects parastatal schemes expenses amount of Ksh.2,177,264,508. Analysis of the expenses revealed unexplained overpayment balance Kshs.1,750,250 above the specified limits on MRI and CT-Scan claims as shown below:

Benefits	Specified Limit Kshs.	Payment made Kshs.	Overpayment Kshs
MRI	1,080,000	2,076,950	996,950
CT-Scan	488,000	1,241,300	753,300
Total	**1,568,000**	**3,318,250**	**1,750,250**

1403. In the circumstances, the accuracy and completeness of the parastatal scheme expenses of Kshs.1,750,250 could not be confirmed.

Management response

1404. The management informed the Committee that the Beneficiaries under enhanced schemes upon accessing healthcare are billed on a fee for service basis. This applies also to members in the parastatal schemes and hence payments were not made above specified limits but were made as billed.

1405. There are instances where the case code highlighted does not correspond to the claim amount paid; this is due to the system picking one case code when queried instead of the total amount of all case codes related to the Claim.

1406. What appeared as double payments occurred when members accessed non-comprehensive facilities, then the Fund was notified though services were offered at a later date. This phenomenal where date of notification and services happen on different dates can occur due to system challenges during the day of the service delivery or when the member is a recurrent patient in a facility for terminal illnesses.

1407. Invoices of the same were provided for review.

i. Example: Member no. 0017259, accessed care on 01/07/2022 but the notification for dialysis was sent on 08/07/2022 alongside a similar one that the member was accessing on the same day. Both healthcare provider invoice and encounter forms.

ii. Member no. 0058840, notification for both radiotherapy services were done on 04/01/2023, billed same amount of Kshs. 10,200.00 but accessed on 05/01/2022 and a week later 12/01/2022.

1408. As a mitigation NHIF carried out regular sensitization and capacity building for health facilities on the importance of timely notification and providing service on the same date.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Overpayment on Parastatal Scheme Expenses under Overpayment Above Specified Limits on Linda mama program in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

5.3 Duplicate Payment for C-Sections and Normal Deliveries

1409. The Committee heard that, the statement of profit or loss and other comprehensive income and Note 16 to the financial statements reflects Linda Mama Program expenses amount of Kshs.4,134,909,678. The amount includes an amount of Kshs.5,713,000 paid to NHIF accredited hospitals whose analysis revealed six hundred and fifty-six (656) duplicate case code (01) on caesarean section deliveries procedures carried out on the same patient. Similarly, the amount includes a balance of Kshs.41,332,700 whose analysis revealed ten thousand eight hundred and sixty (10,860) duplicated case code (02) on normal deliveries on the same patient.

1410. In the circumstances, the accuracy and completeness of the Linda Mama expenditure of Kshs.47,045,700 could not be confirmed.

Management response

1411. The management informed the Committee that the Claims Amounting to Ksh, 15,149,900 were confirmed to have been paid within contract rates hence no overpayment. Claims amounting to Ksh, 2,984,850 relate to payments for ANC and PNC which though paid the correct contract rates, the Claims were processed using the inpatient code. Further it includes Baby and Mother admissions where the Delivery case code was used instead of the rebate case code, hence provider miscoding made the Fund reimburse less than the contract amount.

1412. Claims Amounting to Ksh, 100,500 are Claims which were found to be irregular Claims during processing, they were thus not paid.Claims amounting to Ksh.28,787,650 were found be duplicates and the process of recoveries was made, communication was done regional managers vide letters dated 11th October 2023 and sent a reminder on 27th November 2023, vide letter referenced HF/HQ/ADM/62/18B VOL.I/(38). A recovery has been done for some of the claims with the rest to be recovered during payment of outstanding Linda mama claims.

1413. The unfortunate reason of over payment arose from the fact that the system had not been configured to bar a deliver case code(01 and 02) in the event there is a similar case code claimed/notified within a period of 12 Months. The system was later configured not to permit a case code 01 (CS) and 02(Normal delivery) where there is either of the 2 within 12 months.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Duplicate Payment for C-Sections and Normal Deliveries under Overpayment Above Specified Limits on Linda mama program in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

5.4 Irregular Claims Management and Payments

1414. The Committee heard that, the statement of profit or loss and other comprehensive income reflects total benefit expenses amount of Kshs.70,886,855,120. Analysis of claims payment schedules revealed an amount of Kshs.247,021,907 on duplicate payment of claims in respect to National Health Scheme at Kshs.221,448,407 and Indigent' Sponsorship (GOK) Program at Kshs.25,573,500. Further, the amount includes a balance of Kshs.9,968,332 for one thousand and nine (1009) duplicate claims with same medical procedures, on the same admission dates but with different discharge dates. Further, an amount of Kshs.51,111,215 for four (4) schemes was incurred on payment of two thousand eight hundred and eight (2808) claims where the same patient was admitted in different hospitals at the same time.

1415. In the circumstances, the accuracy and completeness of the benefit expenses amount of Kshs.308,101,454 could not be confirmed.

Management response

1416. The management informed the Committee that the Management noted the duplication and reversed thus no claims were paid. A sample of five (5) claims was provided. The other claims indicated as double payments relate to claims emanating from services which have running sessions like Radiotherapy, Chemotherapy and Dialysis. The healthcare providers combine the different sessions and claim them together and not separately though services were offered at different visits and dates. Notably, these services must be pre-authorized, hence removing the risk of overclaim because the claim is tied to the number of sessions per treatment cycle.

1417. On Kshs.51,111,215 that was incurred on payment of 2808 claims where the same patient was admitted in different hospitals at the same time, it is important to note that daycare procedures e.g. imaging services, Chemotherapy, Radiotherapy etc are treated as admissions though they are admitted and discharged same day.

1418. Further, Management has initiated the process of enhancement of the system to detect and disallow notifications/admissions of the same patient on the same date in different facilities.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Irregular Claims Management and Payments under Overpayment Above Specified Limits on Linda mama program in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

5.5 Irregular Management of Indigents' Sponsorship (GOK) program

1419. The Committee heard that, Note 7 to the financial statements reflects total Indigents Sponsorship (GOK) Program expenses of Kshs.3,329,282,962. It was noted that the Program commenced in January, 2022 with the launch of Universal Health Coverage taking place on 07 February, 2022. However, examination of claim data revealed claims amounting to Kshs.11,924,766 for the years 2017 to 2021 which were presented before the Program commenced. Further, a total of Kshs.3,263,425 was paid out of the Scheme to members who are enrolled by NHIF in formal and informal categories and whose contributions were updated and active and therefore they could not be categorized as poor and vulnerable.

1420. In the circumstances, the accuracy and completeness of the Indigents' Sponsorship (GOK) Program amount of Kshs.3,329,282,962 could not be confirmed.

Management response

1421. The management informed the Committee that a member can change from one scheme/employer to another, but the historical utilization information does not change. This therefore explains claim data where a member who is in the indigent scheme having prior details belonging to a different employer code.

1422. In relation to the claims arising from years 2017-2021 before the UHC program was unveiled, service delivery (when the patients received service) was rendered when the members were under other employer codes (Formal/Informal). However, during the time of claim settlement, their employer codes had transitioned to UHC program.

1423. On payment of claims for members who are enrolled by NHIF in formal and informal categories, NHIF receives indigent data from the County government and uploads in the system. NHIF is only able to validate and determine those who are in managed schemes and sponsored programmes, for self and formal employed members who are in the county indigent list, NHIF will continue working closely with the respective Counties with a view to validate and clean the data.

1424. On the issue of data clean-up for members whose employment/financial status has since changed; it is important to note that NHIF is not mandated to add/remove an indigent from the UHC Scheme (code 500-500) unless with instructions from the sponsor GOK, in consultation with the scheme beneficiaries who are the County Governments.

Committee Observations

The Committee observed that –claims amounting to Kshs.11,924,766 for the years 2017 to 2021 which were presented before the UHC Program commenced. Although the management indicated that during the time of claim settlement, the employer codes had transitioned to UHC program as the reason, it was not clear why it had taken all the year from 2017 to 2022 to lodge the claims.

Committee Recommendations

The committee recommends that within three months upon adoption of this report, the EACC should investigate the defunct Fund systems, on how the irregular payments were done with a view to establish whether there was fraud, corruption or other financial improprieties in the claims processing and whether there was any breach of the law in the process or wastage of public funds. If any officer is found culpable, he/she should be held personally liable for the financial loss, DPP should initiate a legal process against the culpable persons.

5.6 Variances in Indigents Sponsorship (GOK) Program

1425. The Committee heard that Note 7 to the financial statements reflects the Indigents' Sponsorship (GOK) Program premiums amount of Kshs.6,000,000,000. It was noted that the contract was based on one million principal members at the rate of Kshs.6,000 but in the year under review, the program had only 878,104 members which translates to Kshs.5,268,624,000 total premiums. This resulted to an unexplained variance of Kshs.731,376,000.

1426. In the circumstances, the accuracy and completeness of the indigents' sponsorship (GOK) program amount of Kshs.6,000,000,000 could not be confirmed.

Management response

1427. The management informed the Committee that the Former President presided over a national roll-out of Universal Health Coverage (UHC) programme across all the 47 counties of Kenya, marking a significant milestone in the country's healthcare journey.

1428. The Kenya National Bureau of Statistics Housing and Population survey of 2019 noted that there was a total of 5,110,390 indigents Households in Kenya. Phase one of the program targeted sponsorship of 20% of the total indigent population which translates to 1,022,078 households.

1429. Following the expansion of UHC to the 47 Counties through the signing of the Inter-governmental Participatory Agreements (IPA) between the National Government and the County Governments, the Government set aside Ksh.6 billion to provide health insurance to the first cohort of 1 million indigent and vulnerable households across the Country. The indigents that were validated consequently started accessing Health care services in January 2022.

1430. Presidential Directive on Boda Boda Riders- The training of Boda-boda riders commenced on March 24, 2022, following a presidential directive to St. John Ambulance and the Ministry of Transport. This directive aims to collaborate on training 200,000 Boda-Boda riders to enhance first aid response capabilities. Subsequently, NHIF received a letter (Ref. MOH/ADM/1/2/37/Vol. II) from PS Health dated June 17, 2022, instructing the onboarding of the 200,000 Boda-Boda riders.

By this time, 882,639 indigents were already registered for Universal Health Coverage, accessing benefits. The remaining 117,361 households, not submitted by county governments, were allocated to the Boda-Boda riders. The UHC scale-up programme aimed to ensure that all individuals, including Boda Boda riders, had access to affordable, accessible, and quality healthcare services without financial hardships.

i. The programme resulted from collaboration between St. John Ambulance, the Ministry of Transport, the National Transport Safety Authority (NTSA), and NHIF. Its primary goal was to empower 117,361 Boda Boda riders with first-aid response capabilities, road safety, and essential healthcare services. This training aligned with the government's industry reform efforts and supported the UHC objective of leaving no one behind.

ii. National Launch- The launch event took place on June 26, 2023, at the KICC, and the chief guest was H.E. the President. The event was attended by prominent figures from various industries, including government officials, business leaders, and renowned personalities. The President's presence added prestige to the occasion, highlighting the significance of the launch and its impact on the country's development.

NHIF has successfully validated and auto registered a total of 115,996 Boda Boda as of 20-11-2023 since the program commenced. The balance of 5,900 Boda Boda Riders is work in progress (This is considering the active UHC members of 878,104). NHIF is actively working towards validating and auto registering the remaining balance of Boda Boda Riders. The organization is committed to ensuring that all Boda Boda Riders have access to the benefits provided by NHIF.

NHIF notes that the Auditor General report correctly noted that during the year under review, the Programme had a target of 1million indigent households. Notably, NHIF registered 878,104 members submitted by the County Governments and closed the gap by registering 115,996 Boda Boda riders as directed by the PS Health vide a letter dated 17th June 2022 Ref: MOH/ADM/1/2/3s7/Vol. II (215) thereby bringing the total number to 994,100.

Committee Observations

The Committee observed that–

i. The Fund operated Indigents' Sponsorship (GOK) Program amounting to Kshs. 6,000,000,000 premised on 1,000,000 principal members at a rate of Kshs.6,000 per member. However, actual membership during the year under review stood at 878,104 members, translating to Kshs. 5,268,624,000 in premiums. This resulted in an unexplained variance of Kshs. 731,376,000, raising concerns regarding the accuracy and completeness of the reported program expenditure.
ii. While management indicated that Kshs. 6 billion was disbursed to cater for 1,000,000 principal members citing that the program was anchored on the Universal Health Coverage

(UHC) roll-out targeting 1,022,078 indigent households (20% of the 5,110,390 indigent households as per the KNBS 2019 survey) the validated membership fell short of the contractual target. This created a notable gap between budgeted and actual figures.

Committee Recommendations

The Committee recommends that–

i. The Accounting Officer–SHA should ensure program enrolment data is consistently reconciled with financial records so that reported figures reflect actual validated beneficiaries.
ii. Within three months upon adoption of this report, the Accounting Officer–SHA should establish and document a clear monitoring and reporting framework for all sponsorship programs and funds. This framework should include periodic reconciliations between budget allocations, enrolment statistics, and actual disbursements. A copy of the framework should be submitted to the National Assembly and the Auditor-General for review and inclusion in the subsequent audit cycle.

5.7 Surgical Expenditure without Evidence of Peer Review

1431. The Committee heard that the statement of profit or loss and other comprehensive income reflects total benefit expenses amount of Kshs.70,886,855,120 out of which Kshs.18,400,000 was paid for surgeries conducted on patients. However, analysis of the claim data expenses revealed that hip and knee replacements were conducted on patients without peer review from three doctors as required in the hospital's contracts signed with NHIF.

1432. In the circumstances, the accuracy and completeness of the expenditure Kshs.18,400,000 on surgical packages could not be confirmed.

Management response

1433. The management informed the Committee that the Implementation of this requirement has proved not to be feasible due to the following reasons: -

1. NHIF contract with facilities does not:

   a) Define peer review in the definition of terms and interpretation. It does not guide on constitution of peer review team in hospitals, implementation, and reporting criteria to support pre-authorization. It neither spells out actions to be taken based on reporting nor the stage in the patient's journey at which to implement peer review: i.e., should it be done before pre-authorization, before or post-procedure? Additionally, it does not guide who initiates the process, who pays for it, and how the same shall be monitored and reported (documented) for use by NHIF.

   b) Express peer review under clause 2 "obligations of healthcare provider" No guidance is given on how to constitute the peer review team and how the process of review of cases should be implemented.

c) Defines it under 11. Pre-authorization clause

1434. 11.1. The Health Care Provider shall ensure that it submits timely requests for pre-authorization as per the Board's policies and guidelines and the Board shall not be liable to pay the costs (other than rebate where applicable) for services that are not pre-authorized as per the terms of this Agreement. This has not guided the implementation of the peer review process, and no policies and guidelines have been provided to guide on peer review implementation process and reporting criteria.

1435. However, in reviewing preauthorization requests, Case management ensures the request is made by the correct Doctor/Specialist, signed by an anaesthetist to confirm the patient is fit for surgery, and the requisite diagnosis support documents have been availed and reports signed by the radiographer/radiologist.

2. Access to Specialists: In many counties, there is limited access to specialized healthcare professionals. The availability of orthopedic surgeons or specialists in joint replacement procedures is restricted, making it challenging to consult multiple experts.
3. Resource Constraints: patients and health facilities often face resource constraints, including limited healthcare infrastructure, funding, and medical supplies. This may impact the feasibility of implementing a multi-surgeon peer review process.
4. Geographical Barriers: Patients in rural or remote areas may face difficulties in accessing multiple surgeons due to geographical barriers, scarcity of specialists and a lack of transportation infrastructure.
5. Cultural Factors and patient's rights: Cultural beliefs and attitudes toward healthcare decision-making varies and choosing a care provider is a patient's right and a human right. Some patients are accustomed to relying on the advice of a single trusted healthcare provider rather than seeking opinions from multiple sources.
6. Cost Considerations: Consulting multiple surgeons could incur additional costs for the patient, which may not be feasible for individuals with limited financial resources.
7. Some patients may get lost to follow-up in the process, which delays care and affects quality of life.
8. This could erode patient's confidence in doctors and;
9. This could create a barrier to the access tenet in UHC.

1436. Premised on the above, Management will consider reviewing some of the requirements in the contracts to address the current challenges. We propose to implement this in the new contracts under the Universal Health Care (UHC). The modalities of how the peer review process will be undertaken shall be formulated during the next Health Care Providers contracting cycle 2024-2026 in consultation with the Orthopaedics Specialists Association of Kenya and the KMPDC for input and professional ownership.

Committee Observations

The Committee observed that –Kshs. 18,400,000 was paid for surgeries involving hip and knee replacements conducted without the required peer review by three doctors, as stipulated in hospital contracts with NHIF.

Committee Recommendations

The Committee recommends that–

i. The Accounting Officer–SHA should always ensure strict enforcement of peer review requirements in line with contractual obligations, particularly for high-risk and high-cost surgical procedures.

ii. Within three months upon adoption of this report, the Accounting Officer–SHA should develop a comprehensive framework for implementing peer review in subsequent Health Care Providers Contracting Cycles. The framework should be formulated in close consultation with the Orthopaedics Specialists Association of Kenya and the Kenya Medical Practitioners and Dentists Council (KMPDC) to ensure professional input, ownership, and alignment with industry standards. The framework should be approved by the Board and a copy submitted to the Auditor-General for review and inclusion in the subsequent audit cycle.

5.8 Irregular Expenditure on Medical Camps

1437. The Committee heard that Note 17 to the financial statements reflects Work Injury Benefit Act (WIBA) administration expenses of Kshs.119,909,611. Included in the amount is a balance of Kshs.54,513,886 incurred on payment of imprest, conference facilities and transportation costs incurred by NHIF, National Police Service and Kenya Police Service staff to conduct medical camps. However, the activities were conducted between January and June, 2023 after the expiry of the contract on 31st December, 2022.

1438. In the circumstances, the accuracy, completeness and regularity of WIBA administration expenses of Kshs.54,513,886 could not be confirmed.

Management response

1439. The management informed the Committee that as correctly noted, the medical camps were conducted within the second half of the financial year under review. During the National Police/ Kenya prisons and NHIF Work injury medical scheme exit meeting held at NPS headquarters, it was resolved that medical assessment camps should be held as a way of a close out M& E as well as to enable collect vital documentation and information to hasten WIBA claims processing which had adversely affected beneficiaries due to delays. Medical assessment for purposes of ascertaining the degree of disability that supports processing of claims is done after recovery which may fall past the contract period.

1440. It is also noteworthy that premiums to fund these activities as well as pay claims were received within the second half of the financial year.

Committee Observations

The Committee observed that –Work Injury Benefit Act (WIBA) administration expenses amounting to Kshs. 54,513,886 were incurred for the payment of imprest, conference facilities, and transportation costs for staff from the NHIF, National Police Service, and Kenya Police Service who participated in medical camps conducted between January and June 2023. These expenditures were incurred after the expiry of the relevant contract on 31st December 2022.

Committee Recommendations

The Committee recommends that–

i. The Accounting Officer – SHA should always ensure that all expenditures are incurred strictly within valid contractual periods, duly supported by appropriate documentation. The Committee further recommends adherence to proper contract management principles to promote accountability, compliance, and prudent use of public resources.

ii. Within three months upon adoption of this report, the Inspector General of State Corporations to investigate the matter with a view to establish the officers involved in committing public funds irregularly in accordance with section 19 of the State Corporations Act, CAP 446, surcharge and recover from the then Accounting Officer (s) and Board members the monies irregularly paid to the staff members.

5.9 Variance Between Hospital Billed Amounts and Claims Paid

1441. The Committee heard that, the statement of profit or loss and other comprehensive income reflects total benefit expenses of Kshs.70,886,855,120 for claims paid to empanelled and contracted health facilities. However, review of payment data revealed that the hospitals billed Kshs.447,122,141 against claims paid amounting to Kshs.814,893,467 resulting to unexplained variance of Kshs.367,771,326 as detailed below;

Scheme	Claims Paid Kshs.	Hospitals Billed Amounts Kshs.	Variance/ Overpayments Kshs.
NPS/KPS Scheme	39,376,250	23,171,787	16,204,463
NHS Scheme	486,570,605	280,620,092	205,950,513
UHC Scheme	103,887,599	56,292,704	47,594,895
Civil Servant Scheme	15,016,390	8,523,069	6,493,321
Edu Afya Scheme	48,611,804	24,499,976	24,111,829
HISP(OVC)	19,844,824	11,283,160	8,561,664
HISP(OPPSD)	6,769,000	3,706,148	3,062,852
County Scheme	1,439,200	777,429	661,771
Parastatal Scheme	1,762,576	1,123,876	638,700
Linda mama	91,615,219	37,123,900	54,491,319
Total	**814,893,467**	**447,122,141**	**367,771,326**

1442. Although Management attributed the variance to typing errors made by hospital clerks while inputting bill amounts in the E-claim system, there was no evidence of reconciling the billed amount to claims paid or requests for refunds for overpayments.

In the circumstances, the accuracy, completeness and regularity of the claims paid amount of Kshs.814,893,467 could not be confirmed.

Management response

1443. The management informed the Committee that, the payments to hospitals above the bill amount incurred on patients are attributed to the variances that occur between rebate amounts and bills incurred by members whenever they access comprehensively contracted healthcare providers where the rebate applies regardless of the total bill in in-patient, package amounts for pre-authorized services and capitation payment method for outpatient services.

1444. In the summary above, all the listed schemes are comprehensively covered in comprehensive facilities in Public, Faith-Based and Private facilities. Review of the Claims leading to these amounts in query established the following:-

i. That some claims are medical inpatients where rebate amount is higher than the Bill Amount. The contractual provision for Medical Inpatient in comprehensive facilities is that the Fund pays for the rebate amount despite the bill being less or more than the rebate amount, the principal of cross subsidization applies where the facility gains when the bill amount is less than rebate amount and loses when the bill amount is more than rebate amount.

ii. Case-based packages are paid as a package amount comprehensively, the bill amount notwithstanding whether lower or higher. Case based packages include surgical, dialysis, maternity, oncology, radiology and free maternity at rates.

iii. Where a member accessed several services and multiple case codes were approved, when queried, they appear as added packages under one notification. Example, in instances of admission and a case-based package is preauthorized, it will all appear under one code i.e., as inpatient rebate.

iv. Linda mama for example under MTRH, rebate is payable on admission for the mother in addition to Linda Mama Package rates. Should the child be admitted, the baby's bill will be added on the admission bill. This claim will then carry one notification for the baby(s) and the mother, plus the Linda Mama delivery package hence appearing as excess.

v. That in some cases though the bill amount is less than the payable amount as per the system, scrutiny of the invoices for the claims establishes that the Invoice amounts are more or equal to the Claim amounts. The Fund pays the claim amount. The bill amount is typed in by the healthcare provider staff/accountant and likely clerical typo errors occur at the healthcare facility level as on amounts billed. This led to these variances. The Fund system is not configured to respond to these typos in the billed amounts.

vi. Enhanced scheme inpatient payments are payable subject to scheme rules and on invoice amount and not rebate. Hence appearing as a payment above bill amounts.

Committee Observations

The Committee observed that –payment data revealed hospitals billed Kshs.447,122,141 against claims paid amounting to Kshs.814,893,467, resulting in an unexplained variance of Kshs.367,771,326. Although management attributed the variance to clerical errors and contractual provisions relating to rebates, case-based packages, and capitation methods, there was no evidence of reconciliation of billed amounts to claims paid or recovery of overpayments.

Committee Recommendations

The Committee recommends that–

Within three months upon adoption of this report, the Accounting Officer-SHA develop and document a strategy to ensure that the E-claim system automatically flags discrepancies between billed amounts and claims paid to minimize clerical errors and establish a structured mechanism for recovery of overpayments.

The Accounting Officer-SHA should submit evidence of recovery of the overpayments and provide quarterly variance analysis reports detailing reconciliations performed, anomalies detected, and corrective actions taken to the National Assembly and Auditor-General for review.

5.10 Irregular Claims by Health Care Providers

1445. The Committee heard that, the statement of profit or loss and other comprehensive income reflects total benefit expenses amount of Kshs.70,886,855,120. However, review of the Internal Audit report conducted on Healthcare Providers between July, 2022 and June, 2023 revealed irregularities in claims for twenty-six (26) hospitals amounting to Kshs.185,142,488. Further, the report indicates that the hospitals have since been suspended from the scheme and further investigations are ongoing.

1446. In the circumstances, the accuracy, completeness and regularity of benefit expenses of Kshs.185,142,488 could not be confirmed.

Management response

1447. The management informed the Committee that, as highlighted above, management commissioned investigations into the operations of select facilities as listed in the table below:

Summary of 28 Hospitals Under Investigations By Internal Audit

No	Branch Office	Hosp Code	Name of Hospital	Amount (Kshs)
1	Meru	66669682	Jekim Hospital -Nkubu Ltd	5,704,220.00
2			Ruai Family Hospital	8,700,000.00
3		6666460	Jekim Medical Centre	360,698.00
4	Eastleigh	80002084	Joy Nursing & Maternity	73,964,470.00
5	Mwea	22246069	Afya Bora Hospital Ltd	14,334,000.00
6	Mwea	222411330	Afya Bora Hospital Annex Ltd	13,383,000.00

No	Branch Office	Hosp Code	Name of Hospital	Amount (Kshs)
7		8000492	St. Peter's Orthopedic and Surgical Specialty Centre	14,089,500.00
8		800014614	Amal Hospital Ltd	7,653,000.00
9		80008904	Beirut Pharmacy and Medical Centre	15,490,000.00
10			Oljabet Medical Centre	946,300.00
11			Sipili Maternity	1,762,800.00
12			Queens and Kings Hospital	118,000.00
13			Chest & Skins	1,248,000.00
14			Kiritiri Medical Healthcare	3,326,000.00
15			Meswo (Tunza) Medical Services	977,400.00
16			Familia Bora Medical	309,000.00
17			Naivasha Quality Healthcare	447,600.00
18			Bingwa Family Clinic	218,000.00
19			Nyamira Jamii Medical	490,000.00
20			Equity Afia Buruburu	7,191,000.00
21			Muranga High School Dispensary	4,256,000.00
22			Mathingira Medical Centre	4,053,500.00
23			Ruai Medical Centre	286,000.00
24			Thuti Medical Clinic	2,065,500.00
25			Charity Medical Centre	548,000.00
26			Oljabet Hospital Annex	3,220,500.00
27			Starehe Healthcare Ltd	Investigation on the facility is ongoing
28			Victory Hospital	Investigation on the facility is ongoing
			TOTAL	**185,142,488.00**

1448. The findings of the investigations by the internal audit made recommendations including but not limited to suspension, surcharge of the facilities, disciplinary of the NHIF staff which are being implemented. The report has since been discussed in parliament and further shared with other investigative agencies.

Committee Observations

The Committee observed that–

i) The Internal Audit report on Healthcare Providers for the period July 2022 to June 2023 identified irregular claims totaling Kshs.85,142,488 across twenty-six (26) hospitals.

ii) The facilities were subsequently suspended from the scheme, and further investigations instituted to ascertain the nature and extent of the irregularities.

Committee Recommendations

The Committee recommends that–

i) Within three months upon adoption of this report, the Accounting Officer-SHA should expedite for conclusion all ongoing investigations related to the irregular claims and ensure that appropriate actions are taken against all responsible parties, including both Healthcare Providers and any implicated staff.

ii) Within three months upon adoption of this report, the Accounting Officer-SHA should submit to the National Assembly documented and approved measures put in place to strengthen claims verification controls, including automated validation processes, risk-based provider audits, and enhanced monitoring mechanisms to prevent recurrence of irregular claims.

iii) The Accounting Officer should at all times ensure full implementation of all recommendations by Internal Audit, including suspension, surcharge, and disciplinary action where applicable and provide periodic progress reports to the Board and relevant oversight bodies.

6.0 Unsupported Claim Reserves

1449. The Committee heard that, the statement of financial position and Note 35 to the financial statements reflects Incurred But Not Reported (IBNR) claims reserves balance of negative Kshs.3,923,285,349. Although the actuarial certificate was provided for audit indicating claim reserves balance of Kshs.19,641,338,962 as at 30 June, 2023, there was no evidence to show the actuarial method applied and statistical procedures to predict the IBNR reserve required.

1450. In the circumstances, the accuracy and valuation of Incurred but Not Reported (IBNR) claims reserves balance of negative Kshs.3,923,285,349 could not be confirmed.

Management response

1451. The management informed the Committee that, an external Actuary was procured to provide the services of estimation of a reserve for claims that have been incurred but not reported as at the time of preparing the financial statements. This is best practice for any company that handles claims, and it provides estimates that are computed by professional Actuaries based on the trend of previous performance. The Actuarial certificate was provided during the audit. The detailed report from Ken Bright showing how estimates for the claims were established.

Committee Observations

The Committee observed that –the Fund reported an Incurred but Not Reported (IBNR) claims reserve balance of negative Kshs.3,923,285,349 as at 30 June 2023. However, no supporting documentation was provided to demonstrate the actuarial methodologies, assumptions, or statistical procedures applied in deriving the reserve estimates from the actuarial certificate, which reflected an IBNR claims reserve balance of Kshs. 19,641,338,962. This absence of documentation limited the Committee's ability to validate the computation.

While management indicated that a detailed actuarial report had been prepared by the external actuary, KenBright, the supporting evidence was not availed at the time of audit to substantiate the figures presented in the financial statements.

Committee Recommendations

The Committee recommends that–

Within three months upon adoption of this report, the Accounting Officer–SHA should document and submit measures undertaken to ensure: -

i. Comprehensive actuarial documentation including methodologies, assumptions, models, and statistical foundations accompanying all actuarial certificates submitted for audit and financial reporting purposes.
ii. Full compliance with International Financial Reporting Standards (IFRS) and actuarial best practices in determining IBNR reserves, including disclosure of the basis of estimation, actuarial models applied, and key underlying assumptions.
iii. Strengthened internal controls around claims reserving processes, including periodic review of actuarial computations, validation of data inputs, and reconciliation between actuarial reports and financial statement disclosures.

Within three months upon adoption of this report, the Accounting Officer–SHA should develop and implement an internal actuarial oversight framework. This framework should include routine engagements with external actuaries, internal technical reviews, and proper documentation and retention of all actuarial working papers. Furthermore, all future actuarial engagements should incorporate clear terms of reference requiring explicit documentation of methods, assumptions, and computations to enhance transparency and auditability.

7.0 Overpayment of legal fees

1452. The Committee heard that, the statement of profit or loss and other comprehensive income and Note 22 to the financial statements reflects other operating expenses amount of Kshs.2,920,271,196. The amount includes legal expenses of Ksh.293,669,000 out of which

Kshs.41,286,800 was paid to a law firm to represent the Fund. However, based on services rendered as articulated in schedule 6 of the advocate's remuneration order, the law firm was supposed to be paid Kshs.2,477,574 resulting in an unexplained overpayment of Kshs.38,809,226.

1453. In the circumstances, the accuracy, completeness and regularity of legal expenses amount of Kshs.41,286,800 could not be confirmed.

Management response

1454. The management informed the Committee that, the Fund prequalifies service providers as required by provisions of PPADA Act, toward this, fees payable to the law firm appointed by the Fund is guided by provisions of the Advocates Remuneration Order and this takes into account the nature of the matters, whether there is a specific amount is dispute or whether it is a constitutional matter where the subject matter does not provide for an actual cost but in review of the matter the complexity and severity of impact of the matter to Fund is taken into account.

1455. The Federation of Kenya Employers filed a suit against the Fund. The Petition alleged that the Fund violated the Constitution in the following manner:

i. The values and principles of Public Participation under Article 10 were violated by failing to disseminate relevant information to FKE, failing to consider FKE's views and giving inadequate time for collection and collation of FKE's membership's views.
ii. The Respondents violated FKE's membership's right to property under Article 40 by requiring matching contributions: this amounted to a backdoor tax and arbitrary deprivation of their members' property. It would also increase the cost of doing business and adversely affect the ability of Kenya to attract foreign investment.
iii. The Respondents discriminated against FKE's members because the public sector employers will pay matching contributions by levying taxes on FKE's members while those same FKE members are required by law to make contributions towards their own employees' medical fees (under the Employment Act)- therefore private sector employers are carrying an unfair double burden.
iv. The respondents have violated the right to fair administrative action under Article 47(1). This is through the provision of an exemption from matching contributions for employers with private insurance without adequate procedural safeguards such as the requirement to give notice to the employer seeking exemption, the requirement to give reasons for a decision with respect to exemption or the opportunity to appeal such a decision.
v. Similarly, the respondents violated the petitioner's right to fair administrative action with respect to review of the tariffs payable every 2 years. There was no explicit requirement to give reasons in the Amendment Act.
vi. The respondents violated the petitioner's legitimate expectation the burden of health care would not be shifted from the public sector to the private sector.

FKE sought declarations by the Constitutional Court that the amendments of the NHIF Act unconstitutional, were flawed and inconsistent, violated member rights to public participation, private property. They also sought damages for violation of or threat to rights and fundamental freedoms.

1456. The prayers sought were

i. A permanent injection restraining the Fund and any other persons from enforcing the amendments to the Act,
ii. A permanent injunction restraining the Ministry of Health Fund from submitting draft regulations to the National Assembly
iii. A permanent injunction restraining the Ministry of Health from causing to be gazette any regulations and thus operationalizing the NHIF Act.

1457. The impact of concession by the Court in granting these orders essentially paralysis the Fund's activities and thus affects all the delivery and access to health care services a requirement that is also a Constitutional right.

Committee Observations

The Committee observed that–

i. The Fund did not address the issue raised for overpayment but justified how the procurement was done.
ii. A law firm representing the Fund overpaid an amount of Kshs.38,809,226 contrary to the services rendered articulated in schedule 6 of the advocate's remuneration order.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer-SHA to seek the services of the Office of the Attorney-General to carry out a legal audit/review of the payments involved with a view to establish and recover the excess amounts paid with the legal provisions and report to the National Assembly.

8.0 Unsupported Purchase of Filing Racks

1458. The Committee heard that, the statement of financial position and Note 23 to the financial statements reflects property, plant and equipment balance of Ksh.12,848,439,122. Included in the balance is an amount of Kshs.20,200,000 for the supply of filing racks. However, there were no local purchase orders, invoices, delivery notes, inspection and acceptance committee minutes to support the procurement the items. In addition, there was no S13 counter receipt voucher, S11 counter requisition and issue voucher to confirm how the items were delivered and taken on charge in the stores.

1459. In the circumstances, the accuracy, completeness, existence and ownership of filing racks balance of Kshs.20,200,000 could not be confirmed.

Management response

1460. The management informed the Committee that, the supply of filing racks had been raised by the Department as a priority item to ensure that accountable documents for payments of claims are properly filed and stored. The issue had also been raised by the Parliamentary Committee on Health on lack of proper archiving of documents. The item was budgeted and planned for in the financial year 2022/23. A Purchase requisition form was raised by the finance department for 800 units of filing racks and the procurement process commenced on 22nd February 2023. The tender was advertised on 6th March 2023 and was opened, evaluated and awarded in line with the procurement

laws and regulations. A contract was executed on 13th June 2023, a sample was availed with an agreement to fast-track the delivery of the racks.

1461. The supplier failed to deliver the requested items despite the earlier promise up until the expiry of the contracts on 12th June 2024. The contract had been committed and funds set aside to facilitate payments after delivery. However, the failure by the supplier to honor the contractual obligations led to reversal of the entries as reflected in the subsequent financial statements for financial period 2023/2024.

1462. The Purchase requisition note and the signed contract and other supporting documentations were provided for reference.

Committee Observations

The Committee observed that –the Fund procured filing racks worth Kshs.20,200,000. However, the related procurement records were not provided for review citing non-delivery due to the failure by the supplier to honor the contractual obligations that led to reversal of the entries in financial period 2023/2024.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer-SHA to provide to the National Assembly, documentary evidence of the legal termination of the Contract.

9.0 Disputed Ownership of Land

1463. The Committee heard that, the statement of financial position and Note 23 to the financial statements reflects property, plant and equipment balance of Kshs.12,848,439,122 which includes land valued at Kshs.298,589,665. Included in the balance is an amount of Kshs.93,712,675 for land measuring 10 hectares situated in Karen. However, as previously reported, the ownership of the parcel of land is in dispute and the matter is in Court. The information available indicates that the Directorate of Criminal Investigations (DCI) has commenced investigations to establish whether there was fraud in the transfer of ownership of the land. Progress made on the investigation has not been disclosed in the financial statements.

1464. In the circumstances, the ownership of land valued at Kshs.93,712,675 could not be confirmed.

Management response

1465. The management informed the Committee that, the NHIF invested in the acquisition of Land, Survey and Designs of a Medical Centre of Excellence and Institute. This was part of the Fund's efforts to respond to challenges related to health and quality healthcare. Documents available indicate that the proposed medical Centre would consist of a Referral Centre, Medical Education Centre, Medical Research Centre, resource center and support Facilities.

1466. The purchase of the property commenced in 2001 after identification of a property in Karen, which was deemed suitable for the project. The purchase was approved by the full Board on the 27th March 2002 vide board minutes provided. The Fund undertook valuation of the property, by

appointment of Tyson Limited and subsequently obtained a valuation report from Ministry of Lands and settlement, Ref No. VAL. 852/V/8 dated 24th January 2002. The letter from the Ministry ascertained the value of the property as at that period was Kenya Shillings One Hundred Million Five Sixty-Nine Thousand Seven Hundred only (Kshs. 100,569,700/=).

1467. The property; Land Reference No 24968/2 is approximately 9.250 hectares (22.86 acres) and held on leasehold interest for a term of 99 years from 1st March 1999. The property is situated in the Karen Plains Road off Karen Road approximately 12 kilometers west of the City Centre.

1468. The Fund further appointed a law firm Kipkenda Lilan & Co Advocates who oversaw the entire purchase process. The advocate executed a sale agreement with the purchase price for the entire property being determined at Kshs. 93,712,675. As per the title, the transfer was successfully done on 20th December 2002.

1469. In September 2004, NHIF learned that a contractor had been commissioned by a third party (Crown line Freighters Ltd) to develop the said plot, claiming ownership. The Fund instructed M/S. Rachier and Amollo advocates to protect the interest of the Fund by pursuing appropriate action to restrain the third party from interfering with the property.

1470. The Fund is pursuing the matter and has already taken the necessary steps to ensure the matter is determined in its favor. The Fund is relying on the evidence from the Commissioner of Lands confirming that the land is registered under the Fund's Board of Management. The Commissioner of Lands in his letter referenced 186267/7 dated 10th May 2006 and 186267/T.C/17 dated 22nd August 2007 addressed to the Attorney General stated categorically that the property L.R. NO. 209/24968/2/R 87345 is registered in favor of the NHIF board of management.

1471. The Attorney General's office in their letter referenced AG/MLS/292/04 dated 9th November 2009 confirmed receipt of the instructions from the Commissioner of Lands and put up a defense of the land.

1472. The matter was moved to the Environment and Land Division and assigned a new number HCCC.ELC NO. 691 of 2011. This was in a bid to ensure the matter is expedited.

1473. NHIF filed an application seeking an inhibition (caveat) on the tittle of the land to bar any subsequent registration of a right/interest over the said parcel of land until the matter is fully heard and determined. The court allowed the application on 27th July 2016 and issued orders that NHIF can put up a fence around the entire property, and an order inhibiting registration of any dealing with the parcel of land.

i. Inquiry by the National Land Commission

Following the recommendations by PIC that the National Land Commission conducts further investigations on the issue of the land within six months after adoption of the Report, The National Land Commission indeed notified NHIF of the inquiry as mandated under Section 6 of the National Land Commission Act. NHIF attended the inquiry on 15th June, 2017 and made its submissions before the Commission.

The Commission pronounced itself and observed that the issue of ownership of the said parcel of Land was in Court.

ii. Current Status

In the 21st Public Investment Committee Report on the Audited Financial statements of State Corporations the above issue was discussed, and as per recommendations given by Public Investment Committee, the Directorate of Criminal Investigations commenced the inquiry/ investigations on the land and its acquisition in the yar 2018. The DCI engaged the Chief Land Registrar from Ministry of Lands, the Land Surveyor from Survey of Kenya, Chief Valuer from Nairobi City County Government and all parties who hold titles to the land. DCI requested NHIF to surrender the original titles for purposes of investigation and the letter surrendering the title to DCI provided.

1474. The Fund wrote a reminder to DCI on 20th May 2022 requesting an update on the same. Further, the Directorate of Criminal Investigations vide letter Ref NO. DCI/IB/LFIU/SEC/4/4/1/VOL.XLVI/125 dated 21st August 2023 advised the Fund to fence the property and to follow up with ODDP on the case in court. NHIF wrote to Ministry of Lands, public Works and Urban Development requesting costing of the fence which the Ministry replied via their letter Ref: QD 108/GEN/VOL. XII/45 dated 18th May 2023 with the attached cost estimates. This cost is factored in the budget for this financial year 2025/2026.

1475. On the 15th of May 2023, two businessmen were arraigned at the Mililani Law Courts where they were charged with conspiring to defraud NHIF land.

1476. The current status of the matter indicates that the criminal matter is still ongoing Nairobi Criminal Case NO. E341 of 2023 - Republic vs Peter David Leparkwo & Fredrick Kimemia Kimani. The matter was in court on 9th April 2024 for mention and issuance of directions, however, the same was stayed pending determination a judicial application review filed by one of the accused. Further, the matter came up on 29th July 2024 and remains active.

1477. However, there is a proposal by the ODPP to withdraw the matter through the office of the Directorate of Criminal Investigation (DCI) done vide a letter ref. DCI/1B/SEC/2/3/1 VOL. CXII/69 dated 18th March 2025. The Social Health Authority (SHA) has since protested to ODPP against intended withdrawal of the case through letter under reference HF/HQ/LEG/5/23 VOL. IV/36 dated 19th March 2025 and in response to this ODPP responded via letter ref. ODPP/CAM/13/2/235 dated 4th April 2025 insisting that the withdrawal of the case will allow parties ventilate their respective claim before the Environment and Lands Court (ELC). Subsequently, the Social Health Authority (SHA) has written to the office of the Attorney General via letter HF/HQ/LEG/5/196 VOL. I/13 dated 6th May 2025 seeking advisory and would be way forward on this matter. The responses we are yet to receive.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Disputed Ownership of Land under in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

10.0 Doubtful Work-In-Progress at Karen Land

1478. The Committee heard that, the statement of financial position and Note 23 to the financial statements reflects property, plant and equipment balance of Kshs.12,848,439,122 which includes capital work in progress balance of Kshs.1,444,687,484 relating to payments for drawings and designs for the proposed Resource Centre. However, as previously reported, the construction of the Resource Centre has not commenced since the acquisition of the land. Management has explained that construction of the Resource Centre was yet to commence due to lack of approval from the parent Ministry and the land ownership dispute in court.

1479. Although the issue had been discussed by the Public Investment Committee (PIC), no action appears to have been taken on the PIC recommendations that the Fund should expeditiously pursue the prosecution and conclusion of the case to its logical conclusion.

1480. In the circumstances, the existence and valuation of capital work in progress balance of Kshs.1,444,687,484 could not be confirmed.

Management response

1481. The management informed the Committee that, It is true that as of 30th June 2023 there was work in progress of Kshs. 1,444,687,484 in respect of payments for the proposed Resource Centre on Karen Land whose construction has not yet commenced to date and whose amount remains in our books. The amount comprises payments to various consultants and professionals that had been engaged to provide services which include quantity surveys, business plans and financial analysis consultancy, legal fees, architectural design services fees, feasibility study, environmental impact analysis.

1482. In the year 2001/2002 the Fund planned to build a Resource Centre on the land acquired in Karen. The establishment and implementation of a Resource Centre on the land was approved by the board in 2002.

1483. The then Chief Executive commissioned various consultants in accordance with the Architects and Quantity Surveyors Act Cap 525 of the Laws of Kenya to carry out a feasibility study on the development of a resource center.

1484. A number of these payments arose from the arbitration award as below:-

i. Arbitration by Architects and Quantity Surveyors on the Proposed Resource Centre

The Architects and Quantity Surveyors did the work as commissioned and submitted their report together with their fee notes for Kshs. 734,524,029.25. Upon delay by the Fund to honor the fee notes, The Architects and Quantity Surveyors then commenced Arbitration proceedings against the Fund for the demand for their fees. The Arbitrator, after reviewing the matter reduced the claim from Kshs. 734,524,029.25 and awarded the Architects and Quantity Surveyors Kshs. 352,131,345.15. Following the decision of the Arbitrator and claimants' filing of documents to enforce the Award, the Funds Lawyers gave their opinion that the Award be challenged at the High Court. The Fund disputed the award and proceeded to the high court to seek redress.

1485. Upon further guidance from the parent ministry to terminate the court processes and negotiate with the consultants with a view to settle pending bills in accordance with work done, and the Letter from Ministry provided. NHIF and the Architects and Quantity Surveyors recorded a consent order

in the High Court and the matter was settled. The Architects and Quantity Surveyors were paid a sum of Kshs. 407,107,645.00. Claims lodged by engineers and other consultants totalling Kshs. 333,846,784 arrived after settlement deeds were entered into on 24th June 2011. The claims were fully paid.

ii. The Karen Medical Centre of Excellence

The Original Project was revised to a Medical Center of Excellence and a Vision 2030 flagship project for the Ministry of Health following approval of a cabinet memorandum on the NHIF medical Resource Centre as communicated to NHIF CEO by the Minister of Health in a letter ref. MMS/ADM/1/16/1, dated 4th December 2008. The Karen Medical center of excellence project led to litigations from the consultants.

iii. Litigation arising from the Dispute on the Karen Medical Centre of Excellence

The following are the litigations commenced by the Consultants in respect to the Karen Medical Centre of Excellence.

i. High Court Civil Suit No. 504 of 2016: National Hospital Insurance Fund Vs. Baseline Architects Ltd.
ii. Rebman Ambalo Malala T/A Ujenzi Consultants Vs NHIF HCCC NO. 25 OF 2016
iii. Comm Case No. 255 Of 2016 - NHIF Vs. Eng. Peter Scott and Manga And Associates
iv. Civil Suit No. 176 Of 2017 – Professional Consultants Ltd –Vs- NHIF

This matter was presented to the committee, where it recommended that: -

The Fund fast tracks the hearing and determination of case HCCC.ELC NO.691 of 2011; and the Fund secures the disputed parcel of land through fencing and hire a competent security firm to guard the property until the case is fully determined.

Current Status

1486. Although the case has not come to its logical conclusion, the Fund has pursued the case regarding ownership of the land in Karen through the DCI and the matter is in court.

1487. Reference is made to the pending matters in court and communications showing the status of the cases. The dispute of ownership and the dispute with the quantity surveyors is still unresolved, except for the matter of Baseline Architects. The Court of Appeal upheld the decision of the High Court and ruled in favor of the Fund, the copy of the Judgment was provided.

1488. NHIF vs Crownline Freighters and Others, Nairobi ELC No. 691 of 2011 (as consolidated with ELC 152 of 2018), was mentioned before the court on 9th May 2022. During the mention, the court granted the parties additional time to file relevant documents. Pursuant to this directive, the Fund filed its defense on 25th October 2022. The case proceeded to hearing on 22nd and 23rd April 2024. However, it was subsequently adjourned to 22nd and 23rd October 2024 for further hearing, following the filing of bulky documents by one of the defendants. The Fund confirms that it has complied with provisions of Rule 11 of the Civil Procedure Rules and is ready to proceed with the hearing.

1489. The matter came up again on 25th March 2025, when it had been scheduled for hearing. However, the hearing did not proceed as the Advocate for the Authority, the Plaintiff herein, requested additional time to substitute witnesses due to the transition from NHIF to SHA. As a result, the hearing was rescheduled for 8th and 9th July 2025. However, it did not take place on those dates, and the hearing has now been rescheduled for 25th and 26th November 2025.

1490. According to the DCI findings the parcel of land in question is registered in favor of National Hospital Insurance Fund. The Fund has taken steps to ensure the ownership rights of the Fund are protected, even as it awaits the determination of the Court matter.

1491. The arbitration between Manga & Associates and NHIF came up before the Arbitrator, during which a query was raised regarding the proper instructions for the engagement of external counsel, particularly considering the involvement of the Attorney General's Office. The Fund, noting that this is an ongoing matter, sought guidance from the Attorney General. In response, the Attorney General approved the appointment of Ogetto Otachi Advocates to represent the Fund in relation to the Karen land matters and associated cases.

1492. The matter was initially scheduled for mention on 14th September 2023 to confirm compliance. However, the session did not proceed as the Tribunal did not sit. The parties were advised by the Arbitrator's Secretary to await further directions. A hearing was subsequently scheduled for 9th October 2023, but it also did not proceed due to the Tribunal's failure to confirm its sitting schedule.

1493. The arbitration matter came up again before the Tribunal on 24th May 2024. During this session, counsel for the Fund emphasized the need for clarity on the authorized representatives permitted to attend the proceedings, due to privacy concerns. Additionally, the Fund requested more time to consult and develop an appropriate strategy, given that the claimant had served further evidentiary material outside the permitted timeframe. The Tribunal granted the request and scheduled a mention to confirm the status of filings for 26th July 2024, with a tentative hearing set for 10th to 12th September 2024.

1494. HCCC No. 25 of 2016 Rebman Ambalo t/a Ujenzi Consultant vs NHIF (Consolidated with HCCC No. 176 of 297 Professional Consultant Limited vs NHIF). The Fund introduced the then Chief Executive Officer as a witness and an expert witness, in procurement matters to support the Fund's defense. The matter came up for mention on 6th February 2023, however, the matter did not proceed to hearing as the learned judge was away on his annual leave. Consequently, the matter was rescheduled for mention on 24th March 2023. However, the matters were reallocated to be placed and seized by the Learned Justice Sifuna.

1495. This matter last came up in court on the 4th of July 2023 where the court directed that parties file their respective trial bundles and the same was scheduled for mention on 23rd of October 2023 to verify compliance. This was done and the matter was scheduled for hearing on 11th March 2024.

1496. With the Court of Appeal upholding the High Court ruling (Cause No. 504 of 2016) in Fund's favor on the matter of Baseline Architects, the Fund is relying on this judicial precedence and is confident that the cases listed under b) and c) above shall be dispensed in Fund's favor.

HCC No. 25 of 2016 Rebman Amalo T/A Ujenzi Consultants vs NHIF (Consolidated with HCCC No. 176 of 297 Professional Consultant Limited vs NHIF). The matter came up for mention on 20th May 2024, however the court did not proceed due to engagements in other official duties.

The matter was thus rescheduled for mention on 17th September 2024. Find a schedule of breakdown of Kshs. 1,444,687,484.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Doubtful Work-In-Progress at Karen Land under Proposed Resource Centre at Karen Land in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

11.0 Construction of Multi Storey Car Park

1497. The Committee heard that, as previously reported, the Fund entered into an agreement with a local construction firm for construction and completion of a multi-storey car park at a contract sum of Kshs.909,709,305 which was revised to Kshs.1,179,611,756. A review of records revealed that the project commenced in May, 2002 and was completed at a cost of Kshs.3,342,120,239 in July, 2008, five (5) years after the scheduled completion date of August, 2003. Further, expenditure totalling to Kshs.626,635,998 and Kshs.4,706,521 was incurred in 2009/2010 and 2010/2011 respectively on the car park, increasing its total cost to Kshs.3,973,462,758 resulting to a contract variation of Kshs.3,063,753,453 or 337% of the original contract. Management has not provided explanation for the unjustified increase of the total cost of the project.

1498. Although the issue has been discussed by the PIC, no action has been taken on the Committee Recommendations that the Ethics and Anti-Corruption Commission should institute and fast-track investigation on the project and no progress report has been received from the Commission.

In the circumstances, the accuracy and completeness of buildings balance of Kshs.7,434,158,463 could not be confirmed.

Management response

1499. The management informed the Committee that, the Car Park is a seven storey Building with basement floors, which is designed to accommodate 780 cars. The project commenced in May 2002 and was scheduled for completion in August 2003. The original cost of the project was Kshs. 909,709,305.40 over a contract period of 65 weeks.

1500. The completion period was revised from August 2003 due to suspension of all projects by the Government vide Treasury circular no. 10 dated 22nd May 2003 as well as the Fund giving preference to core strategic activities resulting in reduced cash flow.

1501. As per the contract with N.K. brothers, NHIF evoked contract provision for variations and introduced vehicular lifts hence the variation in cost from the initial 909,709,305.40. The cost could not be retained at the original cost of Kshs. 909,709,305.40 since the Contractor had already increased the service area of the project. This led to Design changes to the structure and foundation works. An additional basement floor was created to cater for the displaced area arising because of vehicular lifts, ramps and design overhaul. This led to an increase in the service area and an additional cost of Kshs. 673, 465,787.10 making the total cost to be Kshs. 1,583,175,092.50. The vehicular lifts were later found not to be viable leading to downward variation to Kshs. 1,179,611,756.00 as observed in audit report. The board minutes on the inclusion of Vehicular lifts were provided for review.

1502. The variation from Kshs. 1,179,611,756.00 to Kshs. 3,342,120,239.00 was due to price escalations as per contract provisions. The escalation of the project cost was tabled before the NHIF Board project committee meeting held on 29th July 2005. Information from the minutes indicates that the Chief Architect noted that the main factors contributing to price escalations were:

i. Contractual claims mainly due to prolongation of the contract and delay in payments.

ii. Price escalation.

iii. Mechanical installation and equipment.

iv. Extended service parking (between NHIF building and Maji House).

v. Adjustment to the Storey heights by 600mm.

1503. Copy of the 29th July 2005 board minutes were provided. These were contractual claims which were as per contract provisions. The Chief Quantity Surveyor Min of Roads and Public works released the final certificate on 10th August 2007.

1504. As noted in the audit report the Multi Storey Car Park was completed in July 2008. The Fund wrote to the Chief Quantity Surveyor under the Ministry of Public Works vide letter Ref HF/C/958VOL.X/114 requesting a technical report on the completed Multi Storey Car Park. The Chief Quantity Surveyor replied vide letter Ref. No. QD15/GEN/1369, on the draft final account recommending release of the retention money after the issue of certificate of making Good Defects and payment of 60% of the projected Final Account.

1505. In June 2009 the Architect's completion certificate was issued to NHIF. On 30th of March 2010 the Fund received Final Account from the chief quantity surveyor instructing payment of the final dues to the contractor Ref. No. QD15/GEN/1613 Payments totaling to Kshs. 626,635,998.00 incurred in 2009/10 and Kshs. 4,706,521 incurred in 2010/11 are related to pending claims which were payable to the contractor after completion of the Multi Storey Car Park.

1506. The Fund appeared before the PIC Committee on 15th of March 2018 and this matter was discussed thereafter the Committee visited the Car park Building.

This matter was presented to the 21st PIC Committee, where it recommended that Ethics and Anti-Corruption Commission should fast track investigations into the procurement process of the Multi-Storage Car Park, with a view of preferring charges against all those found culpable of defrauding the Fund.

The matter was therefore referred to EACC as directed by Public Investment Committee and EACC commenced investigations by requesting original documentation. In September 2022 the Fund's CEO was invited by EACC to record a statement on the status of the documents. EACC guided they would give way forward.

As part of the follow up with EACC on the issues surrounding this and other projects, management engaged EACC on a 45-day preventive audit that will detail how gaps noted could have been addressed.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Construction of Multi Storey Car Park in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

12.0 Short Term Deposits (Investments)

1507. The Committee heard that, the statement of financial position and Note 31 to the financial statements reflects short term deposits (investments) balance of Kshs.8,232,200,000 which is net of provision for impaired investments. As previously reported, the provision includes an amount of Kshs.49,500,000 which had been deposited by the Fund on 26 June, 2001 with the Consolidated Bank Limited. The entire deposit of Kshs.49,500,000 was offset by the Bank against a guarantee executed by the former Fund Chief Executive Officer on behalf of Euro Bank Limited. It is not clear and Management has not explained the circumstances under which the Fund's deposit was used as a guarantee by the then Chief Executive Officer.

1508. The PIC recommended in the 21st report that the then Chief Executive Officer (CEO) of NHIF be held accountable for any losses incurred in the irregular investment of the surplus funds in Consolidated Bank alongside the then Finance Manager for colluding with NHIF to mismanage the invested funds and NHIF should relentlessly pursue Consolidated Bank for recovery of Kshs.49,500,000. However, no action appears to have been taken by Management to recover the loss of Kshs.49,500,000.

1509. In the circumstances, the value and existence of the short-term deposits (investments) balance of Kshs.8,232,200,000 could not be confirmed.

Management response

1510. The management informed the Committee that, On 26th June 2001 the Chief Executive authorized a fixed deposit of Kshs. 600 million at the Consolidated Bank. On 23rd August 2001 the Chief Executive of NHIF made a guarantee on behalf of Euro Bank to enable Consolidated Bank to use the Fixed Deposit as security. When Euro Bank defaulted on payment, Consolidated bank was unable to recover payment and therefore offset Kshs. 49.5 million from the total amount of Kshs. 600 million investments by the Fund. The letter dated 3rd February 2003 from Consolidated Bank to NHIF on set-off was provided for review.

1511. On 20th February 2003, the Central Bank of Kenya appointed the Deposit Protection Fund Board to liquidate and wind up the operations of Euro bank Limited. Therefore, in its capacity as the Statutory Liquidator the Deposit Protection Fund Board had taken over all the affairs of Euro bank Limited including all records.

1512. The Fund had deposited funds with Euro bank Ltd and at the time of the liquidation, therefore a lawyer Ahmednasir Abdikadir and Co Advocates was appointed to pursue the matter of Euro bank with a view to pursuing the Directors of the Bank.

1513. Following the advice of the Advocate a suit was filed against the following: -

i. The deposit Protection Fund Board
ii. Euro bank Limited
iii. Solomon Bundi Mathamia
iv. John Paul Wachira Munge
v. Firdosh EbrahiJamal
vi. Harry Mutuma Kathurima

1514. The 6th Defendant filed a Chamber Summons seeking orders that the Plaintiff's suit be struck out against him. Justice L. Njagi delivered the ruling on 29th October 2003 where he directed that since the Suit against the 6th Defendant had been withdrawn, the plaintiff should pay the 6th Defendant costs of the Suit, which was to be taxed.

1515. The 6th Defendant filed a Bill of Cost on 4th November 2003 where he claimed Kshs 11,072,767. The billed was taxed and a ruling delivered on 31st March 2004 taxed at Kshs 8,282,772. The fund filed an objection to the Registrar's Ruling on 8th august 2004 and further filed a chamber summons seeking to set aside the taxing master's ruling in its entirety. Justice Kamau, who dismissed our application with costs to the 6th Defendant, delivered a ruling on this application on 28th July 2014. Vide a letter dated 18th December 2014, the advocates of the 6th Defendant requested for the payment of their taxed costs and accrued interest, as well as the costs of the dismissed application, making a total of Kshs 19,231,031. The advocates of the Fund engaged the 6th Defendant to have them reduce the amount they were demanding. The 6th Defendant accepted a sum of Kshs 10,000,000 as the final settlement.

1516. The first and second defendant also filed an application to strike out the suit against them. The parties made their submissions about the suit and on 28th June 2013, the Judge allowed the application seeking to have the matter struck out. The court allowed the application with costs to the 1st and 2nd Defendant.

1517. On 14th May 2014, the 1st and 2nd Defendant filed their Bill of Cost at Kshs 23,480,914. The Fund's advocates objected to the same through written submissions. The ruling was delivered on 16th November 2017; the bill was taxed at Kshs 10,000,000.

1518. Because the advocates had filed to set down the matter for hearing, the Fund withdrew the instructions on 20th April 2018 from the firm of Ahmed Nasir, Abdikadir and Co Advocates and on 6th September 2018, the firm of Migos Ogama and Co was instructed to take up the matter as evidenced by letter reference HF/LD/19 VOL.II/(12) dated 6th September 2018.

1519. This matter was handled by the Inspectorate of State Corporations, which was of the view that the Fund had no capacity to provide a guarantee for a loan to a private bank. The Inspectorate of State Corporation further noted that consolidated bank should pay back the amount of Kshs. 49.5 million. The report from the Inspector General of State Corporations was provided for review.

1520. This matter (HCCC NO. 505 OF 2003) came up before Lady Justice Njoki Mwangi on the 25th of May 2023 for Notice to show cause why it should not be dismissed for non-prosecution. The Fund's Advocates successfully defended the Notice to Show Cause and the Court fixed the case

for hearing on the 28th of September 2023. The Court further directed the parties to file any additional documents they may wish to rely on within 30 days.

1521. Additionally, as per letter referenced MO/N/0341/16/18 dated 13th June 2023 the matter came up for hearing on 28th September 2023. However, it was set aside, and parties were asked to obtain a new date in the registry.

1522. The Fund acknowledges the 21st PIC Committee report observation that action be taken by relevant government agencies as recommended in its 19th report, PIC also recommended in its 21st Report that the query should be excluded from subsequent Reports of the Auditor General, provided that the management make full disclosure of this unresolved matter in its financial statements as required by International Accounting Standards no. 37.

1523. Management has since continued to make full disclosure of the matter in its annual reports as recommended in the 21st PIC committee report.

1524. The Fund is, however, still following up with the consolidated Bank for the refund of the Kshs. 49,500,000.00 as evidenced various correspondence between the Fund and the Bank listed and provided for review:

i. Letter Ref: HF/C/831 Z29/VOL 3/02 dated 18th October 2017 to Consolidated Bank from NHIF authorizing the bank to place Kshs. 17,916,661.90 as a six-month Fixed Deposit Receipts (FDR). The bank had confirmed that the CEO of NHIF had deposited Kshs. 9million and USD 64,930 on 15th April 20003 which was credited to the bank's internal account number 016000002100 which translated to Kshs. 17,916,661.90

ii. Letter from Consolidated Bank to NHIF dated 31st July 2018 **to** communicate the Bank's resolution to pay NHIF Kshs. 17.9 million as an investment for a period of one year renewable but also reiterated that the Kshs. 49.5 million matters had earlier been fully explained/ventilated in previous correspondences and discussions.

iii. Letter Ref: HF/C/831 Z29/VOL III/15 dated 22nd November 2018 **to** Consolidated Bank from NHIF communicating the board resolutions directing NHIF management to carry out due diligence in respect to (i) above.

iv. Letter Ref: HF/C/831 Z29/VOL III/17 dated 3rd May 2019 **to** Consolidated Bank from NHIF requesting the Bank to deposit Kshs. 17,916,661.90 that the Bank had suggested to invest on behalf of the Fund.

v. Letter Ref: HF/C/831 Z29/VOL III/24 dated 15th November 2019 to Consolidated Bank from NHIF communicating the recommendations of the Inspector General of State Corporations on the guarantee of the Fund to a private company and requesting to deposit the funds to the NHIF Bank account at NBK.

vi. Letter from Consolidated Bank to NHIF dated 20th November 2019 responding to NHIF's letter dated 15th November 2019 suggesting discussions to find amicable solutions to the long outstanding matter.

vii. Letter Ref: HF/C/831 Z29/VOL III/036 dated 14th June 2024 to Consolidated Bank from NHIF requesting the bank to repay the amount of Kshs. 49.5million to NHIF without further delay and bring the issue to a close.

viii. A follow up letter of the same has been made to Consolidated bank vide letter Ref: SHA/CNF/ADT/VOL1/(30) date 21st August 2025.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Short-Term Deposits (Investments) under Short Term Investments in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

13.0 Duplicate Claims Payable

1525. The Committee heard that, the statement of financial position and Note 37 to the financial statements reflects trade payables balance of Kshs.16,468,959,241 being amount owed to healthcare providers. The amount includes hospital claims payable balance of Kshs.12,061,103,663 whose analysis revealed an amount of Ksh. 2,907,196,082 in respect to duplicated healthcare providers with the same name but different outstanding amounts and different hospital codes.

1526. In the circumstances, the accuracy and completeness of claims payable balance of Kshs.2,907,196,082 could not be confirmed.

Management response

1527. The management informed the Committee that, the processing of inpatient claims and outpatients are done using different system in modules i.e e-claim system is used for processing inpatient claims whereas accounts payable module is used for processing capitation claims. Each of the system assigns the health facility a creditor code and a ledger account number. Therefore, the duplicated healthcare providers with the same name but different hospital codes are as a result of the codes assigned by the two modules. Specifically, the Ksh,2,907,196,082 relates to claims processed by either the e-claims module or the accounts payable module hence not duplicate.

Committee Observations

The hospital claims payable balance included Ksh. 2,907,196,082 in respect of healthcare providers with the same name, different outstanding amounts and different hospital codes thus duplicated.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer–SHA should undertake a comprehensive reconciliation of healthcare provider records to eliminate duplication risks, ensuring that each provider is uniquely identified by a standardized code across all systems. This should further include: -

i. Harmonizing system modules (e-claims and accounts payable) to ensure consistency in provider identification and coding.

ii. Instituting periodic reviews and reconciliations of claims payable balances to detect and correct anomalies.

iii. Establishing clear procedures for cross-system validation of healthcare provider data to enhance accuracy and completeness of financial reporting.

The report should be submitted to the National Assembly and Auditor-General for review and reporting in the subsequent audit cycle.

14.0 Inaccuracies in Trade Receivables

1528. The Committee heard that, the statement of financial position and Note 29 to the financial statements reflects trade receivables balance of Kshs.19,113,572,813 (2022 – Kshs.10,284,635,769). This resulted to an unexplained increase by Kshs.8,828,937,044 or 46% which is indicative of ineffective debt recovery measures. Further, one hundred eighty-eight (188) circularized debtors confirmed an outstanding balance of Kshs.4,415,667,371 while National Health Insurance Fund reflects a balance of Kshs.13,388,255,412 resulting in an unexplained variance of Kshs.8,972,588,040.

1529. In the circumstances, the accuracy and completeness of trade receivables balance of Kshs.19,113,572,813 could not be confirmed.

Management response

1530. The management informed the Committee that, it was true that there was increase in receivables due to delays by government to settle the premiums for various enhanced schemes as follows:

i. Civil Servants Scheme - Ksh 2,996,314,415,
ii. WIBA-Civil Servant Scheme - Ksh 6,307,735,103,
iii. NPS/KPS – Kshs. 1,616,539,289.
iv. HISP –OPPSD –Kshs. 349,499,558
v. HISP-OVC – Kshs. 1,774,017,833 among others

1531. The Fund has made several follow ups to respective Ministries to settle the same and as a result we received Ksh 1,520,000,000 in July 2023 on HISP Account. Resulting from this follow-up, several payments relating to the year under review have been received within the financial year 2023/24 as follows:

i. HISP OVC – Kshs 1,876,149,999 (being prior year arrears and current year)
ii. HISP OPPSD – Kshs. 427,800,000 (being prior year arrears and current year)
iii. WIBA civil servants Kshs. 2,000,000,000 (being part payment of arrears)

SUMMARY REPORT ON OUSTANDING PREMIUMS FROM GOVERNMENT FUNDED SCHEMES AS AT 10/09/2025	
	Ministry Of Public Services

	Civil Servants Medical Cover		3.471,663,601
	Ministry of Interior and national Administration		
	NPS/KPS Medical Cover		1,638,792,814
	Sub-Total		5,110,456,415
	Ministry of Health		
	HISP– (OVC)	1,056,930,002	
	HISP – (OPPSD)	214,499,558	
	Linda Mama	2,098,000,000	
	UHC – Indegents	4,000,000,000	
	Sub-Total		7,373,429,560
	WIBA Cover		
	Civil Servants – WIBA	8,137,006,162	
	Civil servants – WIBA prior to April 2021	3,927,416,033	
	Sub-Total		12,064,422,195
	Other Schemes		
	County Government	804,499,821	
	Parastatals	74,880,990	
	Sub-Total		879,380,811
	Total		25,426,688,981

1532. SHA is following up with the respective MDAs together with the National Treasury with a view to have these balances settled.

Committee Observations

The Committee observed that–

i) There was an unexplained increase in the trade receivables balance of Kshs. 8,828,937,044, which is indicative of ineffective debt recovery measures.

ii) The circularization exercise for 188 debtors confirmed an outstanding balance of Kshs. 4,415,667,371, compared to the Fund's reported balance of Kshs. 13,388,255,412 resulting to an unexplained variance of Kshs. 8,972,588,040, either being a misrepresentation of facts or potential misappropriation of funds.

1533. **Committee Recommendations**

The Committee recommends that within three months upon adoption of this report, the Accounting Officer–SHA should undertake a comprehensive reconciliation of trade receivables to resolve variances between debtor confirmations and balances reflected in the financial statements. The reconciliation exercise should be fully documented and formally submitted to the National Assembly and the Auditor-General for review, with corrective actions reported in the subsequent audit cycle to enhance accountability and transparency.

15.0 Inaccuracies in Trade Payables

1534. The Committee heard that, the statement of financial position and Note 37 to the financial statements reflects trade payables balance of Kshs.16,468,959,241 in respect of amount owed to healthcare providers. However, the balance increased by Kshs.12,664,121,995 from Kshs.3,804,837,246 in financial year 2021/2022. Further, confirmation of outstanding balances from sampled one hundred and two (102) health providers revealed an outstanding balance of Kshs.5,551,173,502 while National Health Insurance Fund reflects a balance of Kshs.2,174,443,195 resulting in an unexplained variance of Kshs.3,376,730,307. In addition, the balance was not supported by aging analysis to show how long the claims have been outstanding and there was no evidence to show measures put in place to settle the amounts promptly. This is indicative of challenges in settling its obligations as and when they fall due.

1535. In the circumstances, the accuracy and completeness of trade payables balance of Kshs.16,468,959,241 could not be confirmed.

Management response

1536. The management informed the Committee that, the Fund is always committed to making good it's obligations as and when they fall due though this can sometimes be affected by delay of revenue receipt from the government. In the year under review the Fund had Kshs. 19B pending receivables from varies government units as shown in the table below;

Institution	Amount (Kshs.)
Civil Servants Scheme Receivables	2,996,321,415
HISP (OPPSD) Receivable	349,499,558
NPS/KPS Scheme Receivables	1,616,539,289
Retirees Scheme Receivable	174,603,420
HISP (OVC) Receivable	1,774,017,833
Outstanding Contributions	5,663,371,364
NPS/KPS Ex-gratia Receivable	334,865,139
WIBA NPS/KPS Receivable	7,861,625
WIBA – Civil Servants' Receivable	6,307,735,103
Total Receivables	**19,224,814,746**

1537. This therefore contributed to the increase in outstanding trade payables as has been correctly noted. As explained in 14 above, the Fund is closely following with MOH and the National Treasury with a view to realizing the outstanding balances. These amounts will be used to settle the NHIF liabilities.

1538. The Variance from the sampled health care providers and the funds figures is due to a timing difference whereby the facility recognizes amount receivable from fund, the moment they discharge. The trade payable figure is what has been duly processed and is payable to the facilities. The fund maintained an IBNR reserve to capture what is under process and what has not yet been remitted to the institution.

1539. Further there is ongoing reconciliation between the branch offices and the hospitals to ensure the noted variances are addressed between balances confirmed by healthcare providers and those reflected in the financial statements.

Committee Observations
The Committee observed that–

i. **The trade payables balance increased significantly by Kshs. 12,664,121,995 from the balance reported in the financial year 2021/2022.**

ii. Creditors, circularization on outstanding balances from a sample of one hundred and two (102) health providers revealed an outstanding balance of Kshs. 5,551,173,502, while the National Health Insurance Fund reflected a balance of Kshs. 2,174,443,195, resulting in an unexplained variance of Kshs. 3,376,730,307.

iii. The balance was not supported by an aging analysis and no evidence of measures put in place to settle the amounts promptly thus challenges in settling obligations as and when they fall due.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer should submit to the National Assembly and the Auditor-General for review a comprehensive report on the status of outstanding payables with aging analysis, reasons for delayed settlement, structured payment plan and a liquidity management framework. The Auditor-General upon receipt of the report shall review for eligibility and report in the subsequent audit cycle.

16.0 Clustered Staff Debtors in the Payroll System

1540. The Committee heard that, the statement of profit or loss and other comprehensive income and Note 20 to the financial statements reflects staff cost amount of Kshs.5,289,051,147. Review of payroll data revealed that salary advance, training levy and imprest recoveries amounting to Kshs.8,269,380 were clustered under staff debtors instead of disclosing each individual component separately.

1541. In the circumstance, the accuracy and completeness of staff costs amount of Kshs.8,269,380 could not be confirmed.

Management response

1542. The management informed the Committee that All debt relating to staff have been categorized as staff debtors in the payroll system. Debt is then accounted for in the financial system separately based on the nature of staff debt.

1543. Deduction entries (which include but are not limited to salary advances, imprest recoveries and any surcharges) in the payroll are done through preparation of pay change advises, in this case the staff debtors recoveries are made on staff using their personal numbers and the same can be tracked in the system using the PCAs which indicates the purpose of the recovery.

1544. However, with the recommendation given by the audit, management has been making system improvement to classify debt appropriately in the payroll system to account for it in a distinctive manner. The audit recommendations have since been communicated to our current ERP system developer for incorporation into the new system.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Clustered Staff Debtors in the Payroll Systemin its report for the Financial Year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

17.0 Long Outstanding Return to Drawer Cheques

1545. The Committee heard that, the statement of financial position and Note 30 to the financial statements reflects other receivables balance of Kshs.447,201,868. The amount includes a balance of Kshs.14,790,981 being return to drawer cheques. However, the amount relates to various institutions which has been long outstanding with some dating back to the year 2013 and they had not been replaced as at 30 June, 2023.

1546. In the circumstances, the accuracy and recoverability of return to drawer cheques balance of Kshs.14,790,981 could not be confirmed.

Management response

1547. The management informed the Committee that, regarding the RD cheques totalling Kshs 14,790,981, these are associated with companies that are either active or inactive. Management has conducted an exercise to clear these outstanding issues and as at 30^{thc} June 2024, 32 employers have replaced the RD cheques amounting to Kshs. 1,476, 985.00.

1548. Out of the 480 employers whose RD totaled to Kshs. 14,790,981, there were 168 closed companies whose RD cheques totaled to 5,332,807.00. These companies shall be forwarded to the Board for consideration for write off. Further It has been established that a total of 245 Employers are active and these have been assigned to respective branch offices to pursue with a view of collection unremitted contributions as well as any bank charges and penalties that have accrued. Finally, Management is unable to trace 67 Employers totaling to Kshs. 2,252,806 due to the fact that the Funds is unable to trace them at their respective addresses as per the NHIF Data Base. NHIF is

engaging sister government agencies to try and trace the companies. This collaboration aims to locate the non-traceable companies through shared resources and information.

1549. Further to address the issue of RD Cheques Management has implemented a system module that automatically reverses payments from employers when their cheques bounce, prompting immediate pursuit of the unpaid amount for that specific month. NHIF collection banks, KCB and Co-operative banks, now only accept their own drawn cheques, which are verified for account status before acceptance, further reducing instances of "Refer to Drawer" cheques.

Additional information

1550. Management has also written to the Registrar of companies to confirm the operational status of the companies to further guide the course of action.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Long outstanding Return to Drawer (R.D) Cheques in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

18.0 Failure to Prepare Financial Statements

1551. The Committee heard that, the statement of financial position and Note 27 to the financial statements reflects long-term deposits balance of Kshs.1,371,312,803. The amount includes car loan amount of Kshs.1,313,662,005 and mortgage balance of Kshs.57,650,798 held at commercial banks both advanced to staff at an interest rate of 5%. However, the financial statements for the Car Loan and Mortgage Fund were not prepared and presented for audit verification. In addition, schedules indicating loan disbursements, recoveries made, duration and outstanding amounts were not provided for audit.

1552. In the circumstances, the accuracy and completeness of long-term deposits balance of Kshs.1,371,312,803 could not be confirmed.

Management response

1553. The management informed the Committee that, the two mortgages' schemes have been running for over twelve years with KCB Savings & Loans Schemes being the oldest with over 20 years. The car loan scheme is administered by the National Bank of Kenya Ltd whereas the Mortgage is managed by the Kenya Commercial Bank Ltd.

1554. The generation of financial statements has not been a requirement before, therefore management over the years reports the two schemes balances under the long term deposits (Note 28) in the statement of financial position whereas the interest generated out of the two schemes is capitalized and at the same time recognized as interest on investments under other incomes (Note 19) in the statement of financial performance.

1555. Management has since held meetings with officers from OAG and agreed to have the financial statements prepared beginning with 2023/2024 as a base year. The 2023/2024 financial statements

for the car loan and mortgage schemes were presented for audit and a certificate issued as evidenced.

Committee Observations and Recommendations

The Committee deliberated on the issue of Failure to prepare financial statements for the Car Loan and Mortgage Fund in its report for the financial year 2021/2022, observed and made recommendations therein. Consequently, the committee upholds the observations and recommendations therein.

19.0 Variances in Unquoted Investments

1556. The Committee heard that, the statement of financial position and Note 28 to the financial statements reflects an unquoted investment balance of Kshs.226,762,637. The amount includes loan balance of Kshs.226,762,637 advanced by the Fund to Moi Teaching and Referral Hospital (MTRH) at an interest rate of 3% per annum. However, confirmation from MTRH financial statements revealed a balance of Kshs.166,130,959 resulting to unexplained variance of Kshs.60,631,678.

1557. Further, the unquoted investment balance of Kshs.226,762,637 was net provision for impaired investment amount of Kshs.54,200,000. The impaired amount relates to Consolidated Bank shares which are not traded, and no dividend has been paid in the past.

1558. In the circumstances, the accuracy and completeness of unquoted investments balance of Kshs.226,762,637 could not be confirmed.

Management response

1559. The management informed the Committee that, the MTRH, wrote to NHIF vide a letter Ref NO. ELD/MTRH/ADMIN/1/VOL.IV/2015 dated 12th July 2017 forwarding a proposal requesting financing for the purchase of the Radiation Oncology equipment.

1560. A Board Paper was prepared and presented to the Finance and Investment Committee on the proposal to offer loan facilities to MTRH. The Full Board in its sitting on 25th January 2018 approved the loan facility of Kshs.312,669,869.20

1561. NHIF wrote to MMA advocates on 12th July 2018, Ref No. HF/HOSP/3/1 VOL.1/8 requesting them to prepare a finance contract between NHIF and MTRH for the approved amount of Kshs.312,669,869.20 The instructions included the total amount advanced and legal fees which would be recovered over a period of 10 years at an interest rate of 3% per annum.

1562. The contract has since been signed by both parties. The signed contract between MTRH and NHIF was provided for review. The Fund continues to recover the loan from MTRH's claim payment at the rate of Kshs. 3,019,164 per month. The loan repayment is ongoing, and the balance currently stands at Kshs. 112,581,207.95 as of 30th September 2024.

1563. Management is also negotiating with MTRH with a view to recovering the entire balance from its outstanding claims.

Committee Observations and Recommendations

The Committee had deliberated on the issue of unquoted investments in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

i. Shares in Consolidated Bank – KES 54,200,000

On the Ordinary shares held at Consolidated Bank Ltd, it is true that the Fund included the total value at cost of Kshs. 54,200,000 in its financial statements. These comprise 590,000 ordinary shares valued at Kshs. 11,800,000 and 2,120,000 preference shares valued at Kshs. 42,400,000 totaling to Kshs. 54,200,000 as shown in the letter from Consolidated Bank dated 4th April 2018 . The bank declared losses per share in their published financial statements in the year ending 31st December 2018, the Annual report extract for 2018 was provided for review.

The Fund at the close of the financial year 2018/2019 did not consider the investment in Consolidated Bank Ltd as impaired considering that the Bank remained a going concern, and the Fund could claim full ownership of the investment.

However, management, having explored all recovery options, made provisions as provided for in its policies, considering the investment as impaired and its recoverability doubtful. It has therefore created a provision to reflect this position in its books beginning in the financial year 2022/23. The extracts of audited financial statements of the Fund for the year ended 2022/2023 were provided for review.

Committee Observations and Recommendations

The Committee had deliberated on the issue of shares in consolidated bank in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

1.0 Budgetary Control and Performance

1564. The Committee heard that, the statement of comparison of budget and actual amounts reflects revenue budget of Kshs.93,071,651,930 and actual revenue on comparable basis of Kshs.82,796,868,294 resulting to revenue shortfall of Kshs.10,274,783,636 or 11% of the budget. Similarly, the Fund spent Kshs.79,742,286,391 on benefit expenses against an approved budget of Kshs.89,309,469,729 resulting to under absorption of Kshs.9,567,183,338 or 11%.

The underfunding and underperformance may have affected the Fund's key mandate of sustainably registering beneficiaries, generating revenue and paying health benefits for members.

Management response

a. Civil Servants Medical Scheme

1565. The management informed the Committee that. this is a negotiated scheme that forms part of resource pooling that creates an opportunity to merge different pools to increase critical mass in population covered, diversity of health needs and risks. As a result of the deficit reported in the cover period 2022/2023, the following measures have been taken to safeguard the scheme form loss:

i. There is an increase in premiums from Kes 7.63 billion to Kes 7.78 billion for the cover period July to June 2024 (inclusive of statutory contributions).
ii. Renegotiation of benefits pricing for NHIF products and procedures with health care providers during the 2022/2024 contracting cycle
iii. Enhanced case management to reduce on claim exposure. This includes approval of hospital admissions and review of bills at discharge.
iv. Biometric registration and identification at the point of access to reduce cases of fraud.

b. Retirees Medical Scheme

1566. This scheme has a higher health risk. This has been alleviated through a number of initiatives aimed at improving the performance of the scheme.

i. Increase in the premiums payable per each member of the scheme
ii. Introduction of co-payment for the retiree's scheme of 20% of the bill incurred for both in and outpatient if the member visits a high-end hospital
iii. Retirees who have been out of employment for more than one-year were given a grace period of 3 months
iv. Incentives to members of the Civil service and the National Police who retires to immediately join the cover with an aim to increase the population and to achieve critical mass.
v. Preauthorization for certain services before members access them, except in an emergency to reduce on claim exposure.
vi. Biometric registration and identification at the point of access to reduce cases of fraud.

c. WIBA - NPS/KPS

1567. The WIBA for NPS/KPS cover run from 1st January 2021 - 31st December 2021 at a budget of Kes 2,295,594,440. The cover period did not align with the financial year period of July 2021 to June 2022. The premiums received and apportioned to the period July 2021 to December 2021 was Kes 1,147,797,220. An extension was done covering the period January 2022 to 31st March 2022 at a premium of Kes 573,898,610. Another extension for the period 1st April to 30th June 2022 for a premium of Kes 1,155,559,931 was done.

Committee Observations

The Fund reported a revenue shortfall of Kshs.10,274,783,636 or 11% of the budget and eventually under absorbed Kshs.9,567,183,338 or 11% of its budget. The underfunding and underperformance affected the Fund's key mandate of sustainably registering beneficiaries, generating revenue and paying health benefits for members.

Committee Recommendations

The Committee recommends that, the Accounting Officer must always ensure that the budgets are realistic, achievable and always adhere to annual work plans, procurement plans and revenue collection schedules in compliance with Regulation 44(2) of the PFM (National Government) Regulations, 2015.

2.0 Performance and Solvency of the Fund

2.1 Member's Retention Rate

1568. The Committee heard that, Note 6 to the financial statements reflects contributions from the National Health Scheme amount of Kshs.38,091,361,156. However, during the year under review it was noted that the member's retention rate was only 44% compared to the targeted 100% as tabulated below:

Membership Type	Enrolled Members Kshs.	Active Members Kshs.	Retention Rate
Formal sector	4,962,191	3,880,842	78%
Informal	8,674,681	1,877,417	22%
Sponsored program	2,573,479	1,348,652	52%
Total	**16,210,351**	**7,106,911**	**44%**

1569. Further, there was no evidence of strategies to improve the retention rate to 100% since members' contribution is the main source of revenue. Further, the Fund had a liquidity ratio of 1:2 instead of the recommended 2:1 meaning that the Fund is not able to cover its short-term obligations as and when they fall due. In addition, Management has not demonstrated that it has the recommended capital adequacy ratio of one hundred percent. This was contrary to Section 41(1) of the Insurance Act, 2020, which states that an insurer carrying on insurance business in Kenya shall at all times maintain the capital adequacy ratio of one hundred per centum.

1570. In the circumstances, the Fund's ability to settle its obligations when they fall due could not be confirmed.

Management response

1571. The management informed the Committee that, the variance in revenue from National Health Scheme is attributed to the low retention rate especially in the informal sector. Various ongoing UHC strategic partnerships have been entered into aimed at increasing NHIF informal sector membership and addressing low retention of the sector members. These include:

i. A partnership with Sponsors – There is an agreement between UNHCR and NHIF, whereby NHIF committed to develop, maintain, and regularly update a register of all targeted

beneficiaries. Biometric registration of the beneficiaries in Kakuma & Kolobeyei is on-going to enable them to access health services in the NHIF contracted healthcare providers.

ii. Partnerships with organized groups – The Fund has partnered with KTDA and USAID aimed at bolstering the promotion of NHIF enrollment and health awareness within the community. Other partnerships are with Long Distance Drivers and Conductors' Association (LoDDCA) and KUSCCO Ltd with the MOUs awaiting full execution.

iii. Agency Model - The Agency model was introduced to enhance channels for NHIF products through strategic partnerships for service delivery and increase Informal sector members through robust and effective registration. This is in collaboration with Equity Bank Ltd and Pharm-Access Foundation.

Partnerships to support enrolment include:

1572. USAID and Health Partners: USAID and health partners have expressed interest to partner with NHIF by leveraging on the well-established and highly trusted co-operative movement in Kenya to increase enrolment and retention of the informal sector members. The key areas of focus are:

i. Administration - Make NHIF enrolment, registration, and renewal easy for co-operatives.
ii. Mobilization - Target co-operative networks and communication through existing channels.
iii. Expand Accredited Providers - Increase rural accreditation and make benefits of NHIF easy to see.
iv. Feedback loop - Leverage on existing tools and bridge gaps for continuous quality.
v. Improvement and improved member satisfaction and value for cost.

World Bank: World Bank has expressed interest to partner with NHIF in identification and registration of the remaining phase 1 UHC indigent households, member education through electronic and digital communication, Roadshows, and sensitization of healthcare providers. In addition, World Bank is willing to partner in ICT transformation through upgrading the existing hardware, development of tier III data centre, having unified communications systems, Business intelligent and enterprise data warehousing solution. A concept note on this has been written awaiting approval.

i. Transition to Social Health Authority that will bring on board everyone as indicated in the enacted Acts of parliament on Social Health Authority.

1573. The Fund's current assets were Kshs. 31,519,561,375 while current liabilities stood at Kshs. 26,162,384,327 as at 30th June 2023. Quick computation of the current ratio of the Fund is 1.2:1 which is falling short of the industry recommended current ratio of 2:1. To mitigate this shortfall, the Fund has undertaken the following measures:

a. The Fund has undertaken measures to recover the outstanding premiums from Government institutions such as Civil Servants Medical Scheme, NPS/KPS and MOH sponsored schemes like HISP which had outstanding premiums total to Kshs. 19,224,814,746 as at 30th June 2023.

b. The Fund has undertaken stopgap measures on the rising trend of claims to reduce the claims payable that stood at Kshs. 12,061,103,663 as at 30th June 2023.

1574. These measures were aimed at improving the Fund's Current Ratio.

Committee Observations

i) The National Health Scheme member's retention rate was only 44% compared to the targeted 100% although the management had laid down a raft of strategies to improve its members retention to enhance revenue, the had not born fruits since the retention is far below the expectation.

ii) The Fund had a liquidity ratio of 1:2 instead of the recommended 2:1 meaning that the Fund is not able to meet arising obligations as and when they fall due.

iii) The recommended capital adequacy ratio of one hundred percent was not achieved contrary to Section 41(1) of the Insurance Act, 2020, which states that an insurer carrying on insurance business in Kenya shall at all times maintain the capital adequacy ratio of one hundred per centum.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer–SHA should undertake a comprehensive review of existing member retention strategies to identify gaps and inefficiencies, develop and implement targeted interventions, establish measurable performance indicators and conduct periodic evaluations of retention initiatives, A comprehensive report on these strategies approved by the Board together with progress reports shall be submitted to the National Assembly and Auditor-General with the timelines.

2.2 Loss- Making Schemes

1575. The Committee heard that, the statement of profit or loss and other comprehensive income reflects total revenue of Kshs.81,596,356,297 and total benefit expenses of Kshs.70,886,855,120 but the following schemes incurred losses.

	Scheme	Benefits Kshs.	Premiums/ Contributions Kshs.	Loss Kshs.	Percentage
1	Civil Servant Medical Scheme	9,253,322,104	7,636,775,103	1,616,547,001	21%
2	Retirees Schemes	934,659,385	426,842,665	507,816,720	119%

3	WIBA NPS & KPS	2,393,503,620	2,295,594,440	97,909,180	4%
	Total	**12,581,485,109**	**10,359,212,208**	**2,222,272,901**	

1576. However, Management has not explained the sources of finances used to finance the above schemes with deficits.

Management response

1577. The management informed the Committee that, the Fund has entered into contracts with diverse employers, mostly government entities to provide enhanced schemes that are modelled against the private insurances. It is worth noting that the above schemes form part of the Funds resource pooling creating an opportunity to merge different pools and thereby increasing critical mass in population covered diversity of health needs and risks.

1578. Risk in medical insurance is common due to uncertainties in the health needs of members and fluctuations in healthcare costs. It is therefore acceptable that some products or pools may experience higher expenditures than the premiums received (hence deficit) which may then be cross subsidized by other pools that have members with lower health risks (resulting in surpluses). It is therefore important to measure the performance of the Fund by looking at the overall performance of the business rather than individual contracts/schemes. This is because the overall position harmonizes across pools that have different demographics, parameters and risks. This mix balances off or compensates each other.

1579. To safeguard the schemes from losses and ensure a positive outlook in the subsequent periods, NHIF uses the claim experience and the actual utilization to inform into the negotiations for renewal of the respective schemes.

Further, it is important to note that the SHI Act stopped SHA from providing enhanced schemes.

Committee Observations and Recommendations

The Committee had deliberated on the issue of loss-making schemes under Civil Servants Medical Scheme Expenses in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

1.0 Transition from National Health Insurance Fund (NHIF) to Social Health Authority (SHA)

1580. The Committee heard that, the Social Health Insurance Fund Act (SHIFA), No 16 of 2023 was assented into law on 19 October, 2023 and came into force on 22 November, 2023 following a Gazette Notice and appointment of the Board by the Cabinet Secretary. It was observed that Section 3 states that the objects of the Act shall be to:-

i. Provide a framework for improved health outcomes and financial protection in line with the right to health and universal health coverage;

ii. Realign healthcare systems, processes and programs for responsiveness, reliability and sustainability of healthcare in Kenya;

iii. Enhance the pooling of resources and risks based on the principles of solidarity, equity and efficiency so as to guarantee access to health care services to all; and

iv. Promote strategic purchasing of healthcare services.

1581. Further, SHIFA establishes the Social Insurance Authority (the Authority) which will take over all the functions and operations of the Board of National Health Insurance Fund (NHIF) and shall be managed by a Board comprising eleven (11) members.

1582. In addition, the Act established the Social Health Authority and framework for managing social health insurance to give effect to Article 43(1)(a) of the Constitution of Kenya, 2010. The Social Health Insurance (General) Regulations, 2024 have been published to operationalize:

i. The Social Health Insurance Fund (SHIF);

ii. The Primary Health Fund (PHF);

iii. Emergency, Chronic, and Critical Illness Fund (ECCIF);

iv. Mandatory registration of every person resident in Kenya as provided for in the SHIFA; and

v. The mode of payment of contributions as provided for under the SHIFA

1583. On 25 January, 2024 the Cabinet Secretary appointed a Transition Committee to ensure seamless transition from National Health Insurance Fund (NHIF) to Social Health Authority (SHA).

1584. At the time of finalization of the audit in May 2024, the Social Health Insurance (General) Regulations, 2024 had been Gazetted awaiting member's contributions that will be effective on 1st July 2024.

Management response

1585. The management informed the Committee that, the Social Health Insurance Fund Act (SHIFA), No 16 of 2023 was assented into law on 19 October 2023 and came into force on 22 November 2023 following a Gazette Notice and appointment of the Board by the Cabinet Secretary.

1586. The transition committee conducted its role according to the TOR and the final report was shared to the Ministry of Health CS, NHIF board and SHA board,

1587. The ACT was operationalized by the SHI ACT together with the regulations, benefits & tariffs. As at 1st October 2024, the operations of SHA took full effect with collections of contributions and premiums toward all three Funds being.

i. The Social Health Insurance Fund (SHIF);

ii. The Primary Health Fund (PHF);

iii. Emergency, Chronic, and Critical Illness Fund (ECCIF)

1588. Further claims to healthcare providers providing services to members for the three funds are being disbursed to the contracted facilities under SHA.

Committee Observations

The Committee observed that–

i) The Social Health Insurance Fund Act (SHIFA), No. 16 of 2023 was assented into law on 19 October 2023 and came into force on 22 November 2023, establishing the Social Health Authority (SHA) to take over the functions and operations of the National Health Insurance Fund (NHIF).

ii) The Social Health Insurance (General) Regulations, 2024 were published to operationalize the Act, covering the Social Health Insurance Fund (SHIF), the Primary Health Fund (PHF), and the Emergency, Chronic, and Critical Illness Fund (ECCIF), as well as mandatory registration of all residents and contribution modalities.

iii) A Transition Committee was appointed on 25 January 2024 to oversee the shift from NHIF to SHA. The Regulations were gazetted, with member contributions scheduled to commence on 1 July 2024.

iv) The Committee observed that –while the legal and regulatory framework had been established, the transition process required close monitoring to ensure seamless implementation, effective stakeholder engagement, and safeguarding of members' rights and benefits during the migration.

Committee Recommendations

The Committee recommends that–

Within three months upon adoption of this report, the Accounting Officer–SHA should submit a detailed transition report outlining measures taken during the transition to ensure seamless migration from NHIF to SHA, including timelines for closure of existing bank accounts and stoppage of active signatories, risk mitigation strategies, stakeholder communication mechanisms and the transferred assets and liabilities including legal obligations, pending suits and possible contingencies-Assets and liabilities, deferred incomes and liabilities. The reports to be submitted to the National Assembly and the Auditor-General, highlighting achievements, challenges, and proposed corrective measures to be undertaken by the new management and must be signed by the members of the designated Transition Committee.

2.0 Unresolved Prior Year Matters

1589. The Committee heard that, the in the audit report of the previous year, several issues were raised under the Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved the issues some of which are highlighted below.

Committee Observations

Committee observed that the accounting officer had several unresolved prior year matters. However, section 31 (1) of the Public Audit Act, CAP. 412B provides that a State organ or a public

entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit

Committee Recommendations

The Committee recommends that –

The Accounting officer should at all times comply with the provisions of section 31 (1) of the Public Audit Act, CAP. 412B.

1.0 Reimbursement of Claims on Empaneled Health Care Providers

1590. The Committee heard that, the statement of profit or loss and other comprehensive income reflects total benefit expenses amount of Kshs.70,886,855,120. Included in the amount is Kshs.106,110,400 paid to reimburse claims incurred by accredited four (4) healthcare providers empanelled by the Fund. However, the hospitals signed the contract in the month of May 2023 instead of 1 July, 2022. Further, an expenditure of Kshs.1,170,000 incurred on payment of surgical packages paid to three (3) hospitals was not included in the contract. This was contrary to Regulations 20 of the National Health Insurance Fund (claims and Benefits) Regulations, 2022 which state that the tariffs payable under the Fund in respect of any benefits to an empanelled health care provider shall be as specified in the health care provider contract published on the website of the Fund.

1591. In the circumstances, Management was in breach of the law.

Management response

1592. The management informed the Committee that, as observed, NHIF enters in agreements with all Health Care Providers. We have therefore provided copies of the contracts duly signed by both parties for the following facilities: -

i. Bristol Park Hospital Machakos

ii. Shalom Hospital

iii. Life springs HealthCare Ltd

1593. Further, Contracts of the facilities that have provision for Surgical packages were as provided for review

i. Thika Nursing Home

ii. Vineyard Hospital Ltd

iii. Grace pack Medical Centre

Committee Observations
The Committee observed that–

i) The Fund reimbursed claims amounting to Kshs.106,110,400 to four healthcare providers before valid contracts were in place. The contracts were signed in May 2023, instead of the effective date of 1 July 2022, thereby contravening the stipulated regulatory framework.

ii) An additional expenditure of Kshs.1,170,000 was incurred on surgical packages paid to three hospitals, yet these packages were not included in the signed contracts contrary to Regulation 20 of the National Health Insurance Fund (Claims and Benefits) Regulations, 2022, which requires that tariffs payable under the Fund be strictly as specified in the healthcare provider contracts published on the Fund's website.

iii) The retrospective signing by the Management's and appended surgical package provisions does not cure the initial breach, as payments were effected outside the legal framework. The lapse demonstrates weaknesses in contract management, compliance oversight, and internal controls, exposing the Fund to risks of irregular expenditure and potential litigation.

Committee Recommendations

The committee recommends that within three months upon adoption of this report, the Accounting Officer-SHA in collaboration with the Board develop and approve operational strategy aimed at strengthening Contract Management Controls and Enhancing Board Oversight and Accountability. The documented strategy should be submitted to the National Assembly and the Auditor-General for review and reporting in the subsequent audit cycle.

2.0 Un-Approved Board Expenditure

1594. The Committee heard that, as disclosed in Note 21 to the financial statements, the statement of profit or loss and other comprehensive income reflects an expenditure of Kshs.33,427,343 incurred on the Board expenses. However, an amount of Kshs.2,866,600 was re-allocated from other votes to finance Board expenses. Further, the approved budget for Board expenses was only Kshs.30,000,000 which resulted in an unapproved over-expenditure of Kshs.3,427,343. This was contrary to Part D (1) of Office of the President Circular Ref; OP/CAB.9/1A dated March 11, 2020 which capped Board expenses at Kshs.30 million or 5% of the Operations and Maintenance budget of the State Corporation, whichever is less.

1595. In the circumstances, Management was in breach of the law.

Management response

1596. The management informed the Committee that, the Fund acknowledges the need to prepare and adhere to provisions of the law and subsequent guidelines on expenditure. In adherence to this, the Fund sent its Board members and various officers to attend various training and conferences in Dubai, South Africa, and Thailand. These training courses and conferences are intended to ensure continuous professional development of each member and further to ensure knowledge gathering and subsequent improvement of both Board and individual member performance in carrying out

their duties. This is supported by the Mwongozo guidelines and the Board Almanac that support the need for training and professional development.

1597. As these trainings were carried out overseas, the requisite approvals were sought and obtained both from the Office of the President and the parent Ministry. The correspondence supporting the authorized travel for the Board members and a report from the team that visited Thailand proposing changes to the Ministry of Health on universal Health Coverage was provided for review. The training was addressed in the Board Almanac for the year 2022/2023 as up-coming events.

1598. It is noted that this is the first time the Fund has been able to send Board members for training overseas and towards this, the amendments will be made in future budgets considering the increased expenditure on transport and accommodation dockets.

Committee Observations

The Committee observed that –the Fund exceeded approved Board expenses by Kshs.3,427,343 contrary to Part D (1) of Office of the President Circular Ref; OP/CAB.9/1A dated March 11, 2020 which capped Board expenses at Kshs.30 million or 5% of the Operations and Maintenance budget of the State Corporation, whichever is less.

Committee Recommendations

The Committee recommends that–

Within three months upon adoption of this report, the Inspector General of State Corporations to investigate the unapproved over-expenditure of Kshs.3,427,343 in accordance with section 19 of the State Corporations Act, CAP 446 and surcharge or recover from the then Accounting Officer (s) and the Board members the monies irregularly paid to the members.

3.0 Claims Reported After Thirty Days Ceiling

1599. The Committee heard that, the statement of profit or loss and other comprehensive income reflects total benefit expenses of Kshs.70,886,855,120. However, included in the amount is Kshs.383,336,435 incurred on claims that were submitted to NHIF between 100 and 1862 days after the expiry of the thirty days. This was contrary to Regulation 8(3) of the National Health Insurance Fund (claims and benefits) Regulations, 2022 which states that a healthcare provider shall submit to the Fund a claim for payment of any medical treatment within thirty days from the date of discharge of the patient from the healthcare provider.

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

Management response

1600. The management informed the Committee that, the previous iteration of the Claims Management ERP was operational between June 2018 and August 2019, following its closure, several claims had not been submitted. Later in the year 2022 the challenges of that system were addressed, and

the system configured to enable the facilities submit the pending claims. This explains the number of days in question.

Committee Observations

The Committee observed that–

i) The Fund incurred benefit expenses totaling Kshs.383,336,435 relating to claims submitted between 100 and 1,862 days after the expiry of the statutory thirty-day period. This was contrary to Regulation 8(3) of the National Health Insurance Fund (Claims and Benefits) Regulations, 2022, which requires healthcare providers to submit claims within thirty days from the date of patient discharge.

ii) The statement by Management that the ERP was operational between June 2018 and August 2019, and that following its closure several claims had not been submitted but later in 2022 the system was re-configured, is invalid given the lapse of about three years. The retrospective submission of claims highlights weaknesses in claims management systems, compliance oversight, and internal controls, thereby exposing the Fund to risks of irregular expenditure and breach of the law.

Committee Recommendations

The Committee recommends that, within three months of the adoption of this Report, the Ethics and Anti-Corruption Commission (EACC) undertake investigations into the claims in question to establish their authenticity and validity. Should the claims be determined to be fraudulent, the Director of Public Prosecutions (DPP) should initiate legal proceedings against the claimants, the Accounting Officer, the Board, and the Finance Officer serving at the material time.

4.0 Irregular Administration of Schemes – National Police Service and Kenya Prisons Service Medical Schemes

1601. The Committee heard that, the statement of profit or loss and other comprehensive income and Note 9 to the financial statements reflects National Police Service and Kenya Prisons Service Medical Scheme Benefits expenses of Kshs.1,287,328,411. Included in the balance is an amount of Kshs.48,776,006 for offering road evacuation services and air evacuation services to the beneficiaries of the scheme in Kenya. This was contrary to clause 6.1.4.2 of the contract for the provision of comprehensive medical cover for the National Police Service and Kenya Prisons service which states that emergency road evacuation shall be provided within the East Africa Community (excluding Kenya) on a case by case basis and clause 6.1.5.2 of the same contract which states that emergency air rescue shall be provided within the East African Community (excluding Kenya) through fixed and rotary-wing aircraft.

1602. Further, Note 29 to the financial statements reflects the National Police Service and Kenya Police Service Scheme receivables balance of Kshs.1,616,539,289 and National Police Service and Kenya Police Service ex-gratia receivables of Kshs.334,865,139 owed to the Fund. This was

contrary to clause 9.2.1 of the contract agreement which states that GoK shall make full payments of premiums within three (3) months from the commencement date of the contract.

1603. In addition, it was noted that the contract for the medical schemes expired on 30 June, 2022 but communication dated 23 June, 2022 indicated that the Accounting Officer approved the extension of the contract for a period of three months from 1 July, 2022 to 30 September, 2022.

1604. This was followed by another communication dated 20 September, 2022 which further extended the contract from 1 October, 2022 to 31 December, 2022. However, both extensions were not backed up by concurrence from both parties who had initially signed the contract. In addition, there was no prior three (3) months' notice. This was contrary to part 25.2 of the contract which states that NHIF shall not be bound to renew this contract upon its expiry and NHIF reserves the right to decline or qualify the terms of the insurance in respect of all or any member on giving GoK a thirty (30 days) written notice prior to the date of expiry of the contrac

1605. In the circumstances, Management was in breach of the law.

Management response

1606. The management informed the Committee that, NHIF has adhered to the provisions of the NPS/KPS Contract on provision of both air and road rescue services as stipulated in Clauses 6.10 and 6.11 of the contracts ensuring that evacuation is done within East Africa Community. We wish to note that the 'excluding Kenya" was an anomaly in the contract.

1607. NHIF through the Ministry of Health is proactively following up with the Ministry of Interior to settle the outstanding funds of Kshs.1,616,539,289 as at 30th June 2023.

1608. As per clause 9.2.1 to the contract agreement between NHIF and the Ministry of Interior, NHIF received the ex-gratia approvals for expenses incurred on members who exceeded their cover limits.

1609. The payment vouchers supporting administrative expenses totalling to Kshs. 35,953,477 have since been availed to the auditor. These administrative expenses relate to M&E and sensitization activities as per the contract, samples of the vouchers were provided.

Committee Observations

The Committee observed that –

i) The medical scheme benefits expenses for the National Police Service (NPS) and Kenya Prisons Service (KPS) included Kshs. 48,776,006 for road and air evacuation services provided within Kenya. This was contrary to Clause 6.1.4.2 of the contract, which stipulates that emergency road evacuation shall be provided within the East African Community (excluding Kenya) on a case-by-case basis and Clause 6.1.5.2 of the contract, which requires emergency air rescue to be provided within the East African Community (excluding Kenya) using fixed and rotary-wing aircraft.

ii) There were receivables of Kshs.1,616,539,289 and ex-gratia receivables of Kshs. 334,865,139 owed to the Fund by the Government of Kenya contrary to Clause 9.2.1 of the contract agreement.

iii) The contract for the medical schemes which expired on 30 June 2022 was irregularly extended twice, first to 30 September 2022 and second to 31 December 2022 without concurrence from both contracting parties and lacked the required three-month prior notice contrary to Clause 25.2,

In light of these irregularities, Management was in breach of the law and contractual provisions.

Committee Recommendations

i) The Committee reprimands the then Accounting Officer, the Board and the head of the Procuring unit serving at the material time for breach of the law and contractual provisions.

ii) The Accounting Officer-SHA should always ensure compliance with laws and contractual provisions governing procurement. Future contract extensions should strictly adhere to the provisions of the governing contract, including prior concurrence of all parties and issuance of the required notice period, to ensure compliance and accountability.

5.0 Unauthorized Expenditure

1610. The Committee heard that, the statement of profit or loss and other comprehensive income and Note 22 to the financial statements reflect other operating expenses amount of Kshs.2,920,271,196 Included in the balance is an amount of Kshs.228,866,641 incurred on transport operating expenses whose approved budget was Kshs.221,409,000 resulting in unauthorized expenditure of Kshs.7,457,641. This was contrary to Regulation 52(1)(b) of the Public Finance Management (National Government) Regulations, 2015 which requires AIE holders to spend within the limit prescribed by the Authority.

1611. In the circumstances, Management was in breach of the law.

Management response

1612. The management informed the Committee that, the other operating expenses were within the approved allocation of Kes 4,133,895,741 for the year 2022/23. The sub-item of transport operating expenses however was over-absorbed by only 3% due to pending bills cleared during the year for leasing of motor vehicles. The pending bills amounting to Ksh 35 million resulted into a strain on the planned activities for the year. All the expenditures were properly examined and authorized before payments. The Fund has put in measures to ensure that all categories of expenditures and sub-items are within the approved allocations.

Committee Observations

The Committee observed that–

i) The Fund incurred unauthorized expenditure of Kshs. 7,457,641 contrary to Regulation 52(1)(b) of the Public Finance Management (National Government) Regulations, 2015, which requires AIE holders to spend strictly within the limits prescribed by the Authority.

ii) The Management attributed the over-absorption to clearance of pending bills related to motor vehicle leasing amounting to Kshs. 35 million. However, such expenditure ought to have been budgeted as a first charge in the subsequent financial year, rendering the budgeting process irregular. In the circumstances, Management was in breach of the law and financial regulations.

Committee Recommendations

The Committee reprimands the Accounting Officer, the Finance Officer, and the Board serving at the material time for failing to ensure strict adherence to the Public Finance Management Act, CAP 412A, and the Public Finance Management (National Government) Regulations, 2015, particularly with respect to budgeting for pending bills.

6.0 Emergency Road Evacuation Services

1613. The Committee heard that, the statement of profit or loss and other comprehensive income reflects total benefit expenses of Kshs.70,886,855,120. Included in the balance is an amount of Kshs.696,192,156 analysed from eight (8) schemes for evacuation services offered to NHIF scheme members on a three-year contract renewable annually. Review of the contract revealed the following anomalies:

i. The notice to renew the contract for the second cycle starting 1 October, 2021 to 30 September, 2022 was issued on 29 September, 2021 a day before the expiry of the contract contrary to Clause 28.1.1 of the contract which requires NHIF to give 30 days' written notice.

ii. The user department stated that the service provider had consistently failed to adequately undertake relevant education activities to NHIF members as per Clause 29.1(q) of the contract. They cited instances where the service provider had not carried out any electronic media (television and radio) media advertisements, bulk short messaging service was only done once and only 20,000 flyers had been done. This led to only 11,103 members being evacuated during the third cycle of the contract against 6,990,603 eligible principal members.

iii. The terms of the security bond were to be based on 10% of the contract sum but the Fund accepted the initial performance bond of Kshs.71,871,049 based on the first cycle of 1 October, 2020 to 30 September, 2021 contract sum of Kshs.718,710,498. However, the amount should have been Kshs.100,664,684 based on 10% of the contract sum of Kshs.1,006,646,832 as per the issued professional opinion. This resulted to an unexplained variance of Kshs.28,793,634. The bond was delivered in the second quarter of the contract on 15 March 2023 which exposed the Fund to risk in case of the failure of E-plus to meet obligations in the contract.

iv. An extension for the project for the third cycle from 1 October, 2022 to 31 December, 2022 for three months was awarded through professional opinion dated 30 September, 2022 but the contract was not signed. Further, another extension was done from 1 January, 2023 to 30 September, 2023 in February, 2023 and backdated to cover 1 October, 2022 to September, 2023 without evaluation Committee Recommendations, signed professional opinion by the head of procurement and approval by the accounting officer.

v. It was observed that during the month of June and July, 2023 the service provider did not offer services to the members of NHIF prompting Management to issue offer letters to County hospitals, sub-county hospitals and mission hospitals requesting them to offer the services on a fee for service model with payment terms of Kshs.5,500 for the distance within 25km radius and Kshs.170 for any kilometres covered above the 25km. Based on the same request if it was adopted as earlier advised by the user department the fund would have saved a total of Kshs.1,364,361,435 comprised of Kshs.564,421,919 in the second cycle of the contract and Kshs.799,939,515 in the third cycle of the contract.

In the circumstances, value for their money on the expenditure of Kshs.696,192,156 analysed from eight (8) schemes for evacuation services could not be confirmed.

Management response

1614. The management informed the Committee that the delay in issuing notice of renewal of the contract for Emergency Road Evacuation services for the 2nd Annual Cycle was noted and corrected in the subsequent 3rd Annual Cycle where the Notice to Renew was issued on 29th July 2022 (copy of the Notice of Renewal for the 3rd Cycle 2022/2023 (1st October 2022 to 30th September 2023 Ref. No. HF/C/1000 VOL.VII/(47) dated 29th July 2022.

1615. Following the advice by the User Department on unfulfilled obligations by the Service Provider a Notice of Intention not to renew Ref. No. HF/CB/15B/109 dated 7th July 2022.

1616. However, the Service Provider appealed the Notice of Intention not to Renew through E-Plus letter dated 13th July 2022.

1617. Upon appeal NHIF considered and gave a notice of renewal through letter Ref. No. HF/C/1000 VOL.VII/(47) dated 29th July 2022 but with conditions that the Service Provider should meet.

1618. The Service Provider then issued another letter dated 18th August 2022 committing to some actions on continuous member education.Based on the engagement and commitments by the Service Provider by the end of the 2nd Quarter the uptake of the benefits had improved with 392% from 200 evacuations as the commencement of 2nd Annual Cycle to 984 per month in September 2022 from 200 in October 2021

1619. Through a letter dated 18th August 2022 the Service Provider outlined a five-point Integrated Marketing Plan to include Bulk SMS, Online Adverts, Co-Branding of Ambulances and Flyers/Brochures. The letter from Service Provider A Joint Technical Standing Committee meeting held on 11th May 2023 appraised the performance of the obligations of the Service Provider and recommended payment of outstanding capitation payments then due to improved performance was provided for review.

1620. The performance bond provided was based on the initial contract value of Kshs. 718,710.00. The law under section 142 of the PPADA 2015 requires the awarded bidder to provide the performance bond of not more than 10% of the contract. This means that 10% is the maximum and therefore any % below 10% is acceptable.

1621. The Performance Bond issued by Diamond trust Bank dated 10th March 2023 was valid for 365 days from 1st 2022 to 30th September 2023. This is clearly stated in the Performance Bond on paragraph 4. Therefore, the Fund was not in exposed in anyway.

1622. The extension of the 2021/2022 (1st October 2021 to 30th September 2022) contract was done vide letter Ref. No. HF/C/814/VOL.XXXII/233 dated 30th September 2022 to the Service Provider.

1623. Kindly note that this was a temporary 3-month extension of the existing and fully executed contract which was in force. This was done for the Service Provider to demonstrate commitment to the obligations stated in the contract.

1624. The period of the extension was therefore adequately covered within the terms of the extended contract. Upon appraisal and determination that the Service Provider had demonstrated commitment to fulfil the contractual obligations a new full year contract was signed on 30th December 2023.

1625. The none provision of services followed a notice by the Service Provider to terminate services effective 1st June 2023.The option of contracting Government healthcare providers was considered to avoid any gaps in provision of Emergency Road Evacuation Services. The offer letter signed by the Procuring Entity (NHIF) required the Government Healthcare provider to confirm by signing the Offer Letter and the fully executed Offer Letter was to form an addendum to the healthcare provider's contract. This was on a Government-to-Government arrangement to ensure NHIF is not financially exposed. However, the arrangement didn't kick off as negotiations for resumption of services by E-plus started bearing fruits. There was therefore no financial loss to the Fund.

1626. The tender was advertised on 30th May 2023 and was due to open on 14th June 2023. However, the tender, among other tenders, was cancelled on the advice of the Public Procurement Regulatory Authority (PPRA) due to several gaps that were identified and because of the many clarification requests from the bidders. Before re-advertisement, one bidder contested the cancellation at the Public Procurement Administrative Review Board. The complaint was heard and determined by the Board that issued orders for the process to be conducted to its logical conclusion.

1627. The tenders were re-advertised on 22nd August 2023 and were due for opening on 31st August 2023. The re-advertisement was also contested at the Review Board on 30th August 2023 leading to a suspension of the procurement proceedings. The Board heard the complaint and ruled in favor of the Fund; thus, the suspension was lifted allowing interested tenderers to submit their bids on 26th September 2023.

1628. However, on the same date, immediately after the tender opening exercise, the Fund was served with court orders suspending the procurement proceedings until the matter is heard and determined. The court heard the matter and referred the case back to the review board.

1629. To ensure continued of services provision to the NHIF membership, the Fund decided to use direct procurement to the then Service provide E-Plus Medical Services to quote for Fee for Service (FFS) payment model (DP/NHIF/006/2023-2024). However, the supplier declined to quote for FFS and instead quoted for capitation indicating that FFS is not applicable for Corporate Organization. E-plus proposal was provided for review. Given that their proposal was not responsive to the Fund's requirements, the tender was terminated.

1630. E-Plus was invited for a meeting on 3rd October 2023 to discuss the way forward. They agreed to look into the matter on FFS and provide feedback immediately. However, on 5th October 2023 as per the letter provided for review, E-Plus wrote indicating that FFS is not their business model.

Committee Observations

The Committee observed that–

i) The fund incurred the expenditure of Kshs. 696,192,156 for eight (8) schemes for evacuation services under a three-year contract renewable annually. The expenditure had various irregularities including late renewal notice, failure to undertake member education and inadequate performance bond.

ii) The Fund accepted a lower performance bond by Kshs. 28,793,634. Moreover, the bond was delivered belatedly on 15 March 2023, in the second quarter of the contract, exposing the Fund to risk in case of non-performance.

iii) There were Irregular and backdated contract extensions for the third cycle effected without evaluation Committee Recommendations, signed professional opinion by the head of procurement, or approval by the Accounting Officer.

iv) The service provider failed to offer services, prompting NHIF to issue offer letters to public and mission hospitals to provide evacuation services on a fee-for-service model. Had this model been adopted earlier, the Fund would have saved Kshs. 1,364,361,435.

Committee Recommendations
The Committee recommends that–

Within three months upon adoption of this report, the EACC should investigate the matters on the anomalies surrounding contract renewals, performance bond inadequacies and irregular extensions, with a view to establishing culpability. The DPP should initiate legal proceedings where fraudulent or negligent conduct is confirmed to recover the amounts deemed recoverable.

7.0 Emergency Air Evacuation Services

1631. The Committee heard that, the statement of profit or loss and other comprehensive income reflects total benefit expenses of Kshs.70,886,855,120. Included in the balance is an amount of Kshs.48,363,910 for air evacuation services to NHIF scheme members on a three-year contract renewable annually. A review of the contract revealed the following concerns.

i. The contract for the first cycle period covering 13 October, 2021 to 12 October, 2022 was signed 4 months after the commencement date on 23 February, 2022. Also, the second cycle contract covering for the period 13 October, 2022 to 12 October, 2023 was signed 2 months after the commencement date on 22 December, 2022.

ii. The initial Tender Evaluation Committee Minutes dated 9 September, 2021 were not signed by two members out of the five members who were involved in the evaluation process, without explanations.

iii. The utilization report and evidence to confirm continuous member education as per the special condition and scope of the contract were not provided for audit review.

iv. It was noted that the service provider was not given access to the NHIF member database to view for confirmation of eligibility. This affected decision-making and turn-around time

in response to the emergencies as the service provider had to write an e-mail to NHIF to confirm the eligibility of the beneficiary and wait the same through the e-mail. The beneficiaries will have to wait long for approval in case of delayed response due to internet challenges and human delays in the process.

1632. In the circumstances, the value for money on the expenditure of Kshs.48,363,910 on air evacuation services could not be confirmed.

Management response

1633. The management informed the Committee that–

i) The contracting process involves several stakeholders including the awarded bidders for purposes of concurrence. However, going forward the Fund will endeavor to sign the contracts with the allowed timeframes as per the law.

ii) It is also important to note that no payments for the contract cycle in question were paid before full execution of the contract since the financial guidelines require that a fully executed contract be appended to the invoices.

iii) It is true that two members of the tender evaluation committee did not sign the minutes as pointed out by the auditor, and management has noted and obtained a written response from one of the member that he had no contrary opinion on the same and the reason why he did not sign the minutes was because he was assigned some other duties as per the letter provided for review.

iv) It was a agreed between the parties that all payment invoices from the Service Provider are accompanied by Flight Tech Log and Medical Summary detailing timelines at each node of action for each patient evacuated. These form part of the payment's documents, and no payment is done without them

iii. In the current contract cycle the Service Provider was given access to the NHIF Member Database and specific officers of their Service Provider issued with logins to access NHIF Member Database.

Committee Observations

The Committee observed that –there were various anomalies with respect to the expenditure of Kshs. 48,363,910 incurred on air evacuation sofvices under a three-year contract renewable annually namely, delayed contract execution, incomplete tender evaluation records, lack of member education and restricted access to member database in contravention of Sections 135-150 of the Public Procurement and Asset Disposal Act, CAP 412C on contract execution and management.

Committee Recommendations

The Committee reprimands the then Accounting Office and head of procuring unit for breach of the Sections 135-150 of the Public Procurement and Asset Disposal Act CAP 412C on contract execution and management, timely contract execution, proper documentation of evaluation proceedings, and enforcement of contractual obligations.

8.0 Non-Compliance with Public Procurement and Assets Disposal Act, 2015

1634. The Committee heard that, the statement of profit or loss and other comprehensive income and Note 22 to the financial statements reflect other operating expenses of Kshs.2,920,271,196. The

amount includes cleaning materials and services amount of Kshs.42,742,290. Included in the amount is Kshs.3,430,454 paid to suppliers but their tax compliance certificates and AGPO certificates had expired. This was contrary to S106(2) (a) of the Public Procurement & Asset Disposal Act 2015 which states that an Accounting Officer of a procuring entity shall give the request to such persons as are registered by the procuring entity.

1635. In the circumstances, Management was in breach of the law.

Management response

1636. The management informed the Committee that during that period, the certificates were being issued by the National Treasury & County Treasury and there was no avenue for verification until later when the National Treasury developed a link (https://agpo.go.ke) for verification using the registration number. With digitalization of operations in the institutions concerned i.e Kenya Revenue Authority & Public Procurement and Regulatory Authority especially on verification of documents such as Tax Compliance & AGPO Certificate, it has simplified the authentication documents hence minimizing awards using expired documents.

Committee Observations

The Committee observed that –other operating expenses included cleaning materials and services amounting to Kshs. 3,430,454 made to suppliers whose Tax Compliance Certificates and AGPO Certificates had expired. This contravenes Section 106(2)(a) of the Public Procurement and Asset Disposal Act, 2015, which requires Accounting Officers to award contracts only to persons duly registered and compliant with procurement requirements.

Committee Recommendations

The Committee reprimands the then Accounting Office and the then head of procuring unit for breach of Section 106(2)(a) of the Public Procurement and Asset Disposal Act CAP 412C on award of contracts only to persons duly registered and compliant with procurement requirements.

9.0 Non-Compliance with Unclaimed Financial Assets Act, 2011

1637. The Committee heard that the statement of financial position reflects other payables balance of Kshs.754,578,306. The amount includes unapplied control account funds totalling to Kshs.213,773,709. However, included in the amount is Kshs.58,770,484.84 which has been outstanding for more than six (6) years, and which had not been reported to the Unclaimed Financial Assets Authority (UFAA). This was contrary to section 20(1) of the Unclaimed Financial Assets Act, 2011 which states that a person holding assets presumed abandoned and subject to the custody of the Authority as unclaimed assets under the Act shall make a report concerning the assets to the Authority.

1638. In the circumstances, Management was in breach of the law.

Management response

1639. The management informed the Committee that the amount quoted of Ksh. 6,273,016.00, was reconciled and the Fund processed and paid the funds to the respective creditors during the year 2022/23. Therefore, the creditors are not listed in the list of unapplied funds as at 30th June 2023. The ageing analysis of the unapplied funds was provided, in an effort to reconcile the unapplied funds account the management has initiated the following measures:

i. Daily reconciliation of the unapplied funds account.
ii. Writing letters to branches to follow up on the progress
iii. Physical visit to the creditors' premises in June 2023 to obtain the relevant bank details
iv. Phone calls to individual creditors.
v. As a result of the above efforts, the management have reconciled, processed and paid Ksh. 55,267,028.00 out of the 213,773,709.00 reported in June leaving out an outstanding balance of Ksh. 158,506,681.00 as per the schedule provided.

Committee Observations

The Committee observed that–

i) Other payables balance included unapplied control account funds totaling Kshs. 58,770,484.84 that had remained outstanding for more than six (6) years and had not been reported to the Unclaimed Financial Assets Authority (UFAA). This contravenes Section 20(1) of the Unclaimed Financial Assets Act, 2011, which requires any person holding assets presumed to be abandoned and subject to the custody of the Authority to make a report concerning such assets.

ii) The management indicated that efforts were made to reconcile, process and eventually paid Ksh. 55,267,028.00 out of the 213,773,709.00 reported in June leaving out an outstanding balance of Ksh. 158,506,681.00.

Committee Recommendations

The committee recommends that within three months upon adoption of this report, the Accounting Officer-SHA submit to the National Assembly and the Auditor-General a comprehensive report detailing the creditors listed under unapplied funds still outstanding, with the respective details such as invoices, delivery notes, the respective contracting dates and the goods, works or services supplied.

10.0 Low Utilization of Health Insurance Subsidy Programme (HISP) - Orphaned and Vulnerable Children Program.

1640. The Committee heard that as disclosed in Note 11 to the financial statements, the statement of profit or loss and other comprehensive income reflects the Health Insurance Subsidy Programme for Orphaned and Vulnerable Children HISP-OVC program expenditure of Kshs.504,235,421 against the received premium of Kshs.1,520,400,000 resulting to a surplus of Kshs.1,016,164,579. However, this indicates low absorption on the program which can be attributed to the Fund's laxity in carrying out member sensitization and not utilizing the 3% administrative fees to do the same. This was contrary to clause 9.3 which states that a minimum administrative fee not exceeding three

(3%) percent of the total premium amount paid and transferred to NHIF will be utilized to support operational costs for the Program. Further, there was no evidence to show the register is regularly maintained to capture all changes that might have affected the membership of the program and it was not synchronized to related Government cash transfer programs. This was evident in the fact that the membership increased to 253,400 in 2020 since then nothing has been done. In addition, monitoring and evaluation reports were not provided for audit review.

1641. In the circumstances, Management was in breach of the law.

Management response

1642. The management informed the Committee that it should be noted that the disbursements for this program are delayed from the Ministry of Health which were received on 5th May 2023 which was during the last quarter of the financial year 2022/23. This disrupted the planning and conduct of sensitizations for the HISP beneficiaries and therefore NHIF did not conduct the sensitizations, monitoring, and evaluations. Going forward, monitoring and evaluation exercises will be conducted in FY 2023/24 following timely disbursement of program funds from the Ministry of Health.

1643. In the case of maintaining a register, NHIF has a member listing of all program beneficiaries which is updated on case-by-case basis. Notably, according to the HISP-OVC MOU Clause 5 (5.1) scale up of the program is subject to availability of funds and advice from the Ministry of Health. NHIF has not received communication from the Ministry of Health for scale up of beneficiaries.

1644. In the case of low utilization of benefits, HISP-OVC is an insurance cover, and as such the principle of risk pooling applies to all programs run by NHIF. It should also be noted that the HISP-OVC beneficiaries comprise households which receive cash transfers from the Government and the households use the transfers to get nutritious food, better housing, and improve other social determinants of health. These external factors have affected the utilization of medical benefits under this program.

1645. A review of the utilization of the benefits by the HISP-OVC beneficiaries over the last five (5) years revealed that although the provision of the medical cover has provided financial protection against medical expenses, there are benefit design gaps that need to be reviewed to better meet their needs.

1646. Going forward, the Social Health Authority will utilizing the lessons learnt from managing the current scheme, to review the benefit package offering for poor and vulnerable households that will optimize benefit utilization and provide value addition to the HISP-OVC beneficiaries.

Committee Observations

The Committee observed that–

i) The Health Insurance Subsidy Programme for Orphaned and Vulnerable Children (HISP-OVC) reported a surplus of Kshs.1,016,164,579, indicating low absorption of the program. This was attributed to the Fund's failure to adequately carry out member sensitization and its non-utilization of the 3% administrative fee provided for this purpose.

ii) There was no evidence that the program register was regularly maintained to capture changes affecting membership, nor was it synchronized with related Government cash

transfer programs. Membership has remained stagnant at 253,400 since 2020, with no scale-up undertaken, thereby excluding majority of potential beneficiaries.

Committee Recommendations

The Committee recommends that–

i) Within three months upon adoption of this Report, the Accounting Officer–Social Health Authority (SHA) should undertake a comprehensive exercise of population sensitization and scale-up of potential membership into the program register, ensuring synchronization with related Government cash transfer programs.

ii) The Accounting Officer should develop mechanisms for regular member sensitization and outreach activities, monitoring and evaluation to enhance value addition, and ensure the program provides comprehensive financial protection for orphaned and vulnerable children.

11.0 Low Utilization of Health Insurance Subsidy Programme (HISP)- Older Persons and Persons with Severe Disabilities Program

1647. The Committee heard that as disclosed in Note 12 to the financial statements, the statement of profit or loss and other comprehensive income reflects Health Insurance Subsidy Programme for Older Persons and Person's with Severe Disabilities (HISP-OPPSD) program expenditure of Kshs.141,619,608 against the received premium of Kshs.352,800,000 resulting to a surplus of Kshs.211,180,392. However, this indicated low absorption on the program which can be attributed to the Fund's laxity in carrying out member sensitization interventions and not utilizing the 3% administrative fees to do the same contrary to clause 9.3 which states that a minimum administrative fee not exceeding three (3%) percent of the total premium amount paid and transferred to NHIF will be utilized to support operational costs for the program. Further, there was no evidence that the register is regularly maintained to capture all changes that might have affected the membership of the program and it was not synchronized to related Government cash transfer programs. This is evident in the fact that the membership was increased to 58,800 in April, 2021 since then nothing has been done. In addition, monitoring and evaluation reports were not provided for audit review.

1648. In the circumstances, Management was in breach of the contract terms.

Management response

1649. The management informed the Committee that it should be noted that the disbursements for this program are delayed from the Ministry of Health which were received on 5th May 2023 which was during the last quarter of the financial year 2022/23. This disrupted the planning and conduct of sensitizations for the HISP beneficiaries and therefore NHIF did not conduct the sensitizations, monitoring, and evaluations. Going forward, monitoring and evaluation exercises will be conducted in FY 2023/24 following timely disbursement of program funds from the Ministry of Health.

1650. In the case of maintaining a register, NHIF has a member listing of all program beneficiaries which is updated on a case-by-case basis. Notably, according to the HISP-OPPSD MOU Clause 5 (5.1) scale up of the program is subject to availability of funds and advise from the Ministry of Health.

NHIF has not received communication from the Ministry of Health for scale up of beneficiaries. The member listing of the HISP-OPPSD beneficiaries was provided for review.

1651. In the case of low utilization of benefits, HISP-OPWD is an insurance cover, and as such the principle of risk pooling applies to all programs run by NHIF. It should also be noted that the HISP-OPPSD beneficiaries comprise households which receive cash transfers from the Government and the households use the transfers to get nutritious food, better housing, and improve other social determinants of health. These external factors have affected the utilization of medical benefits under this program.

1652. A review of the utilization of the benefits by the HISP-OPWD beneficiaries over the last five (5) years revealed that although the provision of the medical cover has provided financial protection against medical expenses, there are benefit design gaps that need to be reviewed to better meet their needs.

1653. Going forward, the Social Health Authority will consolidate and utilize the lessons in reviewing the benefit package offering for poor and vulnerable households that will optimize benefit utilization and provide value addition to the HISP-OPWD beneficiaries.

Committee Observations

The Committee observed that–

i) The Health Insurance Subsidy Programme for Older Persons and Persons with Severe Disabilities (HISP-OPPSD) reported a surplus of Kshs. 211,180,392 which was low absorption of the program, attributable to the Fund's failure to adequately carry out member sensitization interventions and its non-utilization of the 3% administrative fee provided for this purpose.

ii) There was no evidence that the program register was regularly maintained to capture changes affecting membership or synchronized with related Government cash transfer programs with Membership remaining stagnant at 58,800 since April 2021, and no scale-up undertaken, thereby excluding the majority of potential beneficiaries.

Committee Recommendations

The Committee recommends that–

i) Within three months upon adoption of this Report, the Accounting Officer – Social Health Authority (SHA) should undertake a comprehensive exercise of population sensitization and scale-up of potential membership into the program register, ensuring synchronization with related Government cash transfer programs.

ii) The Accounting Officer should develop mechanisms for regular member sensitization and outreach activities, monitoring and evaluation to enhance value addition, and ensure the program provides comprehensive financial protection for older persons and persons with severe disabilities.

12.0 Irregular Procurement of Group Life and Work Injury Benefit Act Insurance Cover

1654. The Committee heard that as disclosed in Note 17 to the financial statements, the statement of profit or loss and other comprehensive income reflects Work Injury Benefit Act (WIBA) National Police Services and Kenya Prison Service total expenses of Kshs.2,393,503,620 while Note 18 reflects Work Injury Benefit Act (WIBA) Civil Servants total expenses of Kshs.6,401,863,732. The contract was awarded under contract number NHIF/027/2020-2021 on provision of co-insurance and facultative reinsurance services for group life and last expenses to NHIF members to cover the period between 15 April, 2022 to 14 April, 2023 at contract price of Kshs.3,207,322,062 for civil servants and Kshs.956,319,364 for National Police Service. However, it was noted that the initial contract was to run for one-year period from 15 April, 2021 to 14 April, 2022 without renewal. However, the contract was renewed for the period 15 April, 2022 to 14 July, 2023 through an addendum which was not signed by all parties.

1655. Further, the professional opinion issued and approved in the initial contract recommended to the Accounting Officer to approve the floating of fresh bids inviting bidders to apply for shortlisting as co-insurers and facultative insurers under group personal accident and WIBA category. However, an amount of Kshs.1,094,204,464 was paid to a firm for offering the WIBA and GPA services without evidence of competitive procurement since the procurement documents such as tender advertisement records, tender opening committee minutes, tender evaluation committee minutes, appointment letters of both opening and evaluation committees, notification of award, regret letters and professional opinion were not provided for audit review. In the circumstances, management was in breach of the law.

Management response

1656. The management informed the Committee that, the extended contract was provided for review. The contracts for Group Life and Last Expense and WIBA covers had several stakeholders that are involved in the decision making hence a lot of bureaucracy in the process. These include the National Treasury, Ministry of Public Service and Insurance Regulatory Authority and NHIF.

1657. On 5th /01/2023 through letter Ref: HF/C/814VOL.XXXIII/285 and letter dated 8th /02.2023 Ref: HF/C/814/VOL.XXX111/311, the Supply Chain Management department wrote to remind the user department on soon to expire contract. Consultation between the several stakeholders took time and the user department got actual instruction to initiate procurement very late. The purchase requisition No. 005748 dated 21/3/2023 was received in SCM department 25 days to expiry of the contract that was not adequate to start and finalize procurement/tendering process. The process at a minimum requires at least 60 days i.e. 5 days for preparation of the tender document, 7 days for submission of bids, 30 days for evaluation of tenders, 2 days for professional opinion and approval of award and 14 days stand still period.

1658. The three-months contract extension was not irregular as all the necessary steps and procedures were followed as per section 139 of PPADA 2015: Extension was initiated by user department through purchase requisition No. 005748 dated 21/3/2023.

1659. Evaluation Committee's recommendations through minutes dated 11/04/23 as per regulation 132(1) b of PPADR 2020. Professional Opinion Ref: HF/PROC/17/VOL.1V/254 that was approved by Ag. Chief Executive Officer for the three-month extension.

1660. The services were procured, and the contract is in place and will expire in April 2024. The requested schedules and supporting documents have since been availed to the auditor for review (received by the Auditors on 24th November 2023 and additional supportive documents received on 30th November 2023. Further, payment vouchers, evidence of carrying out sensitization and appraisal reports to support administrative expenses were provided for audit review.

1661. The process of onboarding the co-insurers was done through procedure Ref. No. NHIF/032/2020-2021- Prequalification for Provision of Co-Insurance and Facultative re-insurance Services to NHIF for Group Personal Accident & Work Injury Benefit Act Insurance Cover. Documents were issued on 18th February 2021 and opened on 26th February 2023.

1662. Twenty-Three (23) Firms responded and were subjected to the evaluation process. Six (6) firms qualified as co – insurers and Eleven (11) qualified for facultative insurance.

Committee Observations

The contract number NHIF/027/2020-2021 on provision of co-insurance and facultative reinsurance which was run for one-year (from 15th April, 2021 to 14th April, 2022) was renewed for additional one year (15 April, 2022 to 14 July, 2023) through an addendum which was not signed by all parties.

Despite having received a professional opinion advising the use of open tendering procurement method the Fund irregularly awarded a contract valued at Kshs.1,094,204,464 for provision of WIBA and GPA services without evidence of competitive procurement process. This was contrary to section 96 of the Public Procurement and Asset Disposal Act, 412C which requires a procuring entity to use open tendering method as the preferred procurement method.

Committee Recommendations

The Committee recommends that–

The Committee reprimands the then Accounting officer for violating Section 96 of the Public Procurement and Asset Disposal Act, 412C

13.0 Irregular Payment of Transport Operating Expenditure

1663. The Committee heard that, the statement of profit or loss and other comprehensive income reflects other operating expenses amount of Kshs.2,920,270,536. The amount includes Kshs.228,866,641 under transport operating expenditure out of which Kshs.69,994,655 was lease of motor vehicles. It was noted that Management entered into a three-year lease of motor vehicles for the period 1 August, 2018 to 31 July, 2021 under the framework agreement. However, after the expiry, the contract was extended to 31 January, 2023 contrary to Public Procurement and Asset Disposal Act, 2015 Section 114 (2) which states that the maximum term for the framework agreement shall be three years and, for agreements exceeding one year, a value-for-money assessment is undertaken annually to determine whether the terms designated in the framework agreement remain competitive.

1664. In the circumstances, Management was in breach of the law.

Management response

1665. The management informed the Committee that the NHIF did not have funds due to austerity measures to initiate new procurement process.

1666. Ms. Rentco East Africa Limited the then existing service provider was willing to continue providing the services in the situation until funds were available to facilitate payment under the same terms and conditions. This was important to sustain NHIF countrywide operations and service delivery to stakeholders.

1667. Austerity measures letter dated 16th November 2022, Ref: HF/C/814 VOL.XXXIII/264 was provided for review.

1668. This letter made reference to National Treasury Letter Ref. No. ESI/02 "4(19) Circular No. 08/2022 dated 7th November 2022.

1669. The last extension was addendum II for the period 1st November 2023 to 31st January 2023 that was forwarded to the supplier using the letter Ref. HF/HQ/PRC/23/VOL II/200 dated 1st January 2023.

Committee Observations

The Committee observed that –the Kshs. 69,994,655 was incurred on motor vehicle leasing where Management entered into a three-year lease agreement covering the period 1st August 2018 to 31st July 2021 under a framework agreement. However, the contract was irregularly extended to 31st January 2023, without undertaking a value-for-money assessment to confirm competitiveness of the terms contrary to Section 114(2) of the Public Procurement and Asset Disposal Act, CAP412C.

Committee Recommendations

The Committee reprimands the then Accounting Officer and the then head of procurement unit for breach of the Section 114(2) of the Public Procurement and Asset Disposal Act CAP 412C for irregularly extending contract beyond three years and failure to undertake a value-for-money assessment to confirm competitiveness of the terms.

14.0 Access to Government Procurement Opportunities

1670. The Committee heard that, the statement of profit or loss and other comprehensive income and Note 22 to the financial statements reflects other operating expenses of Kshs.2,920,271,196. The amount includes Kshs.84,158,877 explained to be budgeted and awarded to enterprises owned by women, youth, persons with disabilities and other disadvantaged groups. However, the Access to Government Procurement Opportunities (AGPO) certificates for suppliers paid this amount were not found in the AGPO registry.

1671. Further, only Kshs.448,947,149 was allocated to youth, women and persons with disabilities out of total procurement for the year of Kshs.6,398,440,550 representing only 7%. This was contrary to Section 53(6) of the Public Procurement and Asset Disposal Act, 2015 which states that that all procurement and asset disposal planning shall reserve a minimum of thirty per cent of the

budgetary allocations for enterprises owned by women, youth, persons with disabilities and other disadvantaged groups.

1672. In the circumstances, Management was in breach of the law.

Management response

1673. The management informed the Committee that, most of the suppliers in the appendix provided were under AGPO and on checking using the NT website, their certificates were valid, the sample certificates checked were provided for review.

1674. It's true that during the financial year 2022-2023 the procuring entity managed to award 25% instead of the target of 30% to AGPO groups. Its also important to note that in the annual procurement plan the AGPO groups were allocated 30% of the applicable items totalling to Ksh 1,239,699,203.00 and this translates to 448,947,149.43. The reason for the shortfall is as a result of the advice from Treasury (Treasury Circular No 08/2022) that proposed budget cuts leading to Austerity measures on expenditure.

Committee Observations

The Committee observed that–

i) The other operating expenses of Kshs. 84,158,877 budgeted and awarded to enterprises owned by women, youth, persons with disabilities, and other disadvantaged groups. However, the AGPO certificates for suppliers paid this amount were not found in the AGPO registry.

ii) The Fund did not adhere to the reservation that a minimum of thirty percent (30%) of budgetary allocations for enterprises owned by women, youth, persons with disabilities, and other disadvantaged groups since only 7% of all procurements was awarded to the groups. This was contrary to Section 53(6) of the Public Procurement and Asset Disposal Act, 2015, which requires that an entity reserve a minimum of thirty percent (30%) of budgetary allocations for enterprises owned by women, youth, persons with disabilities, and other disadvantaged groups.

Committee Recommendations

The Committee reprimands the then Accounting Office and the then head of procurement unit for breach of Section 53(6) of the Public Procurement and Asset Disposal Act CAP 412C.

15.0 Failure to Dispose Unserviceable Assets

1675. The Committee heard that, the statement of financial position reflects property, plant and equipment balance of Kshs.12,848,439,122. However, Management had not disposed its assets since the year 2019 despite physical verifications revealing immovable/ unserviceable motor vehicles and motorcycles that lie unutilized at the yard. This was contrary to Section 164 (1) of the

Public Procurement and Asset Disposal Act, 2015 which states that the employee in charge of unserviceable, obsolescent, obsolete or surplus assets shall bring the matter to the attention of the disposal committee through the head of the procurement function.

1676. In the circumstances, Management was in breach of the law.

Management response

1677. The management informed the Committee that, the Fund has a disposal committee appointed yearly as required by law. Letter of appointment for members of the disposal committee was provided for review. The disposal committee has held several meetings from the year 2019 and made their recommendations. Minutes of the latest meeting held by the disposal committee are available. However, since the enactment and coming into force of the new Social Health Insurance Act, the disposal of assets have to wait the completion of the work of the transition committee.

Committee Observations

The Committee observed that, the Management had not disposed of its unserviceable assets since 2019, despite physical verification exercises revealing immovable and unserviceable motor vehicles and motorcycles lying idle at the yard contrary to Section 164(1) of the Public Procurement and Asset Disposal Act, CAP 412C which requires the officer in charge of unserviceable, obsolescent, obsolete, or surplus assets to bring the matter to the attention of the disposal committee through the head of procurement.

Committee Recommendations

The Committee recommends that–

i) Within three months upon adoption of this Report, the Accounting Officer – Social Health Authority (SHA) should initiate disposal of all unserviceable, obsolete, and surplus assets in accordance with Section 164(1) of the Public Procurement and Asset Disposal Act, CAP 412C.

ii) Within three months upon adoption of this Report, the Accounting Officer – Social Health Authority (SHA) should establish mechanisms for regular asset verification and disposal planning to prevent accumulation of idle assets, safeguard accountability, and optimize the utilization of public resources.

16.0 Irregular Procurement Process

1678. The Committee heard that, the statement of profit or loss and other comprehensive income and Note 22 to the financial statements reflects other operating expenses of Kshs.2,920,271,196. The amount includes payments amounting to Kshs.239,745,421 paid to suppliers whose Local Purchase Orders (LPOs) were issued after presentation of invoices for payment. This was indicative of regularizing the procurement process after the delivery of goods or services which is contrary to Section 69(2) of the Public Procurement and Asset Disposal Act, 2015 which states that no procurement approval shall be made to operate retrospectively to any date earlier than the date on which it is made except on procurements in response to an urgent need.

1679. In the circumstances, Management was in breach of the law.

Management response

1680. The management informed the Committee that, these are provisions regarding air tickets and conference facilities which are acquired on a real-time basis. For example: Emergency medical air ticket for clients under managed schemes travelling for medical attention where patients need urgent travel to various destinations to seek medical attention as approved by the Ministry of Health.

1681. The NHIF system was designed in a way that it's not practical to make payment for acquired services and goods without LPO/LSO/contract Numbers. Hence need to raise LPO/LSO.

Committee Observations

The Committee observed that –the other operating expenses included payments amounting to Kshs. 239,745,421 made to suppliers whose Local Purchase Orders (LPOs) were issued after invoices had already been presented for payment. This practice effectively regularized the procurement process after delivery of goods or services, contrary to Section 69(2) of the Public Procurement and Asset Disposal Act, CAP412C which expressly prohibits procurement approvals from operating retrospectively to any date earlier than the date of approval, except in cases of urgent need.

Committee Recommendations

The Committee reprimands the then Accounting Officer and the then head of procurement unit for breach of Section 69(2) of the Public Procurement and Asset Disposal Act CAP 412C for approving procurement retrospectively to dates earlier than the date of approval yet the cases were not demonstrated as urgent need.

17.0 Irregular Payment of Acting Allowances

1682. The Committee heard that, the statement of profit or loss and other comprehensive income and Note 20 to the financial statements reflect staff cost of Kshs.5,289,051,147. However, analysis of the payroll data for the period under review revealed that thirty (30) officers had been working in acting capacity for more than six (6) months and received acting allowance amounting to Kshs.14,746,793. This was contrary to Section 4.5.5 of NHIF HR Policy and Procedures Manual on Acting allowance which states that appointment on acting basis is a temporary measure pending the substantive filling of the vacant post by either recruitment or resumption of duty by the substantive holder of the post. The appointment shall normally be limited to a continuous period of 6 months or until the vacant post is filled, whichever is the earlier but may be extended by the Board or Chief Executive Officer if the post remains vacant.

1683. In the circumstances, Management was in breach of the policy.

Management response

1684. The management informed the Committee that, the it is acknowledged that the Fund has had several officers in acting capacities for periods exceeding six months. However, it should be noted that these officers are acting in critical positions approved and provided for in the Human Resource Instruments. These positions are vital for business continuity in various departments, divisions,

and branches. To ensure this continuity, management issued extensions of the acting positions as per internal memo Ref: HF/HR/21 VOL V/145 dated 5th February 2021.

1685. To address this issue, management has taken the following steps:

1686. Board Consideration: The matter is currently under consideration by the NHIF Board. It is anticipated that with the change in law and the operationalization of the Social Health Authority, new HR Instruments, including an organizational structure, will be developed. All staff will be required to apply for available positions, thereby resolving the issue. This will ensure that all acting positions are substantively filled in compliance with the SHA HR Policy and Procedures Manual.

1687. Transition to Social Health Authority (SHA): As the Fund transitions to the Social Health Authority, it is expected that the Social Health Insurance Board will develop and implement Human Resource Instruments as per the First Schedule on Transitional Provisions of The Social Health Insurance Act of 2023. This will include a comprehensive review and restructuring of the current HR framework to align with the new organizational goals and legal requirements. The transition process will involve:

i. Development of New HR Instruments: Creating updated policies and procedures that reflect the new operational framework under the SHA.

ii. Organizational Restructuring: Designing a new organizational structure that supports the strategic objectives of the SHA.

iii. Staff Reassignment and Recruitment: Ensuring that all positions, including those currently held on an acting basis, are substantively filled through a transparent and competitive process.

1688. It is important to note that all acting allowances were terminated in November 2024.

1689. The SHA HR instruments have since been approved by the Public Service Commission and are being implemented.

Committee Observations

Committee observed that thirty (30) officers were in acting capacity for more than six (6) months and had received acting allowance amounting to Kshs.14,746,793 contrary to section 34 (3) of the Public Service Commission Act, CAP 185, which requires that an officer may be appointed in an acting capacity for a period not exceeding six months.

Committee Recommendations

The Committee recommended that –

Within three months upon adoption of this report, the Inspector General of State Corporations to surcharge and recover from the then Accounting Officer (s) and Board members, the Kshs.14,746,793 and any other monies paid as acting allowances beyond the stipulated period of six months.

18.0 Non-Compliance with One-Third Rule on Basic Pay

1690. The Committee heard that, the statement of profit or loss and other comprehensive income and Note 20 to the financial statements reflects staff cost of Kshs.5,289,051,147. Review of the payroll data revealed that there were four hundred and fifty-two (452) staff who received net salaries that were less than a third of their basic pay. This was contrary to part C.1 (3) of Public Service Commission - Human Resource Policies and Procedures Manual (2016) which states that the Public Officers shall not over-commit their salaries beyond two-thirds (2/3) of their basic salaries and Heads of Human Resource Units should ensure compliance. Further, it was also contrary to Section19(3) of employment Act ,2007 which stipulates that without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry.

1691. In the circumstances, Management is in breach of the law.

Management response

1692. The management informed the Committee that, the it is important to clarify that all six (6) employees retired from service in the month of July 2022. The salaries of the officers listed fell below the one-third basic salary rule primarily due to third-party deductions

1693. To remedy this situation, the affected staff members have been advised to renegotiate repayment terms with the third parties concerned, with the aim of adjusting their take-home pay to at least one-third of their basic salary.

i. Steps taken by management to address this issue include:

The Human Resource Services section have been instructed to closely monitor payroll deductions to prevent future occurrences of non-compliance. This involves implementing stricter oversight mechanisms and ensuring that all deductions are within the legal limits.

ii. Continuous Improvement

Management is committed to continuously improving payroll management processes to prevent future non-compliance.

Feedback from employees and third parties will be regularly sought to identify areas for improvement and to ensure that payroll policies remain fair and compliant with legal requirements.

Management remains committed to adhering to the Public Service Commission - Human Resource Policies and Procedures Manual and the Employment Act, 2007. Ensuring that employees' net salaries comply with the one-third rule is a priority, and necessary measures are being implemented to rectify any discrepancies and prevent future breaches.

Committee Observations

The Committee observed that –four hundred and fifty-two (452) employees earned a net salary of less than a third (1/3) of the basic salary contrary to section 19 (3) of the Employment Act, 2007

which requires that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages.

Committee Recommendations

The Committee recommends that the Accounting Officer should at all times comply with Section 19 (3) Employment Act,2007.

19.0 Short-term Deposits

1694. The Committee heard that, as disclosed in Note 31 to the financial statements, the statement of financial position reflects short-term investments of Kshs.8,232,200,000. However, despite having this short-term investment balance, the Fund reported trade payables of Kshs.16,468,959,241 and other payables of Kshs.754,578,306 totalling Kshs.17,223,537,547. This may be indicative of Management prioritizing investments which may negate providing medical insurance cover to all its members and their declared dependants which is the core mandate of the Fund.

1695. In the circumstances, value for money and effectiveness on use of public resources was compromised.

Management response

1696. The management informed the Committee that, the core mandate of the fund is payment of hospital claims to contract health providers. The fund normally pays claims within its credit period and any funds not required for immediate use are invested in treasury bills or on call deposits. The management embarked on the review of its current investment policy from November 2022 to June 2023 due to changes in its operating environment. The enactment of the SHI Act coupled with the increasing NHIF liabilities made the board approve liquidation of all short-term investments with the resulting cash used to reduce the amounts owed to healthcare providers. The SHI Act does not allow investment of funds.

Committee Observations

The Committee observed that –the Fund had short-term investments of Kshs.8,232,200,000 yet trade payables and other payables totalling Kshs.17,223,537,547 were still outstanding indicating that the Fund prioritized investments which may negate the credit worthy of the Fund affecting the medical insurance cover for its members and their declared dependents.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer should submit to the National Assembly and the Auditor-General for review a comprehensive report on the status of outstanding payables with aging analysis, reasons for delayed settlement, structured payment plan and a liquidity management framework. The Auditor-General upon receipt of the report shall review for eligibility and report in the subsequent audit cycle.

1.0 Failure to Update Fixed Assets Register

1697. The Committee heard that, the statement of financial position and Note 23 to the financial statements reflects property, plant and equipment balance of Kshs.12,848,439,122. However, it was noted that the Fund did not maintain and update the fixed asset register to control its assets. This was contrary to Section 143(1) of the Public Financial 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 addition, there was no evidence to show that the Fund has ever evaluated its assets to ascertain the correct market values.

1698. In the circumstances, the existence of an effective mechanism to safeguard assets could not be confirmed.

Management response

1699. The management informed the Committee that, the Fund maintains a fixed assets register for its property, plant and equipment updated regularly for additions, disposals and depreciation. However, the assets are not geo mapped to the branch offices. The Fund management has initiated the procurement process to geo map its assets, capture those that have been transferred and identify those to be disposed-off to position it's self during the transition period to SHA. This process was halted to await completion of the transition period.

1700. The revaluation of the Fund assets was last done in the year 2017. The Authority has since initiated the process of revaluing its PPE assets and has written to the Ministry of Lands, Housing and Urban Development requesting for a professional valuer to undertake the revaluation of its land and buildings to ascertain its current value.

Committee Observations

The Committee observed that–

The Fund did not maintain and update the fixed asset register to effectively control its assets or undertaken a valuation of its assets. This was contrary to Regulation 143(1) of the Public Financial Management (National Government) Regulations, 2015, which requires the Accounting Officer to maintain a register of assets under his or her control or possession as prescribed by law.

Committee Recommendations

The Committee recommends that, within three months of adoption of this report, the Accounting Officer–SHA should ensure that a comprehensive fixed asset register is developed, updated, and maintained in compliance with Regulation 143(1) of the Public Financial Management (National Government) Regulations, 2015. The register should capture all assets, transitioned from defunct NHIF, incorporate geo-mapping to strengthen accountability and oversight and undertake a professional revaluation.

2.0 Inadequate Staffing Levels

1701. The Committee heard that, review of the payroll for the month of June, 2023 revealed one thousand seven ninety-three (1,793) staff while the staff establishment required two thousand one hundred and thirty-two (2,132) resulting to understaffing by three hundred and thirty-nine (339).

1702. In the circumstances, inadequate staffing level is likely to affect the achievement of the Fund's organizational goals and objectives.

Management response

1703. The management informed the Committee that, the current staffing inadequacies are largely due to a government-imposed freeze on employment, as outlined in circular Ref: OP/CAB.39/4A dated 28th July 2017. Since the issuance of this circular, the Fund has been unable to recruit new staff. The freeze has significantly impacted on the ability to maintain optimal staffing levels across various departments. To maximize the productivity of our current workforce, the Fund is investing in training and development programs to enhance staff skills and capabilities. This includes cross-training employees to handle multiple roles and responsibilities, thereby increasing flexibility and resilience within the workforce. The SHA instruments have since been approved by the Public Service Commission and are being implemented.

Committee Observations

The Committee observed that –there was a total of one thousand seven hundred and ninety-three (1,793) staff against an approved establishment of two thousand one hundred and thirty-two (2,132) resulting to understaffing of three hundred and thirty-nine (339) positions which was likely to negatively affect the achievement of the Fund's organizational goals and objectives.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer – SHA should submit to the National Assembly the approved Human Resource instrument that outlines the staff establishment.

3.0 Failure to Achieve Strategic Plan Targets

1704. The Committee heard that the 2018-2022 Strategic Plan was structured across financial, customer, process, and organizational perspectives. Analysis conducted by policy, strategy and planning department revealed the following outcomes.

Perspective	No of Initiatives	Achieved Initiative	Percentage of Achievement	Percentage Not Achieved
Financial	25	15	60%	40%
Customer	20	15	75%	25%
Internal Process	22	14	64%	36%
Organizational Capacity	29	18	62%	38%

1705. Further, the Fund projected to increase the number of principal members from 7 million to 19 million by 2022 but as at 30 June, 2023, the membership was 16.2 million resulting to missed target by 2.8 million members.

1706. In the circumstances, the effectiveness of controls to realise addition revenues through increased membership did not achieve 100% on financial, customer, process and organizational perspectives as envisaged in the strategic plan.

Management response

1707. The management informed the Committee that the following are the key factors that contributed to the missed targets during the 2022/23 Financial Year:

i. **Delayed signing of Performance Contracts for FY 2022/23**

To enhance public accountability every financial year, Ministries, Departments and Agencies (MDA's) are expected to sign performance contracts. This establishes the linkage to the National Vision and the broad organizational priorities. In the case of NHIF the PC is negotiated with the Ministry of Health (MOH), vetted by the Performance Contracting unit and subsequently cascaded to Management for implementation. The Performance Contracts for FY 2022/23 were signed in February 2023 causing a seven-month delay in implementation. The performance contracting process is outside the control of the Fund and once this happens, it affects the commitment, implementation and achievement of set targets.

ii. **Delayed Budget Approval and Rationalization**

The approval of the 2022/23 budget was delayed thus affecting its implementation. The budget was also rationalized affecting some of the planned activities and thus missed targets. The timely approval of budgets is pivotal in ensuring the prompt execution of planned activities.

iii. **Delayed Remittance of premiums by Government:**

As at 30th June 2023, The Government had not remitted over Ksh 13 Billion in premiums for Government financed schemes. This negatively affected the achievement of set financial target. Delays in the remittance of premiums for government programs had an adverse effect on the organization's liquidity thus affecting the timely implementation of activities. Going forward the Fund has put in place measures to ensure that there is prompt remittance of premiums by sponsors; this include drafting of contracts with remedial clauses and constant follow where there is delay.

iv. **Lack of Operationalization the Amended NHIF Act**:

The NHIF (Amendment) Act 2022 commenced on 28th January 2022, the aim was to create the legal reforms necessary to restructure NHIF towards attainment of Universal Health Coverage. The subsequent regulation made it mandatory to register persons who are 18 years and above and set contribution rates to 2.75% of gross income provided it is not less than ksh 300. The Amended Act was not operationalized due to court litigations. The achievement of the set member registration target of 19M was premised on the operationalization of the NHIF (Amendment) Act 2022. Subsequently the SHI Act was enacted, and it is being implemented.

Committee Observations

The Committee observed that –the Fund did not achieve its 2018-2022 Strategic Plan structured across financial, customer, process, and organizational perspectives. The management did not give the reason for delay in signing of Performance Contracts for Financial Year 2022/2023, delay in Budget Approval and Rationalization, delay in Remittance of premiums by Government and Lack of Operationalization of the Amended NHIF Act.

Committee Recommendations

The committee recommends that, the Accounting Officer-SHA should ensure Strategic Plans are structured in consideration of Budget Approval and Rationalization for achievement of the intended milestones.

4.0 Failure to Update County Government Membership Codes

1708. The Committee heard that, as disclosed in Note 13 to the financial statements, the statement of profit or loss and other comprehensive income reflects total expenses amount of Kshs.1,642,009,767 paid to various health hospitals for offering health services to County Government employees. However, the data provided for audit was not updated with the current individual County Government employer codes. During the year under review, sixty-three (63) employees moved from one employer to another but retained the previous employer's code. This was indicative of the claim system's failure to update employer codes immediately an employee moves from one entity to another.

1709. In the circumstances, the effectiveness of internal controls on the system's capabilities to update employer codes could not be confirmed.

Management response

1710. The management informed the Committee that, the members of the enhanced scheme are uploaded using data provided by the employer/client. Therefore, the employer code is not a factor during upload of the cover and access to services. NHIF works very closely with the National Registration Bureau with a view to validating the data and further advice the respective employers on any discrepancies.

1711. The Fund regularly communicates to all employers to provide accurate employee information to facilitate automatic update of member information whenever there is a change.

Committee Observations

The Committee observed that, Kshs.1,642,009,767 was paid to various hospitals for providing health services to County Government employees. However, the data provided for audit was not updated with the current individual County Government employer codes with sixty-three (63) employees having moved from one employer to another but retained the previous employer's code. This was indicative of weaknesses in the claim system's ability to update employer codes.

Committee Recommendations

The Committee recommends that–

i. Within three months of adoption of this report, the Accounting Officer–SHA should ensure that the claims management system is enhanced to automatically update employer codes whenever employees move between entities. Also strengthen collaboration with employers and relevant government agencies to ensure timely provision of accurate employee information.

ii. The Accounting Officer–SHA to establish mechanisms for continuous data validation and reconciliation to prevent discrepancies and safeguard the integrity of claims processing.

5.0 Inadequate Number of Quality Assurance Officers

1712. The Committee heard that, the statement of profit or loss and other comprehensive income reflects staff costs amount of Kshs.5,289,051,147. However, during field verification, it was noted that fifty (50) NHIF branches had only one or two quality assurance officers covering between forty-two (42) to three hundred and thirty-four (334) facilities per branch. Further, it was noted that Kisii branch did not have a quality assurance officer despite having two hundred (200) health facilities under their control. In addition, most branches had only one motor vehicle which is used for office duties and to facilitate surveillance and reinforcement teams.

1713. In the circumstances, the monitoring of NHIF patient admissions or performance of surprise checks to confirm treatments are as per the requests authorized by Fund could not be confirmed.

Management response

1714. The management informed the Committee that, the current inadequate number of Quality Assurance Officers is primarily due to a government-imposed freeze on employment, as outlined in circular Ref: OP/CAB.39/4A dated 28th July 2017. Since the issuance of this circular, the Fund has not recruited new staff. This hiring freeze has significantly impacted on the Funds ability to maintain adequate Quality Assurance staffing levels across various branches.

1715. To mitigate the issue of inadequate Quality Assurance staffing, management distributed existing quality assurance officers to support high-need areas temporarily to ensure that critical functions are maintained without interruption.

Committee Observations

The Committee observed that–

i. Fifty (50) NHIF branches had only one or two quality assurance officers covering forty-two (42) to three hundred and thirty-four (334) facilities per branch.

ii. The Kisii branch did not have a quality assurance officer despite having two hundred (200) health facilities under its control.

iii. Most branches had only one motor vehicle, which was used both for office duties and to facilitate surveillance and enforcement teams.

In light of the foregoing, monitoring and surveillance of patient admissions or treatments for consistency with requests authorized by the Fund might be hampered.

Committee Recommendations

The Committee recommends that within three months of adoption of this report, the Accounting Officer–SHA should initiate measures to address the inadequacy of quality assurance staffing by developing and implementing a strategy to ensure sufficient deployment of officers across all branches. Also the strategy should provide for adequate logistical support and budgetary provision to support recruitment, deployment, and operational facilitation of quality assurance officers. These measures will strengthen monitoring of patient admissions and verification of claims to ensure consistency with authorized requests.

6.0 Failure to Rotate Staff

1716. The Committee heard that, review of human resource records revealed that twenty-three (23) branch managers and twenty-nine (29) quality assurance officers who are key personnel in the management of claims have been in the same branch for between 5-13 years. This may result to familiarity or friendly approach to clients which is likely to compromise surveillance and enforcement duties.

1717. In the circumstances, the effectiveness of internal controls on staff rotation could not be confirmed.

Management response

1718. The management informed the Committee that, to effectively address the issue of inadequate staff rotation and mitigate associated risks, management has initiated a series of proactive measures aimed at implementing a robust framework for staff transfers and rotations. These measures include.

i. Initiation of Transfer Processes: Management commenced the transfer process for staff members who have served in one station for more than three (3) years. Notably, branch managers were the first group transferred in August 2023.

ii. Scheduled Transfers for Quality Assurance Officers: A comprehensive schedule detailing the transfer of quality assurance officers has been prepared. This schedule is pending due to budgetary constraints. By rotating key personnel, management aims to mitigate the risks associated with prolonged tenure, such as client familiarity and potential conflicts of interest.

Committee Observations

The Committee observed that –twenty-three (23) branch managers and twenty-nine (29) quality assurance officers, who are key personnel in claims management, have remained in the same branch for periods ranging between five and thirteen years. This prolonged tenure increases the risk of familiarity with clients and the development of friendly relationships, which may compromise surveillance and enforcement duties. As a result, the effectiveness of internal controls on staff rotation is in jeopardy.

Committee Recommendations

The Committee recommends that, within three months upon adoption of this report, the Accounting Officer–SHA should develop, approve, and implement a comprehensive staff rotation policy. This policy should prioritize high-risk roles and be supported by a clear rotation schedule, mechanisms for monitoring compliance, and capacity-building initiatives for transferred staff to ensure smooth transition and continuity of operations. Furthermore, the implementation of this policy should be undertaken within the approved budgetary provision to avoid delays and ensure sustainability. The policy should be submitted to the Auditor-General for review and reporting in the subsequent audit cycle.

7.0 Weaknesses in Claims Management System

1719. The Committee heard that Note 22 to the financial statements reflects the maintenance of Information Technology (IT) equipment of Kshs.520,584,418. Included in the amount is Kshs.322,932,749 for maintaining two systems. However, it was established that both systems share the same capabilities such as member management, member updates, member inquiries, claims management and contract management which are key in claims management.

1720. Further, there have been instances where the system merges some case codes and gives wrong claims values, cases of double payments, excess payments above specified limits and double admissions on the same dates in different facilities.

1721. In the circumstances, the effectiveness of internal controls on the claim management and value for money on duplicate systems could not be confirmed.

Management response

1722. The management informed the Committee that–

i. **Fourgen and EHMIS business tools**: Fourgen (QVTerm/Tera term System) is the NHIF ERP System while HICS/BIOMETS (Electronic Health Information Management System (EHIMS)/E-claim system) is the application that takes care of Biometric registration of Members and E-claim processing at the Hospital (HICS) and at NHIF (Biomets)

ii. **Fourgen is responsible for:**

a) Maintaining and supporting the core database that holds all NHIF's ERP data; this includes assisting the systems administrator with configuration and tuning of the primary and secondary servers, configuring for security, monitoring, etc.

b) The core applications, which cover financial accounts, payroll and H/R data, member and employer management, revenue, processing, and payment of claims.

c) Providing support to the system administrator for the operating system platforms and services on which the database and applications are deployed.

d) Maintaining database schemas, and implementing business rules for, all claim-related data such as registered facilities, doctors, managed schemes, and sponsored members

e) Providing secure interfaces (API's) to the database for other applications and services, both in-house and external, for example:

1. integration of EHMIS E-claim/Biomets system to the ERP database and financial applications, in particular Member/Scheme Verification and processing up as far as Accounts Payable ledgers and Cashbook/EFT payment processing, which are handled by the core financials.
2. back-end APIs to support Integrations of mobile self-service applications, including member enquiries and self-registration, as well as the SMS notification services, they provide.
3. API to support e-Citizen's payment process: verification and notification and subsequent posting into NHIF's revenue system and ledgers.
4. interface to Ministry of Education for auto-registration of students, and provision of health-care utilization statistics
5. interface to BRS for auto-registration of new employers
6. interfaces to various other organizations for sharing of approved data, e.g. KMPDC.
7. working with NHIF ICT to train staff to handle front-line support and in-house development tasks.

1723. In addition, the Fourgen maintainers may from time to time be engaged to develop and deploy new applications or services, as the Fund's requirements change.

iii. HICS/BIOMETS SYSTEM

The E-claim/EHMIS (HICS/Biomet's) system was initially developed to digitize the Civil Servants Medical Scheme. It was a pre-requisite for the government to allow NHIF administer the Civil Servants Medical Scheme. The requirements were for the system to be able to identify all civil servants and disciplined forces biometrically and to process all claims electronically.

The initial requirements were achieved and NHIF decided to extend the system functionalities to the national NHIF cover. With the extension of the functionalities to all schemes, it become mandatory for all NHIF members to be registered biometrically and all claims to be processed electronically with the submission of manual claims eliminated apart from government level 1, level 2, and level 3 health facilities.

HICS/BIOMETS system has been able to integrate with the Fourgen application software to achieve the following: -

a) (Fourgen) Members/Dependents, and Employer registration and validation
b) (Fourgen) Managed Schemes, Sponsored Schemes, and contract levels
c) (Fourgen) Contribution and Penalty revenue receipting and member cover status
d) (Fourgen) HCP and Doctor Masterfile's, including hospital rebate and reg. status.
e) (Fourgen) Posting of claims into Accounts Payable, and payment via EFT to the bank.

1724. Note that throughout the process, the treatment and claim data is recorded, tracked, and validated (business rule checking) in the Primary ERP. FOURGEN and EHMIS work together to ensure

seamless integration of these systems. HICS system provides the E-CLAIM processing capabilities whilst integrating with the Fourgen system for onward processing to the financials aspect of the ERP. The HICS system provides all the business rules (business matrix) that all hospital facilities are subjected to before claiming. The BIOMETS system integrates with the Fourgen membership system to provide the biometric registration aspect.

1725. With this integration between the two systems (FOURGEN/EHMIS) the HICS systems took over as the primary user software in claim processing from the hospital to the NHIF accountant, whilst the BIOMETS system become the primary software in biometric registration but utilizing the Fourgen membership database.

iv. Merging some case codes and giving wrong claims values

Merging of some case codes has been cured by having an end-to-end process in E-claims system hence the Claims values will be correct. On instances where the system merges some case codes and gives wrong claim values, though Combination of case codes happens for one care episode in the e-claims system, generated report for that care on QVT picks the claim amount for the first case code thus omitting the other case codes, further reporting on Claims will be on the E-claim platform and not QVT thus addressing the issue of wrong Claims where a number of packages are added to one Claim.

It is important to note that, though the report gave the wrong Claims values, the payable amount to facilities was correct and no loss of Funds.

Committee Observations

The Committee observed that –IT equipment maintenance costs of Kshs. 322,932,749 relates to maintaining two systems with overlapping functionalities. However, both systems provide similar capabilities, including member management, updates, inquiries, claims management, and contract management, raising concerns about duplication of costs and other operational weaknesses, including merging of case codes, double or excess payments beyond specified limits, double admissions recorded on the same dates in different facilities and eventual fraudulent payments.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer-SHA should undertake a well-documented system Rationalization by reviewing and consolidating claims management systems, strengthen Internal Controls, regular Independent System Audit, Continuous Monitoring and Capacity Building for Staff handling claims. The evidence of these measures informs of a comprehensive report should be submitted to the National Assembly and the Auditor-General for review and reporting in the subsequent audit cycle.

8.0 Lack of a Modern Tier IV Data Center

1726. The Committee heard that during the year under review, it was noted that the Fund lacked a modern and state of the art Tier IV Data Centre with redundancy in all critical data center services such as power, power backup, communication links and fire detection and suppression systems. Further,

there was no active secondary disaster recovery site to provide services in case the primary site was affected by a power outage or downtimes.

1727. In these circumstances, the effectiveness of internal controls and risk control management could not be confirmed.

Management response

1728. The management informed the Committee that NHIF planned and budgeted for the following in the FY 2023/24:

i. Redundant KPLC line to the Data Centre

ii. Redundant Generator to the Data Centre

iii. Modern Tier III Data Centre

iv. Active Disaster Recovery Site

1729. A request was sent to Ministry of Public Works for development of Bills of Quantities to be used for sourcing a service provider to undertake task 1 and 2.

1730. TOR for sourcing for a consultant to design and develop technical specifications for Modern Tier III Data Centre were developed. However, the implementation of the above was set aside due to transition to SHA.

Committee Observations

The Committee observed that–

i. The Fund lacked a modern, state-of-the-art Tier IV Data Centre with full redundancy across critical services including power supply, backup systems, communication links, fire detection and suppression.

ii. There was no active secondary disaster recovery site to ensure continuity of operations in the event of outages or downtime at the primary site. Consequently, the effectiveness of internal controls and risk management could not be assured, exposing the Fund to significant operational and compliance risks

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer-SHA should initiate the process of sourcing for design and develop technical specifications for Modern Tier IV Data Centre in accordance with the needs and

Budget provisions for the Authority

9.0 Inadequate Information Technology Contingency Plans and Policies

1731. The Committee heard that during the year under review, the Fund did not have an approved Business Continuity Plan and backups were not tested for successful restoration. In addition, contrary to Clause 8 of the ICT Policy dated 2016, the policy was not updated after three years or from time to time as deemed necessary. Further, there were no approved change management policy/ user change manual and procedures required to manage the changes done in NHIF systems.

This made it difficult to trace any change requests from users/departments to the implementation stage and post-implementation.

1732. In the circumstances, the effectiveness of risk management to guard on emerging IT risks and (IT) controls at application, network and database level could not be confirmed.

Management response

1733. The management informed the Committee that the existing disaster Recovery Plan and Business Continuity Plan were reviewed by both management and Board. However, full approval was halted to allow for the transition process.

Committee Observations

The Committee observed that –the Fund did not have an approved Business Continuity Plan and backups were not tested for successful restoration and the ICT Policy was outdated having lasted for over three years. Further, there were no approved change management policy/ user change manual and thus monitoring during implementation and post-implementation might be hampered with.

Committee Recommendations

The Committee recommends that within three months upon adoption of this Report, the Accounting Officer-SHA should submit an approved ICT policy and Business Continuity Plan to the National Assembly and Auditor-General for review.

FINANCIAL YEAR 2023/2024

1.0 Misstatement of National Health Scheme Contributions

1734. The Committee heard that the statement of profit or loss and other comprehensive income reflects the national health scheme contributions of Kshs.40,244,734,629 and as disclosed in Note 6 to the financial statements. Included in the amount is statutory contributions of Kshs.34,724,000,681 whose analysis of system-generated e-slip acknowledgment records (generated from NHIF systems by employers), e-slip payment records (generated after payment in bank), and the standard contribution ledger indicated an amount of Kshs.27,175,999,300 resulting to an unexplained variance of Kshs.7,548,001,381. Further, analysis revealed that 25,477 records valued at Kshs.1,987,437,057 were duplicated. In addition, analysis of the individual e-slip acknowledgment records revealed that 7,235 records valued at Kshs.260,029,045 were not for the year under review and 20,932 records valued at Kshs.1,759,408,611 lacked valid dates.

1735. In the circumstances, the accuracy and completeness of statutory contributions amount of Kshs.34,724,000,681 could not be confirmed.

Management response

1736. The management informed the Committee that E-slips generation and acknowledgement vis' a vis revenue receipting

i. **Variance**

The variance of ksh 7,548,001,381 is as a result of not taking into account for late contribution of kshs 3,597,872,961.55 and employer's making payment direct to the NHIF bank Accounts without generating E-Slips e.g Government bodies which deposit money in the bank in order to beat the deadline and later visiting the Branch offices for uploading of the E-Slips

ii. Duplication

It should be observed that on the alluded duplication of 25477 records amounting to ksh1,987,437,057 that these are not duplications but relates to employers who have made payment for several months using one cheque/RTGS/EFTS. The system will indicate the same receipt and E-Slips for all the months paid for. An example for receipt number BK-7029670, the employer paid kshs 19,800 to cover 25 months from June 2022 to July 2024 and since it was one payment the receipt is duplicated in all the 25 months paid.

Actually, there was a single posted receipt (nhrevenx) but it was distributed across 25 periods (2022-06 : 2024-07) in the detail lines (nhrevedx)

Based on the explanation, the system design is clear and thus answers the question on e-slip number duplicates.

Committee Observations

The Committee observed that–

i) The National Health Scheme statutory contributions had a variance of Kshs.7,548,001,381 between system-generated e-slip acknowledgments, payment records, and the contribution ledger.

ii) 25,477 records valued at Kshs. 1,987,437,057 were flagged as duplicates, while 7,235 records worth Kshs. 260,029,045 related to periods outside the year under review, and 20,932 records valued at Kshs. 1,759,408,611 lacked valid dates.

iii) Although Management attributed the variance to late contributions and direct deposits by government bodies without prior e-slip generation, the apparent duplications were explained as arising from system design where one receipt covers multiple months.

Committee Recommendations

The Committee recommends that, within three months upon adoption of this report, the Accounting Officer–SHA should develop and document mechanisms for strengthening reconciliation controls, redesigning the system for clarity, implementing robust data validation protocols, ensuring timely recording of contributions, facilitating independent review, and establishing a clear accountability framework, and thereafter submit a copy of the documented mechanisms to the National Assembly and the Auditor-General for review.

2.0 Benefits Expenses

1737. The Committee heard that, the statement of profit or loss and other comprehensive income reflects total benefit expenses of Kshs.68,300,576,571 and as disclosed in Notes 6 to 18 to the financial statements. However, the following unsatisfactory matters were noted;

2.1 Inaccuracies in Benefit Expenses

1738. Analysis of the claims from the system revealed benefit expenses of Kshs.68,961,086,934 not Kshs.68,300,576,571 reported in the financial statements resulting to an unexplained variance of Kshs.660,510,363. Further, review of payment data against hospital billed amounts revealed the following observations.

Observation	Number of Records	Variance Kshs.
Negative visit amount but claim amounts were positive figures	23	144,918
Payment date (cheque date) is before claim date	174,369	3,170,710,592
Payment date (cheque date) is before admission date	6,014	74,693,880
Payment date (cheque date) is before discharge date	8,082	162,808,520
Voucher date (cheque date) is before admission date	45	112,500
Claims amount paid is above the amount invoiced (Bill amount)	144,412	1,290,843,447
Claims Processed Without Pre-Authorization	33,507	990,125,888
Claims Reported After Thirty Days Ceiling	926,486	16,851,674,578
Total		**22,541,114,323**

1739. In the circumstances, the accuracy and completeness of the benefit expenses of Kshs.68,300,576,571 could not be confirmed.

Management response

1740. The management informed the Committee that–

i. Whereas the bill amount is indicated as negative, it is important to note that this figure is manually inputted by the facility claim staff hence they are errors, the true amount payable (Claim amount is usually verified by the Branch staff against the attached invoices no. 0IN0230904965, OIN0230803449, OIN0230805416, 2INB230900444, OIN0230901633, OIN0230901183. In the case examples given the invoice amount and the Claims amount tally, hence no financial loss to the Organization.

ii. Claim dates are later than cheque dates, however the important dates which are admission, received, captured and authorized relate to dates earlier than the cheque dates.

iii. Cheque dates are on or before the admission dates, however the capturing date and authorizing dates are after admission date except the cheque date. This is a case of paying later claims using an old EFT batch which is not a financial risk but a system challenge.

iv. Cheque dates are before the discharge dates however the capturing date and authorizing dates are on or after discharge date except the cheque date. This is a case of paying later claims using an old EFT batch which is not a financial risk but a system issue

v. All admission dates are prior to cheque dates.

vi. These are inpatient admissions whose payment is the rebate amount irrespective of the bill amount. The facilities are comprehensively contracted to offer all inpatient cases within the contracted rebate. A copy of a sample contract for Kiriani Consolata Hospital, Muranga was provided for review.

vii. Though it is a requirement that claims be submitted within 30 days and NHIF enforced that, it is not absolute that Claims submitted after 30 days are unpayable, Such Claims if submitted are subjected to a Claims committee which vets the reasons given for late submission. There are usually understandable reasons given for late submission and the committee verifies them and if satisfied they can be able to approve them for processing.

viii. Claims submitted late and the reason for late submission is not satisfactory are rejected.

ix. All Claims were pre-authorized and have LOUs other than case code 39 for National scheme where rebate applied hence no requirement for LOU.

Committee Observations

The Committee observed that–

i. The benefit expenses reported at Kshs. 68,300,576,571 differed from system claims of Kshs. 68,961,086,934, creating an unexplained variance of Kshs. 660,510,363.

ii. Further review revealed anomalies such as negative visit amounts, cheque dates preceding claim, admission, and discharge dates, claims paid above invoiced amounts, claims processed without pre-authorization, and late claims beyond the thirty-day ceiling. These irregularities cumulatively amounted to Kshs. 22,541,114,323, thereby undermining the accuracy and completeness of the reported benefit expenses.

iii. Although Management attributed the issues to manual input errors, system challenges, contractual rebate arrangements, and vetting of late claims, reconciliation between billed amounts, claims processed, and payments made remains incomplete.

Committee Recommendations

The Committee recommends that, within three months upon adoption of this report, the Accounting Officer–SHA should establish and document mechanisms to strengthen reconciliation controls, enhance system functionality, enforce strict claim validation, ensure compliance with pre-authorization and submission timelines, and institute a robust accountability framework for claims processing. A copy of these mechanisms should be submitted to the National Assembly and the Auditor-General for review.

2.2 Variances in National Health Scheme Expenses

1741. The Committee heard that, included in the amount is National Health Scheme expenses balance of Kshs.38,106,069,983. However, review of the e-claim system revealed variances in caesarean section, normal delivery, drugs and substance abuse, kidney transplant a daily rebate of Kshs.11,817,412, Kshs. 44,597,041, Kshs.75,883,831, Kshs.10,034,108 and Kshs.4,791,068 respectively, all totaling Kshs. 137,089,352. The variances were attributed to calculations of claims using erroneous rates or number of days.

1742. In the circumstances, the accuracy and completeness of the benefit expenses balance of Kshs. 68,300,576,571 could not be confirmed.

Management response

1743. The management informed the Committee that–

i. Caesarean sections were paid according to the agreed package and the terms outlined in of the existing contract then, with the payable amount also covering the mother's inpatient care if she developed another condition requiring admission after delivery. This also applied in cases where the newborn developed a medical condition post-delivery, including but not limited to admissions to Newborn Units, as specified in the contract. A sample of Linda Mama claims from various facilities was provided for review.

ii. The Claims relate to Managed scheme members whose payment terms as per the contract was the total bill which was paid through Pre-Authorization. The package of Ksh, 60,000 for Drugs and substance abuse covers for the members of the National Scheme. Enhanced and managed schemes claims are paid as invoiced unless the member exhausts their scheme allocation which would attract co-payment by the member. A copy of a sample contract for The Retreat Limited was provided for review.

iii. The Claims relate to Managed scheme members whose payment terms as per the contract was the total bill which was approved through Pre-Authorization. The package of Ksh, 500,000 is for the members of the National Scheme only.

iv. Majority of the Claims relate to 2019, 2020 and 2021 where there were no predefined benefit rules and hospitals were allocated rebates by management-based on requests for added services and notable Quality improvements. This was during the old Manual claims systems. As a result of these irregularities, The Board approved and gazetted uniform rebate per KEPH Level and category under benefit rules of 2022-2024 health care providers contracts, after which the current biometric eclaim system was adopted.

v. Further analysis of the claims revealed that most of the claims were not rebates but Maternity package. The others paid as rebate; the payment was in line with the allocated rebate amount then.

Committee Observations

The Committee observed that –there were variances amounting to Kshs. 137,089,352 in National Health Scheme expenses relating to caesarean section, normal delivery, drugs and substance abuse, kidney transplant, and daily rebate, which were attributed to use of erroneous rates or number of days. Although Management explained that payments were made in line with contractual packages, pre-authorizations, rebate allocations, and transitional arrangements under the old manual claims system, the reconciliation of claims and expenses remains incomplete, and the accuracy of the reported figures could not be confirmed.

Committee Recommendations

The Committee recommends that, within three months upon adoption of this report, the Accounting Officer–SHA should establish and document mechanisms to strengthen reconciliation controls, enforce accurate application of benefit rates and days, enhance system functionality to prevent manual input errors, and ensure consistency with contractual terms and benefit rules. A copy of the documented mechanisms should be submitted to the National Assembly and the Auditor-General for review.

3.0 Variances in Unquoted Investments

1744. The Committee heard that, the statement of financial position and Note 28 to the financial statements reflect an unquoted investment balance of Kshs.120,736,974. The amount includes loan balance of Kshs.120,736,974 advanced by the Authority to Moi Teaching and Referral Hospital (MTRH) at an interest rate of 3% per annum. However, confirmation from MTRH financial statements revealed a balance of Kshs.129,900,997 resulting in an unexplained variance of Kshs.9,164,023. Further, the unquoted investment balance of Kshs.120,736,974 was net provision for impaired investment amount of Kshs.54,200,000. The impaired amount relates to a local bank's shares which are not traded, and no dividend has been paid in the past.

1745. In the circumstances, the accuracy and completeness of unquoted investments balance of Kshs.120,736,974 could not be confirmed.

Management response

1746. The management informed the Committee that, it concurs with audit observation that MTRH loan balance and SHA book balance varies. In light of this, management is conducting joint reconciliation to establish the variance between the two institutions. SHA has since contacted MTRH on the same with a bid to harmonize both statements through letter ref. HF/C/831/ VOL. XIII/034 dated 30th January 2025. This reconciliation shall be shared with the OAG as soon as it is complete due to the short time provided to respond.

Committee Observations and Recommendations

The Committee had deliberated on the issue of unquoted investments in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

i. Shares in Consolidated Bank – KES 54,200,000

On the Ordinary shares held at Consolidated Bank Ltd, it is true that the Fund included the total value at cost of Kshs. 54,200,000 in its financial statements. These comprise 590,000 ordinary shares valued at Kshs. 11,800,000 and 2,120,000 preference shares valued at Kshs. 42,400,000 totaling to Kshs. 54,200,000 as shown in the letter from Consolidated Bank dated 4th April 2018. The bank has not made any profit over time and therefore the fund has not earned any dividend.

Committee Observations and Recommendations

The Committee had deliberated on the issue of shares in consolidated bank in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

4.0 Unsupported Claim Reserves

1747. The Committee heard that, the statement of financial position and Note 35 to the financial statements reflects Incurred but Not Reported (IBNR) claims reserves balance of negative Kshs.14,598,159,278 (2023 - negative Kshs.3,923,285,349). However, NHIF did not obtain an actuarial certification for the IBNR reserves balance of Kshs.21,327,733,846 as at the end of the year, instead it relied on the prior year's actuarial certificate. As a result, there is no evidence to demonstrate the actuarial methods or statistical procedures applied to estimate the IBNR reserve required.

1748. In the circumstances, the accuracy and valuation of Incurred but Not Reported (IBNR) claims reserves balance of negative Kshs.14,598,159,278 could not be confirmed.

Management response

1749. The management informed the Committee that, the actuarial certificate provided for audit review was for the prior year audit as the fund did not have an appointed actuary for the year 2023/2024. The Authority has since appointed Kenbright Actuarial and Financial Services to carry out final valuation of all outstanding claims as at 31st December 2024. Final report for IBNR claim reserve has been issued.

Committee Observations and Recommendations

The Committee had deliberated on the issue of unsupported claim reserves in its report for the Financial Year 2022/2023, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

5.0 Inaccuracies in Trade Payables

1750. The Committee heard that, the statement of financial position reflects trade payables balance of Kshs.28,877,264,847 and as disclosed in Note 37 to the financial statements. Included in the

balance are total hospital claims payable totaling to Kshs.21,378,129,452. However, analysis from the system revealed an amount of Kshs.23,146,082,846 resulting to an unexplained variance of Kshs.1,767,953,394. Further, circularization of outstanding balances from four (4) sampled hospitals with reported balance of Kshs.511,120,899 revealed an amount of Kshs.721,925,812 as owing resulting in an understatement of Kshs.210,804,912. In addition, the balances were not supported by an aging analysis indicating how long the claims have been outstanding.

1751. In the circumstance, the accuracy and completeness of hospital claims payable balance of Kshs.21,378,129,452 could not be confirmed.

Management response

1752. The management informed the Committee that, the claims processes have different stages such admission, discharge, transfer to accounts, accounts payable, return to hospital under investigation, and paid among others. The payment system in place for recognition of Hospitals trade payables is such that it picks the claims that are fully verified and posted to accounts payable. The Hospital's on the other hand recognizes all claims submitted to Fund irrespective of the verification status hence the difference between the trade payable figures from NHIF ERP and hospital figures provided under circularization.

Committee Observations and Recommendations

The Committee had deliberated on the issue of inaccurate trade payables in its report for the Financial Year 2022/2023, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

6.0 Property, Plant and Equipment

1753. The statement of financial position and Note 24 to the financial statements reflects property, plant and equipment balance of Kshs. 12,633,367,728 which includes land valued at Kshs. 298,589,665

1754. The following unsatisfactory issues were, however, noted: -

6.1 Disputed Ownership of Land

1755. The Committee heard that, the statement of financial position and Note 24 to the financial statements reflects property, plant and equipment balance of Kshs.12,633,367,728 which includes land valued at Kshs.298,589,665. Included in the balance is an amount of Kshs.93,712,675 for land measuring 10 hectares situated in Karen. However, as previously reported, the ownership of the parcel of land is in dispute and the matter is in Court. Further, available information indicates that the Directorate of Criminal Investigations (DCI) has commenced investigations to establish whether there was fraud in the transfer of ownership of the land and the progress made on the investigation has not been disclosed in financial statements.

1756. In the circumstances, the ownership of land valued at Kshs.93,712,675 could not be confirmed.

Management response

1757. The management informed the Committee that, the NHIF invested in the acquisition of Land, Survey and Designs of a Medical Centre of Excellence. This was part of the Fund's efforts to respond to challenges related to health and quality healthcare. Documents available indicate that the proposed medical Centre would consist of a Referral Centre, Medical Education Centre, Medical Research Centre, resource center and support Facilities.

1758. The purchase of the property commenced in 2001 after identification of a property in Karen, which was deemed suitable for the project. The purchase was approved by the full Board on the 27th March 2002 vide board minutes provided for review. The Fund undertook valuation of the property, by appointment of Tyson Limited and subsequently obtained a valuation report from the Ministry of Lands and settlement, Ref No. VAL. 852/V/8 dated 24th January 2002. The letter from the Ministry ascertained the value of the property as at that period was Kenya Shillings One Hundred Million Five Sixty-Nine Thousand Seven Hundred only (Kshs. 100,569,700/=).

1759. The property, Land Reference No 24968/2 is approximately 9.250 hectares (22.86 acres) and held on leasehold interest for a term of 99 years from 1st March 1999. The property is situated in the Karen Plains Road off Karen Road approximately 12 kilometers west of the City Centre.

1760. The Fund further appointed a law firm Kipkenda Lilan & Co Advocates who oversaw the entire purchase process. The correspondence between NHIF and the law firm were provided for review. The advocate executed a sale agreement with the purchase price for the entire property being determined at Kshs. 93,712,675. As per the title, the transfer was successfully done on 20th December 2002.

1761. In September 2004, NHIF learned that a contractor had been commissioned by a third party (Crown line Freighters Ltd) to develop the said plot, claiming ownership. The Fund instructed M/S. Rachier and Amollo advocates to protect the interest of the Fund by pursuing appropriate action to restrain the third party from interfering with the property.

1762. The Fund is pursuing the matter and has already taken the necessary steps to ensure the matter is determined in its favor. The Fund is relying on the evidence from the Commissioner of Lands confirming that the land is registered under the Fund's Board of Management. The Commissioner of Lands in his letter referenced 186267/7 dated 10th May 2006 and 186267/T.C/17 dated 22nd August 2007 addressed to the Attorney General stated categorically that the property L.R. NO. 209/24968/2/R 87345 is registered in favor of the NHIF board of management.

1763. The Attorney General's office in their letter referenced AG/MLS/292/04 dated 9th November 2009 confirmed receipt of the instructions from the Commissioner of Lands and put up a defense of the land.

1764. The matter was moved to the Environment and Land Division and assigned a new number HCCC.ELC NO. 691 of 2011. This was in a bid to ensure the matter is expedited.

1765. NHIF filed an application seeking an inhibition (caveat) on the title of the land to bar any subsequent registration of a right/interest over the said parcel of land until the matter is fully heard and determined. The court allowed the application on 27th July 2016 and issued orders that NHIF can put up a fence around the entire property, and an order inhibiting registration of any dealing with the parcel of land.

i. Inquiry by the National Land Commission

Following the recommendations by PIC that the National Land Commission conduct further investigations on the issue of the land within six months after adoption of the Report, The National Land Commission indeed notified NHIF of the inquiry as mandated under Section 6 of the National Land Commission Act. NHIF attended the inquiry on 15th June 2017 and made its submissions before the Commission.

The Commission pronounced itself and observed that the issue of ownership of the said parcel of Land was in Court.

ii. Current Status

In the 21st Public Investment Committee Report on the Audited Financial statements of State Corporations the above issue was discussed, and as per recommendations given by Public Investment Committee, the Directorate of Criminal Investigations commenced the inquiry/ investigations on the land and its acquisition in the year 2018. The DCI engaged the Chief Land Registrar from Ministry of Lands, the Land Surveyor from Survey of Kenya, Chief Valuer from Nairobi City County Government and all parties who hold titles to the land. DCI requested NHIF to surrender the original titles for purposes of investigation and the letter surrendering the title to DCI was provided for review.

1766. The Fund wrote a reminder to DCI on 20th May 2022 requesting an update on the same. Further, the Directorate of Criminal Investigations vide letter Ref NO. DCI/IB/LFIU/SEC/4/4/1/VOL.XLVI/125 dated 21st August 2023 advised the Fund to fence the property and to follow up with ODPP on the case in court. NHIF wrote to Ministry of Lands, public Works and Urban Development requesting costing of the fence which the Ministry replied via their letter Ref: QD 108/GEN/VOL. XII/45 dated 18th May 2023 with the attached cost estimates; this cost is factored in the budget for this financial year 2025/2026.

1767. On 15th May 2023, two businessmen were arraigned at the Mililani Law Courts where they were charged with conspiring to defraud NHIF land.

1768. The current status of the matter indicates that the criminal matter is still ongoing Nairobi Criminal Case NO. E341 of 2023 - Republic vs Peter David Leparkwo & Fredrick Kimemia Kimani. The matter was in court on 9th April 2024 for mention and issuance of directions, however, the same was stayed pending determination a judicial application review filed by one of the accused. Further, the matter is coming up on 29th July 2024. The Fund appointed a law firm to watch brief.

1769. There was a proposal to withdraw the matter that was proposed by the office of the Public Prosecution through the office of Directorate of Criminal Investigation (DCI) vide a letter ref. DCI/1B/SEC/2/3/1 VOL. CXII/69 dated 18th March 2025. Social Health Authority (SHA) protested to ODPP against intended withdrawal of the case through letter under reference HF/HQ/LEG/5/23 VOL. IV/36 dated 19th March 2025 and in response to this ODPP responded via letter ref. ODPP/CAM/13/2/235 dated 4th April 2025 insisting that the withdrawal of the case will allow parties ventilate their respective claim before the Environment and Lands Court (ELC). Then Social Health Authority (SHA) wrote to the office of the Attorney General via letter HF/HQ/LEG/5/196 VOL. I/13 dated 6th May 2025 to seek advisory which we are yet to receive.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Disputed Ownership of Land under in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

6.2 Doubtful Work-In-Progress at Karen Land

1770. The Committee heard that, the statement of financial position and Note 24 to the financial statements reflects property, plant and equipment balance of Kshs.12,633,367,728 which includes capital work in progress balance of Kshs.1,444,687,484 relating to payments for drawings and designs for the proposed Resource Centre. However, as previously reported, the construction of the Resource Centre has not commenced since the acquisition of the land. Management has explained that construction of the Resource Centre was yet to commence due to lack of approval from the Parent Ministry and the land ownership dispute in court.

1771. Although the issue had been discussed by the Public Investment Committee (PIC), no action appears to have been taken on the PIC recommendations that the Authority should expeditiously pursue the prosecution and conclusion of the case to its logical conclusion.

1772. In the circumstances, the existence and valuation of capital work in progress balance of Kshs.1,444,687,484 could not be confirmed.

Management response

1773. The management informed the Committee that, the it was true that as of 30th June 2022 there was work in progress of Kshs. 1,444,687,484 in respect of payments for the proposed Resource Centre on the Karen Land whose construction has not yet commenced to date and whose amount remains in our books. The amount comprises of payments to various consultants and professionals that had been engaged to provide services which include quantity surveys, business plans and financial analysis consultancy, legal fees, architectural design services fees, feasibility study, environmental impact analysis.

1774. In the year 2001/2002 the Fund planned to build a Resource Centre on the land acquired in Karen. The establishment and implementation of a Resource Centre on the land was approved by the board in 2002.

1775. The then Chief Executive commissioned various consultants in accordance with the Architects and Quantity Surveyors Act Cap 525 of the Laws of Kenya to carry out a feasibility study on the development of a resource center.

1776. A number of these payments arose from the arbitration award as below:-

i. Arbitration by Architects and Quantity Surveyors on the Proposed Resource Centre

1777. The Architects and Quantity Surveyors did the work as commissioned and submitted their report together with their fee notes for Kshs. 734,524,029.25. Upon delay by the Fund to honor the fee notes, The Architects and Quantity Surveyors then commenced Arbitration proceedings against the Fund for the demand for their fees. The Arbitrator, after reviewing the matter, reduced the claim from Kshs. 734,524,029.25 and awarded the Architects and Quantity Surveyors Kshs. 352,131,345.15. Following the decision of the Arbitrator and claimants' filing of documents to enforce the Award, the Funds Lawyers gave their opinion that the Award be challenged at the High Court. The Fund disputed the award and proceeded to the high court to seek redress.

1778. Upon further guidance from the parent ministry to terminate the court processes and negotiate with the consultants with a view to settle pending bills in accordance with work done. NHIF and the Architects and Quantity Surveyors recorded a consent order in the High Court and the matter was

settled. The Architects and Quantity Surveyors were paid a sum of Kshs. 407,107,645.00. Claims lodged by engineers and other consultants totaling Kshs. 333,846,784 arrived after settlement deeds were entered into on 24th June 2011. The claims were fully paid.

ii. The Karen Medical Centre of Excellence

1779. The Original Project was revised to a Medical Center of Excellence and a Vision 2030 flagship project for the Ministry of Health following approval of a cabinet memorandum on the NHIF medical Resource Centre as communicated to NHIF CEO by the Minister of Health in a letter ref. MMS/ADM/1/16/1, dated 4th December 2008. The Karen Medical center of excellence project led to litigations from the consultants.

iii. Litigation arising from the Dispute on the Karen Medical Centre of Excellence

1780. The following are the litigations commenced by the Consultants in respect to the Karen Medical Centre of Excellence.

a) High Court Civil Suit No. 504 of 2016: National Hospital Insurance Fund Vs. Baseline Architects Ltd.

b) Rebman Ambalo Malala T/A Ujenzi Consultants Vs NHIF HCCC NO. 25 OF 2016

c) Comm Case No. 255 Of 2016 - NHIF Vs. Eng. Peter Scott And Manga And Associates

d) Civil Suit No. 176 Of 2017 – Professional Consultants Ltd –Vs- NHIF

21st Report of PIC – Committee Recommendations

This matter was presented to the committee, where it recommended that: -

The Fund fast tracks the hearing and determination of case HCCC.ELC NO.691 of 2011; and the Fund secures the disputed parcel of land through fencing and hire a competent security firm to guard the property until the case is fully determined.

Current Status

1781. Although the case has not come to its logical conclusion, the Fund has pursued the case regarding ownership of the land in Karen through the DCI and the matter is in court.

1782. Reference is made to the pending matters in court and communications showing the status of the cases. The dispute of ownership and the dispute with the quantity surveyors is still unresolved, except for the matter of Baseline Architects. The Court of Appeal upheld the decision of the High Court and ruled in favor of the Fund, a copy of the Judgment was provided for review..

1783. NHIF vs Crownline Freighters and Others, Nairobi ELC No. 691 of 2011 (as consolidated with ELC 152 of 2018), was mentioned before the court on 9th May 2022. During the mention, the court granted the parties additional time to file relevant documents. Pursuant to this directive, the Fund filed its defence on 25th October 2022. The case proceeded to hearing on 22nd and 23rd April 2024. However, it was subsequently adjourned to 22nd and 23rd October 2024 for further hearing, following the filing of bulky documents by one of the defendants. The Fund confirms that it has complied with provisions of Rule 11 of the Civil Procedure Rules and is ready to proceed with the hearing.

1784. The matter came up again on 25th March 2025, when it had been scheduled for hearing. However, the hearing did not proceed as the Advocate for the Authority, the Plaintiff herein, requested additional time to substitute witnesses due to the transition from NHIF to SHA. As a result, the hearing was rescheduled for 8th and 9th July 2025. However, it did not take place on those dates, and the hearing has now been rescheduled for 25th and 26th November 2025.

1785. According to the DCI findings the parcel of land in question is registered in favor of National Hospital Insurance Fund. The Fund has taken steps to ensure the ownership rights of the Fund are protected, even as it awaits the determination of the Court matter.

1786. The arbitration between Manga & Associates and NHIF came up before the Arbitrator, during which a query was raised regarding the proper instructions for the engagement of external counsel, particularly considering the involvement of the Attorney General's Office. The Fund, noting that this is an ongoing matter, sought guidance from the Attorney General. In response, the Attorney General approved the appointment of Ogetto Otachi Advocates to represent the Fund in relation to the Karen land matters and associated cases.

1787. The matter was initially scheduled for mention on 14th September 2023 to confirm compliance. However, the session did not proceed as the Tribunal did not sit. The parties were advised by the Arbitrator's Secretary to await further directions. A hearing was subsequently scheduled for 9th October 2023, but it also did not proceed due to the Tribunal's failure to confirm its sitting schedule.

1788. The arbitration matter came up again before the Tribunal on 24th May 2024. During this session, counsel for the Fund emphasized the need for clarity on the authorized representatives permitted to attend the proceedings, due to privacy concerns. Additionally, the Fund requested more time to consult and develop an appropriate strategy, given that the claimant had served further evidentiary material outside the permitted timeframe. The Tribunal granted the request and scheduled a mention to confirm the status of filings for 26th July 2024, with a tentative hearing set for 10th to 12th September 2024.

1789. HCCC No. 25 of 2016 Rebman Ambalo t/a Ujenzi Consultant vs NHIF (Consolidated with HCCC No. 176 of 297 Professional Consultant Limited vs NHIF). The Fund introduced the then Chief Executive Officer as a witness and an expert witness, in procurement matters to support the Fund's defense. The matter came up for mention on 6th February 2023, however, the matter did not proceed to hearing as the learned judge was away on his annual leave. Consequently, the matter was rescheduled for mention on 24th March 2023. However, the matters were reallocated to be placed and seized by the Learned Justice Sifuna.

1790. This matter last came up in court on the 4th of July 2023 where the court directed that parties file their respective trial bundles and the same was scheduled for mention on 23rd of October 2023 to verify compliance. This was done and the matter was scheduled for hearing on 11th March 2024.

1791. With the Court of Appeal upholding the High Court ruling (Cause No. 504 of 2016) in Fund's favor on the matter of Baseline Architects, the Fund is relying on this judicial precedence and is confident that the cases listed under b) and c) above shall be dispensed in Fund's favor.

1792. HCC No. 25 of 2016 Rebman Amalo T/A Ujenzi Consultants vs NHIF (Consolidated with HCCC No. 176 of 297 Professional Consultant Limited vs NHIF). The matter came up for mention on 20th May 2024, however the court did not proceed due to engagements in other official duties.

The matter was thus rescheduled for mention on 17th September 2024. Find a schedule of breakdown of Kshs. 1,444,687,484.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Doubtful Work-In-Progress at Karen Land under Proposed Resource Centre at Karen Land in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

7.0 Long Outstanding Return to Drawer Cheques

1793. The Committee heard that, the statement of financial position and Note 30 to the financial statements reflects other receivables balance of Kshs.485,396,896. The amount includes a balance of Kshs.14,589,681 being return to drawer cheques. However, the amount relates to various institutions which has been long outstanding with some dating back to the year 2013 and they had not been replaced as at 30 June, 2024.

1794. In the circumstances, the accuracy and recoverability of return to drawer cheques balance of Kshs.14,589,681 could not be confirmed.

Management response

1795. The management informed the Committee that, it was true that RD cheques of Kshs. 14,589,689 was outstanding as of 30th June 2024. These Cheques relate to companies/ employers' that were inactive in NHIF the system. A provision for the same has been made in our financial statement as reflected in note 30 (b) for the financial statements. This is in line with finance management policy that provides that debts aged more than 24 months should be provided.

1796. As a mitigation measure, management developed a system module where employers who pay via cheques and bounces, are auto reversed, and the employer is immediately pursued as not having paid for that month. Therefore, the issue of Refer to Drawer cheques is no longer in place.

1797. Also, NHIF collection banks; KCB and Co-operative were made to only accept their own drawn cheques thus reducing the Return to drawer cheques as they verify the account status before accepting the cheque over the counter.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Long outstanding Return to Drawer (R.D) Cheques in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

1.0 Budgetary Control and Performance

1798. The Committee heard that, the statement of comparison of budget and actual amounts reflects revenue budget of Kshs.92,488,081,384 and actual revenue on comparable basis of Kshs.72,949,076,719 resulting to revenue shortfall of Kshs.19,539,004,665 or 21% of the budget. Similarly, the Authority spent Kshs.68,300,576,571 on benefit expenses against an approved budget of Kshs.80,979,129,274 resulting to under absorption of Kshs.12,678,552,703 or 16%.

1799. The shortfall and underperformance may have affected the Authority's key mandate of sustainably registering beneficiaries, generating revenue and paying health benefits for members.

Revenue

i. National Health Scheme: The low performance was attributed to the low member retention rate especially in the informal sector affecting the revenue collected.

ii. Indigents Sponsorship (GoK) Program: The fund had budgeted for upscaling of UHC program to Kes. 9 billion as per the Government plan and requirement for financing by the MOH. However, the Government allocation was kept within the previous budget at Kes. 6 billion.

iii. Edu Afya medical scheme: The Edu Afya cover came to an end on 31st December 2024 and was not renewed due to the new SHI Act that prohibits SHA from managing enhanced schemes. The premiums reported are for 6 months and not 12 months as per the budget estimates.

iv. WIBA Civil Servants: The WIBA civil servant contract lapsed on 15th April 2024 and was not renewed due to the new regulatory changes. The budget, however, is an annual budget that had not anticipated these changes.

Expenditure

i. Indigents Sponsorship (GoK) Program: The low utilization was attributed to the fact that the planned upscaling as previously budgeted for was not implemented. Additionally, there is a gap in the registration and sensitization of indigents.

ii. Edu-Afya Medical scheme: The low utilization against the budget is because the contract was not renewed upon lapse on 31st December 2022. The utilization is for a half year period whereas the budget is annual.

iii. WIBA Civil Servants: The WIBA civil servant contract lapsed on 15th April 2024 and was not renewed due to the new regulatory changes. The budget of 6,776,155,665 was, however, meant to cover the 12-months period to June 2024.

Committee Observations

The Committee observed that –the Fund reported revenue shortfall of Kshs.19,539,004,665 or 21% of the budget and under absorption of Kshs.12,678,552,703 or 16% which might have affected the Authority's key mandate of sustainably registering beneficiaries, generating revenue and paying health benefits for members. The management attributed the revenue shortfall and under absorption to low activities due to low member retention.

Committee Recommendations

The Committee recommends that –

The Accounting Officer-SHA should always ensure that budgets are realistic, attainable, and aligned with annual work plans, procurement plans, and revenue collection schedules, in accordance with Regulation 44(2) of the PFM (National Government) Regulations, 2015. In addition, the Authority should review its budget formulation process and establish a robust budget implementation monitoring and feedback mechanism to guarantee that all projects and activities are executed as planned, enabling the Fund to achieve its mission and objectives for the benefit of the citizens.

1.1 Duplication of Roles by the National Health Insurance Fund Board and Transition Committee

1800. The Committee heard that the National Health Insurance Fund (NHIF) Act was re-pealed with effect from the 22 November 2023 with the role of the Board being limited to winding up the Authority within a period of one year. However, a transition committee was appointed vide gazette notice No.603 of 2024 by the Cabinet Secretary on 25 January 2024 for a period of six (6) months with the mandate of ensuring smooth transition from National Health Insurance Fund (NHIF) to the Social Health Authority (SHA). This is indicative of both the NHIF Board and Transition committee were executing the same mandate.

1801. This was contrary to section 6(1) of the first schedule on transitional provisions of the Social Health Insurance Act, 2023 which stipulates that notwithstanding the provisions of paragraph (2), the National Health Insurance Fund Board shall wind up the Fund within one year from the appointed day and the cash balances and all other assets shall be transferred to the Authority.

1802. In the circumstances, Management was in breach of the law.

Management response

1803. The management informed the Committee that the Transition Committee was gazetted vide gazette notice no. 603 dated 26th January,2024 and the mandates of the Transition Committee are clearly spelt out.

1804. The Fund sort advisory from the Attorney General vides letter Ref: HF/HQ/LEG/5/. 9 (a) dated 24 November 2024 on the mandate of NHIF Board and the Transition Committee. In response the AG clarified vide its advisory letter dated 7th February 2024 that the Board's Mandate was purely limited to winding up the Fund. This is also in accordance with Section 7, Part II of the Social Health Insurance Act, 2023.

2.1 Staff Cost

1805. The statement of profit or loss and other comprehensive income reflects staff cost of Kshs.5,311,457,619 and as disclosed in Note 21 to the financial statements. However, the following unsatisfactory matters were noted.

Committee Observations

The Committee observed that–

i. During the transition period, there was duplication of roles between the NHIF Board, whose mandate under the Social Health Insurance Act, 2023 was limited to winding up the Fund within one year from 22 November 2023, and the Transition Committee appointed on 25 January 2024 for six months to oversee the shift to the Social Health Authority.

ii. The overlap indicated that both organs were executing the same mandate, contrary to section 6(1) of the transitional provisions of the Act, thereby breaching the law despite the Management having sought advisory from the Attorney General.

Committee Recommendations

The Committee recommends that–

i. Within three months upon adoption of this report, the Accounting Officer–SHA should submit to the National Assembly and the Auditor-General for review a comprehensive winding up report presented by the board including the cost outlay for the process, the gazette notice and certificate of dissolution and the final statement of Account for NHIF.

ii. On the part of the Transition Committee, within three months upon adoption of this report, the Accounting Officer–SHA should submit to the National Assembly and the Auditor-General for review the handing over report prepared and the Assets and liabilities taken over including the listing of bank accounts and the balances thereon, the short-term deposits indicating maturity date and any lien or encumbrances on the Assets so handed over.

2.1 Over Payment of Basic Salaries

1806. The Committee heard that, included in the amount is basic pay totalling Kshs.4,434,726 paid to twenty-three (23) staff members above the stipulated basic pay limit and Kshs.458,000 house allowance paid to twelve (12) staff members above the house allowance limit as provided in the Collective Bargaining Agreement. Further, there was no clear framework on how recoveries would be made since the organization is under transition and the Fund's staff were deployed back to Public Service Commission. In addition, the overpayment was contrary to SRC letter Ref. No. SRC/TS/NHIF/3/39 (38) dated January 2019 on salaries and allowances for NHIF employees.

1807. In the circumstances, the Management was in breach of the law.

Management response

1808. The management informed the Committee that the Management undertook a thorough review of the organization's salary structure and identified several anomalies during the implementation of the Collective Bargaining Agreement (CBA) .

1809. To address these over payments, management has developed a structured framework for recovery. This framework includes the following key steps:

i. Gradual Recoveries: Recoveries are being made in manageable installments from future salaries. The samples of payslips of affected staff before and after recoveries of basic pay and of house allowance were provided for review.

ii. Transparent Communication: All affected staff have been informed of the discrepancies, the recovery plan, and the timeline for implementation.

iii. Compliance with Transition Context: The framework aligns with the ongoing transition to the Social Health Authority (SHA), ensuring that no recovery disrupts staff welfare or morale.

Committee Observations

The Committee observed that–

i. The Fund made overpayments of Kshs. 4,434,726 in basic pay to twenty-three staff members and Kshs. 458,000 in house allowance to twelve staff members, above the limits set in the Collective Bargaining Agreement and contrary to SRC guidance issued in January 2019.

ii. There was no clear framework for recovery given that it was during transition of staff back to the Public Service Commission.

iii. Although Management acknowledged anomalies in salary implementation and outlined a recovery framework through gradual deductions, transparent communication, and alignment with the transition to the Social Health Authority, the overpayments remain a compliance and recoverability concern.

Committee Recommendations

The Committee recommends that, within three months upon adoption of this report, the Accounting Officer–SHA should finalize and document a comprehensive recovery framework, ensure strict adherence to SRC directives and CBA provisions, and establish accountability measures to prevent recurrence of salary overpayments. A copy of the documented framework and evidence of recoveries made should be submitted to the National Assembly and the Auditor-General for review within the three months three months.

2.2 Staff Earning Less than One-Third Rule on Basic Pay

1810. The Committee heard that analysis of the payroll data revealed six hundred and twenty-five (625) employees who received net salaries that were less than a third of their basic pay. This was contrary to Section19(3) of employment Act, 2007 which stipulates that without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry.

1811. In the circumstances, Management is in breach of the law.

Management response

1812. The management informed the Committee that a detailed review of the affected employees' payroll records has been undertaken to identify the root causes of these violations. A number of Contributing factors have been identified including enhanced NSSF contributions, SHIF deductions, and the Housing Levy. These mandatory deductions have significantly impacted employees' net pay, further complicating compliance with the one-third rule.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Non-Compliance with One-Third Rule on Basic Pay in its report for the Financial Year 2022/2023, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

2.3 Irregular Payment of Acting Allowances

1813. Analysis of the payroll data revealed that fifty-four (54) officers had been working in acting capacity for more than six (6) months and received acting allowance amounting to Kshs.29,788,168. Although management attributed extended acting appointments as a result of transitional period where some posts have remained vacant or have been redefined as part of the integration of NHIF staff into Social Health Authority, the SHI Act, 2023 did not provide for integration of NHIF staff to the Authority. In addition, there was no evidence of Social Health Authority Board deliberation and approval of the fifty-four (54) staff members to act in the respective positions. This was contrary to Section 4.5.5 of NHIF HR Policy and Procedures Manual on Acting allowance which states that appointment on acting basis is a temporary measure pending the substantive filling of the vacant post by either recruitment or resumption of duty by the substantive holder of the post.

1814. In the circumstances, Management is in breach of the law.

Management response

1815. The management informed the Committee that NHIF is currently undergoing a transition to the Social Health Authority (SHA), in line with the requirements of the Social Health Insurance (SHI) Act, 2023. This transition is centered around restructuring and aligning staff roles with the new organizational framework, which includes redefining positions, filling vacancies, and integrating NHIF staff into SHA's structure.

1816. The SHA Board is actively working to implement the transition clauses outlined in the SHI Act, 2023. This includes restructuring positions, redefining roles, and ensuring that vacancies are filled according to the new organizational setup. These efforts are critical for the successful integration of NHIF functions into SHA, ensuring compliance with both statutory requirements and internal policies.

1817. As part of the transition process, all acting appointments were stopped with effect from 1st December 2024, as per Memo Ref: SHA/HQ/ADM/006/VOL 1/39 dated 21st December 2024.

1818. Moving forward, management is committed to ensuring a smooth transition for staff members. Efforts will be made to ensure that roles are clearly defined, and staff members are fully integrated into the new structure in line with SHA's long-term objectives.

Committee Observations

Committee observed that fifty-four (54) officers were in acting capacity for more than six (6) months and had received acting allowance amounting to Kshs.29,788,168 contrary to section 34 (3) of the Public Service Commission Act, CAP 185, which requires that an officer may be appointed in an acting capacity for a period not exceeding six months.

Committee Recommendations

The Committee recommended that –

Within three months upon adoption of this report, the Inspector General of State Corporations to surcharge and recover from the then Accounting Officer (s) and Board members, the

Kshs.14,746,793 and any other monies paid as acting allowances beyond the stipulated period of six months.

3.1 Irregular Secondment of Legal Officer

1819. The Committee heard that the review of SHA Board of Management minutes revealed that the Board made a request to the Cabinet Secretary vide letter Ref. SHA/BOD/Vol.1 dated 24 November 2023 for the secondment of a legal officer to support in its activities which was approved by the Cabinet Secretary on 19 January 2024. However, there was no evidence that the secondment request was submitted and approved by the Public Service Commission. This was contrary to section 42 of the Public Service Commission Act, 2017 which states; (1) The authority to second a public officer shall vest in the Commission and shall be carried out on the request of an authorized officer or a public officer and (5) An authorized officer or other lawful authority shall not approve a request for secondment unless the Commission has approved the secondment in writing.

1820. In the circumstances, Management was in breach of the law.

Management response

1821. The management informed the Committee that the Office of the Attorney General delinked from the mandate of the Public Service Commission through amendment of the Office of the Attorney General Act, 2012 vide the Statute Law (Miscellaneous Amendment) Act, 2024. Therefore, the mandate of Human Resource functions under the Office of The Attorney General vest with the Advisory Board under the Office of the Attorney General Act and not the Public Service Commission.

1822. The Public Service Commission, noting the deployment of the State Counsel to the Social Health Authority, correctly guided that the secondment should be granted by the Office of the Attorney General.

1823. The Board of the Social Health Authority ratified the appointment of the State Counsel vide Board meeting held on 22nd January 2024 and Office of the Attorney General approved secondment of the State Counsel to the Social Health Authority.

Committee Observations

The Committee observed that–

i. The SHA Board requested and obtained approval from the Cabinet Secretary for the secondment of a legal officer, yet there was no evidence of approval by the Public Service Commission as required under Section 42 of the Public Service Commission Act, 2017.

ii. Although Management explained that amendments to the Office of the Attorney General Act transferred human resource functions to the Advisory Board under the Attorney General, and that the Attorney General subsequently approved the secondment, the absence of PSC approval rendered the process irregular.

Committee Recommendations

i. The Committee reprimands the then Accounting officer for breach of Section 42 of the Public Service Commission Act, 2017.

ii. The Committee recommends that, the Accounting Officer–SHA should at all times ensure compliance with statutory provisions governing secondments and staff deployment.

4.1 Irregular Appointment of Board Liaison Person

1824. The Committee heard that the review of SHA board minutes and attendance register revealed a board liaison or the acting board liaison officer who undertook Corporation Secretary duties without evidence appointment by the Board. This was contrary to section 1.8 (5) of the Mwongozo code of governance for the state corporation 2015 which states that the Corporation Secretary should attend all Board meetings and, in their absence, or inability to attend for whatever reason, the Board will appoint a Secretary for the meeting amongst the staff of the Corporation.

1825. In the circumstances, Management is in breach of the law.

Management response

1826. The management informed the Committee that the Social Health Insurance Act, 2023 under the First Schedule did not provide for the automatic transition of NHIF Staff to SHA. Therefore, once the Board was constituted, the Authority did not have any Staff to assist the Board to carry out its activities and operationalize. The officer in question is an officer attached to the Ministry of Health Legal Office and who would occasionally support the Ag. Corporation Secretary on Board logistics. It is important to note that the Board minutes were being taken by the AG. Corporate Secretary.

Committee Observations

The Committee observed that–

i. A board liaison officer undertook Corporation Secretary duties without evidence of appointment by the Board, contrary to section 1.8(5) of the Mwongozo Code of Governance for State Corporations, 2015, which requires the Corporation Secretary to attend all Board meetings or, in their absence, a Secretary to be formally appointed by the Board.

ii. Although Management explained that the officer was attached to the Ministry of Health Legal Office and only supported the Acting Corporation Secretary on logistics, the absence of formal appointment rendered the arrangement irregular, and any allowances paid were irregular.

Committee Recommendations

i. The Committee reprimands the then Board chair and the then Accounting officer for breach of section 1.8(5) of the Mwongozo Code of Governance for State Corporations, 2015.

ii. Within three months upon adoption of this report, the Accounting Officer–SHA should submit to the National Assembly and the Auditor-General for review the letter appointing the legal officer to act as corporation secretary, stating the term of engagement and any allowances payable.

iii. Within three months upon adoption of this report, the Inspector General of State Corporations to investigate the engagement and any allowances paid to the officer in accordance with section 19 of the State Corporations Act, CAP 446 and surcharge the then Accounting Officer(s) and Board members the monies irregularly paid to the legal officer.

5.1 Irregular Procurement Process

1827. The Committee heard that the statement of profit or loss and other comprehensive income reflects other operating expenses of Kshs.2,902,892,412 and as disclosed in Note 23 to the financial statements. Included in the expenditure is hospitality and office refreshments amount of Kshs. 39,950,547 out of which Kshs. 11,680,602 were procurements where professional opinions were issued without evaluation committee report. This was contrary to section 84 (1) of the Public Procurement and Asset Disposal Act, 2015 which states that the head of procurement function of a procuring entity shall, alongside the report to the evaluation committee as secretariat comments, review the tender evaluation report and provide a signed professional opinion to the accounting officer on the procurement or asset disposal proceedings.

1828. In the circumstances, Management is in breach of the law.

Management response

1829. The management informed the Committee that the evaluation of tenders and quotations are normally conducted in compliance with section 80(1-7) of Public Procurement and Asset Disposal Act, 2015; (revised 2022). However, they are usually filed separately and some of the samples of the evaluation reports were provided for review.

Committee Observations

The Committee observed that –the Fund procured hospitality and office refreshments services amounting to Kshs. 11,680,602 where professional opinions were issued without evaluation committee reports, contrary to section 84(1) of the Public Procurement and Asset Disposal Act, CAP 412C.

Committee Recommendations

The Committee reprimands the then Accounting Officer and recommends that, the Accounting Officer–SHA should at all times ensure strict compliance with procurement laws.

6.1 Un-surrendered Temporary Imprest

1830. The Committee heard that, the statement of financial position reflects other receivables balance of Kshs.485,396,896 as disclosed in Note 30(a) to the financial statements. Included in the amount is temporary imprest of Kshs.6,129,143 out of which an amount of Kshs.3,873,310 has not been surrendered for a period of more than one year. This was contrary to Regulation 93 (5) of the Public Finance Management (National Government) Regulations, 2015 which provides that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station.

1831. In the circumstances, Management was in breach of the law.

Management response

1832. The management informed the Committee that, out of the total imprest amount of Kshs. 3,873,310 that had not been surrendered for a period exceeding one year, a sum of Kshs. 568,400 has since been accounted for and duly surrendered. In addition, Kshs. 25,200 relates to a deceased officer, while Kshs. 84,000 pertains to an officer who exceeded the authorized service period. After considering these amounts, the outstanding balance stands at Kshs. 3,195,710 which management is actively pursuing through structured recovery measures.

Committee Observations

The Committee observed that–

i) Temporary imprest amounting to Kshs. 3,873,310 had not been surrendered for more than one year, contrary to Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015, which requires surrender within seven working days after returning to duty station.

ii) An amount of Kshs. 3,195,710 remains under recovery despite exceeding authorized accountability period and thus the Accounting Officer was in breach of Regulation 93(7) of the Public Finance Management (National Government) Regulations, 2015, which states that if the Accounting Officer does not recover the temporary imprest from the defaulting officer as provided for in this regulation the Accounting Officer commits an offence as provided for under the Act.

Committee Recommendations

The Committee recommends that, within three months upon adoption of this report, the DPP should initiate legal action against the then Accounting Officer in accordance with section 199 of the Public Finance Management Act CAP 412A.

7.1 Construction of Multi Storey Car Park

1833. The Committee heard that, as previously reported, the Fund entered into an agreement with a local construction firm for construction and completion of a multi-storey car park at a contract sum of Kshs.909,709,305 which was revised to Kshs.1,179,611,756. Review of records revealed that the project commenced in May, 2002 and was completed at a cost of Kshs.3,342,120,239 in July, 2008, five (5) years after the scheduled completion date of August, 2003. Further, expenditure totaling Kshs.626,635,998 and Kshs.4,706,521 was incurred in 2009/2010 and 2010/2011 respectively on the car park, increasing its total cost to Kshs.3,973,462,758 resulting to a contract variation of Kshs.3,063,753,453 or 337% of the original contract. Management has not provided an explanation for the unjustified increase of the total cost of the project.

1834. Although the issue has been discussed by the PIC, no action has been taken on the Committee Recommendations that the Ethics and Anti-Corruption Commission should institute and fast-track investigation on the project and no progress report has been received from the Commission.

1835. In the circumstances, the value for money on the variation of contract for the multi-storey car park of Kshs. 1,179,611,756 could not be confirmed.

Management response

1836. The management informed the Committee that, the Car Park is a seven storey Building with basement floors, which is designed to accommodate 780 cars. The project commenced in May 2002 and was scheduled for completion in August 2003. The original cost of the project was Kshs. 909,709,305.40 over a contract period of 65 weeks.

1837. The completion period was revised from August 2003 due to suspension of all projects by the Government vide Treasury circular no. 10 dated 22nd May 2003 as well as the Fund giving preference to core strategic activities resulting to reduced cash flow.

1838. As per the contract with N.K. brothers, NHIF evoked contract provision for variations and introduced vehicular lifts hence the variation in cost from the initial 909,709,305.40. The cost could not be retained at the original cost of Kshs. 909,709,305.40 since the Contractor had already increased the service area of the project. This led to Design changes to the structure and foundation works. An additional basement floor was created to cater for the displaced area arising because of vehicular lifts, ramps and overhaul design. This led to an increase in the service area and an additional cost of Kshs. 673, 465,787.10 making the total cost to be Kshs. 1,583,175,092.50. The vehicular lifts were later found not to be viable, leading to downward variation to Kshs. 1,179,611,756.00 as observed in audit report. The board minutes on the inclusion of Vehicular lifts were provided for review..

1839. The variation from Kshs. 1,179,611,756.00 to Kshs. 3,342,120,239.00 was due to price escalations as per contract provisions. The escalation of the project cost was tabled before the NHIF Board project committee meeting held on 29th July 2005. Information from the minutes indicates that the Chief Architect noted that the main factors contributing to price escalations were:

i. Contractual claims mainly due to prolongation of the contract and delay in payments.

ii. Price escalation.

iii. Mechanical installation and equipment.

iv. Extended service parking (between NHIF building and Maji House).

v. Adjustment to the Storey heights by 600mm.

1840. A copy of the 29th of July 2005 board minutes was provided for review. These were contractual claims which were as per contract provisions. The Chief Quantity Surveyor Min of Roads and Public works released the final certificate on 10th August 2007.

1841. As noted in the audit report the Multi Storey Car Park was completed in July 2008. The Fund wrote to the Chief Quantity Surveyor under the Ministry of Public Works vide letter Ref HF/C/958VOL.X/114 dated 20th November 2008 requesting a technical report on the completed Multi Storey Car Park. The Chief Quantity Surveyor replied vide letter Ref. No. QD15/GEN/1369, on the draft final account recommending release of the retention money after the issue of certificate of making Good Defects and payment of 60% of the projected Final Account.

1842. In June 2009 the Architect's completion certificate was issued to NHIF. On 30th March 2010 the Fund received Final Account from the chief quantity surveyor instructing payment of the final

dues to the contractor Ref. No. QD15/GEN/1613 Payments totaling to Kshs. 626,635,998.00 incurred in the financial year 2009/10 and Kshs. 4,706,521 incurred in the financial year 2010/11 are related to pending claims which were payable to the contractor after completion of the Multi Storey Car Park.

1843. The Fund appeared before the PIC Committee on 15th March 2018 and this matter was discussed thereafter the Committee visited the Car park Building.

21st Report of PIC – Committee Recommendations

1844. This matter was presented to the 21st PIC Committee, where it recommended that Ethics and Anti-Corruption Commission should fast track investigations into the procurement process of the Multi-Storage Car Park, with a view of preferring charges against all those found culpable of defrauding the Fund.

1845. The matter was therefore referred to EACC as directed by Public Investment Committee and EACC commenced investigations by requesting for original documentation. In September 2022 the Fund's CEO was invited by EACC to record a statement on the status of the documents. EACC guided that they would give way forward.

1846. As part of the follow up with EACC on the issues surrounding this and other projects, management engaged EACC on a preventive audit with a view to identify gaps and opportunities that were exposing NHIF to corruption risks. EACC has since finalized the exercise and presented a report to the Fund. Some of the recommendations have been adopted and used to improve the systems and operations even as the transition to SHA is happening.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Construction of Multi Storey Car Park in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

8.0 Transitional Arrangements

The Committee heard that–

1847. The statement of profit or loss and other comprehensive income reflects other operating expenses of Kshs.2,902,892,412 and as disclosed in Note 23 to the financial statements. Included in the amount is transition committee expenses of Kshs,48,560,900 charged under various votes. However, the following unsatisfactory matters were noted.

8.1 Failure to Adopt the Transition Committee Report

1848. The Transition committee was appointed vide gazette notice No.603 of 2024 by the Cabinet Secretary on 25 January 2024 for a period of six (6) months and had the mandate of ensuring smooth transition from National Health Insurance Fund (NHIF) to the Social Health Authority (SHA). However, there was no evidence that the transition committee report was adopted for implementation by either the Cabinet Secretary, NHIF Board or SHA Board.

Management response

1849. The management informed the Committee that, the Transition Committee submitted the report to the Cabinet Secretary on 15th August 2024 and both Chairpersons were present. There was no action point for NHIF Board since the Board's Mandate was purely limited to winding up as per the Hon. Attorney Generals advisory dated 7th February 2024.

1850. The Board was taken through the report for noting purpose and vide Special Board Minutes dated 27th September 2024 Minute No. SB/054.0/2024 the Board took note of the contents of the report and stated that recommendations of the report would be implemented by the Social Health Authority noting that all physical assets of NHIF had been handed over to SHA.

Committee Observations

The Committee observed that–

i. Although a Transition Committee was appointed to oversee the shift from NHIF to SHA, and incurred amount of Kshs,48,560,900 charged under various votes there was no evidence that its report was formally adopted for implementation by the Cabinet Secretary Ministry of Health, NHIF Board, or SHA Board. This contravened the intended transitional framework

ii. While Management explained that the report was submitted to the Cabinet Secretary Ministry of Health, noted by the SHA Board, and that recommendations were to be implemented by SHA Board the absence of formal adoption rendered the process irregular.

Committee Recommendations

The Committee recommends that, within three months upon adoption of this report, the Accounting Officer–SHA should submit to the National Assembly and the Auditor-General for review the adopted transition report, the handing over report emanating from the transition report and milestones achieved on implementation of the recommendations therein.

8.2 Lack of Assets and Liabilities Transfer and Handover Plan

1851. The Committee heard that, the transition committee conducted a country wide verification of assets of assets and liabilities, but the term lapsed before formulation of an assets and liabilities Transfer and Handover Plan. This plan would have documented assets that were ready for immediate transfer, the legal transfer instruments of assets and liabilities and assets and liabilities that require further audit and verification. This therefore indicates that some of the committee's terms of reference were not achieved.

Management response

Transition of Assets and Liabilities

1852. The management informed the Committee that, the Transition Committee accomplished its tasks as per the TORs by conducting a country wide verification and assessment of NHIF assets and

liabilities. It further formulated the appropriate recommendations and proposed mechanisms for the transfer of the Assets and liabilities to SHA.

1853. However, had the TC term been extended it would have assisted in developing the asset handover plan along with relevant legal instruments. This was explained to the CS MOH during the handover. MOH further committed to implementing the tasks that remained as per TC recommendations.

1854. Noteworthy there were several other reports which the Boards acted upon during and after the transition term.

Committee Observations

The Committee observed that –the transition committee conducted a country wide verification of assets and liabilities, but the term lapsed before formulation of an assets and liabilities transfer and handover plan which was still not yet developed.

Committee Recommendations

The Committee recommends that, within three months upon adoption of this report, the Accounting Officer–SHA should submit to the National Assembly and the Auditor-General for review the adopted transition report, the handing over report emanating from the transition report and milestones achieved on implementation of the recommendations therein.

8.3 Unapproved Human Resources Instruments

1855. The Committee heard that, the transition committee terms of reference included the classification of Social Health Authority (SHA) by the State Corporations Advisory Committee (SCAC), review of qualifications of all staff, formation of Human Resource (HR) Instruments, including proposed staff establishment, job description manual and a comprehensive Employee Transition Advisory. However, at the time of audit, only the establishment and staff structure were approved while the job description and other instruments were yet to be approved.

1856. In the circumstances, the lack of clear guidelines and framework on implementation of transitional provisions and inability of the Transition Committee to fully execute its terms of reference may have affected the ability of the Authority to fully execute its functions under transitional arrangements.

Management response

1857. The management informed the Committee that, as at the time of the audit, it is indeed accurate that only the establishment and staff structure had been approved, while the job description manual and other HR instruments were still under review. However, the full set of the HR instruments including the Manual, organization structure and carrier guidelines have since been approved by the public Service Commission and currently being implemented by the SHA board

Committee Observations

The Committee observed that–

i. The Transition Committee's terms of reference review of staff qualifications, and development of HR instruments such as staff establishment, job description manual, and employee transition advisory, only the establishment and staff structure had been approved at the time of audit.

ii. Although, the job description manual and other HR instruments were said to be under review there was no evidence of the status so far achieved.

Committee Recommendations

The Committee recommends that, within three months upon adoption of this report, the Accounting Officer–SHA should fastrack full approval and documentation of the Human Resource instruments. A copy of the documented instruments should be submitted to the National Assembly and the Auditor-General for review.

1.0 Inadequacies of Information Technology Policies and Ecosystem

1858. Review of the Authority's information system and environment revealed the following weaknesses.

1.2 Out-dated and Non-Operationalized Policies

1859. The Committee heard that, during the year under review, the Authority did not have an approved Business Continuity Plan and backups were not being tested for successful restoration. In addition, contrary to Clause 8 of the ICT Policy dated 2016, the policy was not updated after three years or from time to time as deemed necessary. Further, the Authority had not developed procedures or manuals to show how the policy statements were to be operationalized, specific responsibilities for tasks, or specific work areas to be accomplished.

1860. In the circumstances, the effectiveness of internal controls on the Authority's information systems may not be adequately safeguarded against emerging IT risks. In addition, the Board and Senior management intent as spelt out in the ICT policy may not be achieved.

Management response

1861. The management informed the Committee that the ICT policy, procedures & manuals and Business Continuity Plan were developed/reviewed alongside other policies in the fund. However, the approval was halted pending transition process. All these policies have now been reviewed for approval by the SHA board.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Out-dated and Non-Operationalized Policies in its report for the Financial Year 2022/2023, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

1.3 Use of Un-Supported Software

1862. The Committee heard that, review of the Authority's software asset register revealed that certain computers and servers were operating on systems which have reached the end of support from Microsoft.

1863. In the circumstances, the effectiveness of internal controls on the Authority running software that has reached the end of life exposes the Authority information systems to risk of unauthorized access which may compromise confidentiality, integrity and availability of information assets.

Management response

1864. The management informed the Committee that–

i. Licensed Microsoft Operating Systems

The organization operates exclusively on genuine and licensed Microsoft operating systems, ranging from desktop operating systems to server environments. All licenses are managed under the Microsoft Enterprise Agreement, specifically through the Microsoft 365 (O365) suite, ensuring compliance with licensing requirements.

ii. Use of Specific Operating Systems for Certain Applications

Some critical system applications in our environment are designed to run only on specific operating systems. This operational dependency has necessitated the continued use of certain operating systems, such as Windows 7, Windows 8, and Windows Server 2012, despite these platforms having reached the end of support.

iii. Mitigation Measures for End-of-Support Systems

To minimize risks associated with the use of end-of-support software, the following measures have been implemented:

a) Continuous patching through available third-party tools to address vulnerabilities. Anti-virus has been installed.

b) Enhanced monitoring of these systems within the organization's security framework.

c) Isolation of unsupported systems where applicable to reduce exposure to potential threats.

iv) Plans for Migration and Upgrades

1865. The organization recognizes the importance of running fully supported software and is in the process of migrating or upgrading systems to more current and supported operating systems. A phased approach has been adopted to ensure minimal disruption to business operations while addressing compatibility issues with legacy applications.

1866. We are committed to ensuring that all systems within our environment comply with best practices and remain secure and efficient. Documentation regarding licensing and the ongoing upgrade plan is available for review.

Committee Observations

The Committee observed that–

i. Several computers and servers within the Authority were operating on Microsoft systems that had reached end of support, thereby exposing the Authority to significant information security risks, including vulnerabilities that may be exploited due to the absence of security patches, updates, and technical support.

ii. Although Management maintained that all operating systems were licensed under the Microsoft Enterprise Agreement through the Microsoft 365 suite, the existence of end-of-life systems highlights gaps in software lifecycle management and underscores the need for timely upgrades or migrations to supported platforms.

Committee Recommendations

The Committee recommends that–

Within three months upon adoption of this report, the Accounting Officer–SHA should submit to the National Assembly and the Auditor-General an approved comprehensive software lifecycle management framework to ensure that all systems remain current, secure, and within vendor-supported versions. The framework should include periodic audits of software assets to identify outdated systems early and plan for their timely upgrade within the budgeting cycle.

Within three months upon adoption of this report, the Accounting Officer–SHA should submit to the National Assembly and the Auditor-General progress report for migration from legacy systems to supported platforms, in line with best practices for information security and governance.

1.3 Limited Access to System Log Files

1867. The Committee heard that, it was noted that the E-Claims system at the Authority is outsourced and the system administrators had restricted access to the Write-Ahead Log (WAL) files within the E-Claims system. These log files are crucial for audit verification of transactional data but could not be accessed, as administrative privileges, including full access to these critical files, are exclusively managed by the system vendor.

1868. In the circumstances, the effectiveness of internal controls on the E-claim system on access rights could not be confirmed.

Management response

1869. The management informed the Committee that, the Biomets system (Internal E-claims payer system) has audit logs that enable business process owners to track application layer activities.

Committee Observations

The Committee observed that –the E-Claims system at the Authority was outsourced and that system administrators had restricted access to the Write-Ahead Log (WAL) files which were critical for verification of transactional data. However, they were inaccessible, as administrative privileges, including full access to these files, are exclusively managed by the system vendor.

Committee Recommendations

The Committee recommends that, within three months upon adoption of this report, the Accounting Officer–SHA should establish and document mechanisms to ensure that audit-critical log files are accessible to authorized internal officers, strengthen contractual provisions with vendors to guarantee transparency and oversight, and enhance internal controls over system access rights. A copy of the documented mechanisms should be submitted to the National Assembly and the Auditor-General for review.

FINANCIAL YEAR 2024/2025

1.0 Incomplete Transition from National Health Insurance Fund to Social Health Authority

1870. The Cabinet Secretary for Health appointed the Transition Committee on 25 January, 2024 through a Gazette Notice No. 603 of 2024 to oversee the transition from the National Health Insurance Fund (NHIF) to the Social Health Authority (SHA). The Committee's tenure was for six (6) months and submitted the final report in July, 2024.

1871. The Committee's terms of reference included:

i. Delineating roles of NHIF, SHA Board, and the Ministry of Health;

ii. Developing the winding-up resolution for NHIF;

iii. Preparing transition guidelines and roadmap

iv. iv. Reviewing enhanced schemes, ICT contracts and ongoing court cases

v. Establishing claims handling guidelines during and after transition; and

vi. Verification of assets and liabilities

1872. However, audit review revealed that the Committee did not fully achieve the set objectives within the prescribed timelines, leaving critical gaps that compromise the integrity of NHIF closing account balance and SHA opening balances as detailed below,

1.1 Failure to Adopt the Transition Committee Report

1873. The Committee heard that, although the Transition Committee was appointed for a tenure of six (6) months and with the mandate to ensure smooth transition from NHIF to SHA there was no evidence provided for audit review indicating that the Committee's final report was formally adopted for implementation by the Cabinet Secretary, NHIF Board or SHA Board.

Management response

1874. The management informed the Committee that, it acknowledges that the profound complexity and compressed timeline of transitioning from the defunct National Health Insurance Fund (NHIF) to the Social Health Authority (SHA) has created operational challenges but confirms that the critical legal and operational foundations are largely complete and compliant with the law.

1875. The Transition Committee, though serving a purely advisory function, was instrumental in asset and liabilities verification, human resource instruments development and winding up framework.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Failure to Adopt the Transition Committee Report in its report for the Financial Year 2023/2024 (under , observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

1.2 Failure to Verify Assets and Liabilities

1876. The Committee heard that Section 4.22 of the Transition Committee's report states that the schedule of assets provided by NHIF to the Transition Committee and SHA Board requires further verification by an independent party to ascertain its accuracy. Further, Section 3.8 of Annex VI to the Committee's report on verification of assets and liabilities indicates that several asset and liabilities balances could not be verified due to incomplete listing of balances and general ledgers.

Management response

1877. The management informed the committee that, the process involved independent verification of the physical assets by a team from the Ministry of Lands, Public Works, Housing and Urban Development. Final reconciliation of financial records, bank account closures, and asset transfers are ongoing to ensure the integrity of the SHA's opening balances.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Failure to Verify Assets and Liabilities

in its report for the Financial Year 2023/2024(under the paragraph Duplication of Roles by the National Health Insurance Fund Board and Transition Committee), observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

1.3 Failure to Wind up NHIF

1878. The Committee heard that paragraph 6(1) of the First Schedule to the Social Health Authority Act, 2023 required the National Health Insurance Fund Board to wind up the Fund within one year from the appointed day (the day the Act came into operation) and transfer all cash balances and

other assets to the Social Health Authority. However, as at 30 November, 2025, the winding up of the NHIF had not commenced. Further, some assets belonging to NHIF had not been transferred to SHA. In addition, six (6) bank accounts with a balance of Kshs.7,774,702 had not been transferred to SHA. As a result, the six (6) NHIF bank accounts remained open and continued to operate as at the time of the audit.

Management response

1879. The management informed the committee that the NHIF Board formally wound up the Fund and the Chairman handed over a comprehensive report to the SHA Board Chairman, fulfilling the mandate of the First Schedule, Paragraph 6(1).

Committee Observations and Recommendations

The Committee had deliberated on the issue of Failure to Wind up NHIF in its report for the Financial Year 2023/2024 (under the paragraph Duplication of Roles by the National Health Insurance Fund Board and Transition Committee), observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

1.4 Lack of Approved Policies for Social Health Authority

1880. The Committee heard that, the mandate of the Transition Committee according to Gazette Notice No.603 of 2024, included developing legal and institutional framework for the coordinated transition to the Social Health Authority. In addition, the Committee was to develop guidelines and operational mechanisms for the transition period. However, SHA did not have approved institutional policies, manuals and documents on key functional areas. The gaps include; lack of finance and accounting manual, assets management policy, transport management policy, IT policy, disaster recovery plan, backup and retention strategy and risk management policy and strategic plan.

Management response

1881. The management informed the committee that the delay in final transition was largely administrative, flowing directly from the rigorous approval timelines required by external agencies

1882. Policy Approval Lag: The HR instruments, though prepared by the Authority, were submitted to the PSC and the State Corporations Advisory Committee (SCAC) on 5th July, 2024, but faced a long lead time for final approval. This delay in approving the HR Instruments and the final Staff Establishment directly postponed the formal commencement of the competitive recruitment process, delaying the full HR transition ahead of the stipulated one-year deadline (November 2024).

Committee Observations and Recommendations

The Committee had deliberated on the issue of Lack of Approved Policies for Social Health Authority (under the paragraph on Out-dated and Non-Operationalized Policies) in its report for the Financial Year 2022/2023, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

1.5 Lack of Formal Hand Over Report and Asset Discrepancies

1883. The Committee heard that, the Signed hand-over and take-over report from NHIF to the SHA was not provided for audit review. This was contrary to Regulation 141 of Public Finance Management (National Government) Regulations, 201 5, which requires the transferring entity Accounting Officer to prepare an inventory of assets or liabilities and provide all necessary records, including human resource records, to the receiving entity.

1884. Further, the Transition Committee report highlighted significant discrepancies between ERP records and physical assets; over-procurement and underutilization of furniture, excess computer hardware and parts with most of them remaining unused and packed in boxes. In addition, the last valuation of assets was undertaken in 2018.

Management response

1885. The management informed the committee that, the process involved independent verification of the physical assets by a team from the Ministry of Lands, Public Works, Housing and Urban Development. Final reconciliation of financial records, bank account closures, and asset transfers are ongoing to ensure the integrity of the SHA's opening balances.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Lack of Approved Policies for Social Health Authority (under the paragraph on Lack of Assets and Liabilities Transfer and Handover Plan) in its report for the Financial Year 2023/2024, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

2.0 Discrepancy in NHIF Transition to Social Health Authority Date

1886. The Committee heard that, the financial statements for Social Health Authority prepared and submitted for audit for the 2024/2025 financial year covered six (6) months (1 July, 2024 to 31 December, 2024), However, the financial statements indicates for the year ended 31 December, 2024 implying twelve (12) months. Further, the press release issued by the Principal Secretary, State Department of Medical Services and public notice issued by the Acting Chief Executive Officer of the Social Health Authority, which indicated that the effective roll-out date and commencement of operations as 1 October, 2024. Management did not provide satisfactory explanation or clear legal basis for reporting for a period of six (6) months instead of the three (3) months indicated in the statutory documents.

Management response

1887. The management informed the committee that, the Legal Commencement Date (Appointed Day): The Social Health Insurance Act, 2023 (No. 16 of 2023), came into effect on 22nd November 2023, establishing SHA and triggering the one-year winding-up period for the defunct NHIF Board.

1888. Operational Rollout Date: The Social Health Scheme, referred to as the operational rollout, commenced on 1st October, 2024. This date marked the start of the digital scheme, new registrations, and service access under the new framework.

1889. Financial Commencement Date: The financial statements accurately reflect the six-month period starting 1st January, 2025, because the cash balances and material financial operations of the defunct NHIF were officially handed over and vested in the Authority on this date. The SHA's financial reporting must commence upon taking legal custody and operational control of the assets and cash balances transferred from the winding-up entity, which primarily occurred on 1st January, 2025. This date provides the valid legal and auditable basis for the SHA's opening financial statements.

Committee Observations

The financial statements of Social Health Authority prepared and submitted for audit for the 2024/2025 financial year covering the six (6) months period up to 31 December, 2024 were erroneously indicated to read- the year ended 31 December, 2024 implying twelve (12) months.

Committee Recommendations

The Committee reprimands the then Accounting Officer for failure to adhere to relevant laws and standards guiding on preparation and submission of financial statements namely the Public Finance Management (National Government) Regulations, 2015 and International Public Sector Accounting Standards. Subsequently, the accounting officer must always ensure the correct reporting period is disclosed in the financial statements.

3.0 Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund

1890. The Committee heard that, the review of NHIF bank accounts statements revealed irregular transfer of kshs.1,597,002,000 from Social Health Insurance Fund to National Health Insurance

1891. Fund which included kshs.1,585,000,000 and kshs.12,002,000 on 26 May 2025 and 18 February, 2025. Transfer of money from Social Health Insurance Fund (SHIF) to National Health Insurance Fund (NHIF) is irregular since NHIF was transitioning to SHA and Paragraph 6(1) of the First Schedule to the Social Health Insurance Act, 2023 was clear that all assets including cash and bank balances were to be transferred from NHIF to Social Health Authority.

Management response

1892. The management informed the committee that,the funds of Kshs.1,585,000,000 had been remitted by The National treasury to Social Health Insurance Health Fund account at KCB instead of the approved NHIF collection account at NBK and Kshs.12,002,000 were transferred to pay taxes. The funds were therefore transferred to the correct paying account and the funds were used to settle rightful claims as per instructions. See attached Instructions letter from the National Treasury through Ministry of Health as provided for review.

Committee Observations

The Committee observed that-

i) A total of Kshs. 1,597,002,000 was irregularly transferred from the Social Health Insurance Fund (SHIF) to NHIF in two transactions on 26 May 2025 and on 18 February 2025 in contravention of the Social Health Insurance Act, 2023, Paragraph 6(1) of the First Schedule, which stipulates that upon transition, all assets, including cash balances, should be transferred from NHIF to the Social Health Authority (SHA) not from SHIF to NHIF.

ii) Although management reported that the transfers were made to correct erroneous remittances by the National Treasury and to facilitate tax payments, no evidence was provided to demonstrate the legality of reverse transfers from SHIF to NHIF, approval by relevant transition oversight authorities, proper documentation confirming Treasury instructions and adequate internal controls validating the movement of funds thus irregular and inconsistent with the legal transition framework.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer submits all the bank accounts statements, system generated ledgers relating to the defunct NHIF and the list of signatories and corresponding approvals for spending through the defunct NHIF Account to the National Assembly and the Auditor-General for review. The Auditor-General to carry out a special audit on the operations of NHIF during the one and a half year period (to 31st December, 2024) preceding the transition to SHA and submit a report to the National Assembly.

4.0 Failure to Close of NHIF Bank Accounts

1893. The Committee heard that, the statement of financial positions and as disclosed in Note 29 and Note 30 to the financial statements reflects short term deposits and cash and cash equivalents of Kshs. 12,580,471 and Kshs.82,995,586 respectively as at 31 December, 2024 held in 12 bank accounts which confirms NHIF bank accounts continued to operate after transition to SHA contrary to Press release dated 2nd October, 2024 by the Principal Secretary, State Department of Medical Services.

Management response

1894. The management informed the committee that, following the Board's resolution of 15 April 2025, the Authority initiated the closure of all NHIF bank accounts except the three approved for settling legacy obligations. Immediately after the Board's approval, SHA wrote to the National Treasury seeking authority to close the remaining accounts and to regularize the retention of the three accounts. As at 30 June 2025, Treasury had not responded, and the process could not be completed within the financial year. However, the National Treasury approved the accounts to be closed (Ref:AG.3/88/1 Vol.93/(104) dated 15th September 2025. The accounts have since been closed and the balances transferred to SHA.

Committee Observations and Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

5.0 Payments made from the Unapproved NHIF Bank Accounts Retained

1895. The Committee heard that, the audit verifications carried out revealed some of the bank accounts recommended for closure by the Social Health Authority Board on 15 April, 2025 were still operational as at 28 May, 2025 and several payments amounting to Kshs.33,049,335 were made from one unauthorized commercial Bank account on 16 May, 2025 which constitute Kshs.29,053,233 paid to health service providers and Kshs.3,996,103 whose payee details were not provided. However, the Social Health Authority Board had approved one operations account for payment of outstanding NHIF debts and other pending bills. It was also noted that the names of some of the health care providers paid were not included in the list of contracted facilities such as a health service provider paid Kshs.13,097,168 and another health service provider paid Kshs.4,988,296.

Management response

1896. The management informed the committee that, the it acknowledges the Auditor's observation and confirms that although the Board approved the transition of payment operations to National Bank Operations Account Number 01003000904002, the Cooperative Bank account remained temporarily active due to ongoing settlement of residual transactions and pending system reconciliations. The delay in closure resulted from the need to ensure that no outstanding obligations, automated debits, or in-transit transactions were adversely affected.The payments made on 16 May, 2025 were part of pending obligations already committed prior to the Board resolution. These were processed to avoid disruption of service delivery to health service providers during the transition period.

Committee Observations and Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

6.0 Unsupported Total Revenue and Total Benefit Expenses

1897. The Committee heard that, the statement of profit or loss and other comprehensive income as disclosed in Notes 6,7,8,10,11,12,13 and 15 reflects total revenues amounting Kshs.22,424,123,417 respectively However, the revenue schedules provided amount to Kshs.13,059,412,934 compared to the total revenue of Kshs.22,424,123,417 resulting to a variance of Kshs.9,364,710,483. Further, the schedule of revenue provided was not linked to any of the eight schemes.

1898. In addition, the statement of profit or loss and other comprehensive income as disclosed in Notes 6,7,8,10,11,12,13 and 15 and total benefit expenses amounting kshs. 22,601,560,591 respectively. However, the benefit expenses schedules were not provided for audit. It was not therefore not possible to vouch the expenditure. In the circumstances, the accuracy and completeness of the total revenue amount of Kshs.22,424,123,417 and total expenses of Kshs.22,601,560,591 could not be confirmed.

Management response

1899. The management informed the committee that the revenue and benefit expenses schedules and ledgers supporting the figures in the financial statements were provided to the auditor.

Committee Observations and Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

6.0 Unsupported Specialized Benefit Package Expenses

1900. The Committee heard that, the statement of profit or loss and other comprehensive income and as disclosed in Note 7 to the financial statements reflects GOK sponsored indigents (Universal Health Coverage) scheme revenue of Kshs.1,500,000,000. Further, Note 7 to the financial statements reflects total GOK sponsored indigents (UHC) benefit expenses of Kshs.1,517,247,105 which includes specialized benefits package expenses of Kshs.530,945,265. However, the schedule supporting the specialized benefit package expenses of Kshs.530,945,265 does not include clear criteria for determining eligibility and scope of specialized services, approvals from relevant authorities and actual payment records to confirm disbursement and utilization of funds.

Management response

1901. The management informed the committee that, the NHIF Benefits guidelines and policy manual defines criteria for access to benefits. In the manual major and minor surgeries shall be accessed in level three (III) to six (VI) health facilities, while specialized surgeries shall be accessed in level V, VI and specialized level IV facilities. The Board approved the surgical package that classified each surgery and assigned a cost. Given there are thousands of medical procedures that can be performed under the minor, major, and specialized, it was not possible to list all procedures in the contract, as such, a number of procedures listed in the contract would fall under a group name or commonly used nomenclature.

Committee Observations and Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

7.0 Unsupported Civil Servants Scheme

1902. The Committee heard that, the statement of profit or loss and other comprehensive income and as disclosed in Note 8 to the financial statements reflects Civil Servants (CS) Scheme total premiums and contributions amount of Kshs.3,058,228,399 which includes premiums of Kshs.2,608,913,182, statutory contributions Kshs.439,444,800 and ex-gratia fund of Kshs.9,870,417. However, no evidence was provided to support statutory contributions of Kshs.439,444,800 and whether contributions were remitted in full, and applied in accordance with the scheme's financial framework.

1903. Additionally, the specialized benefits package expenses included in Note 8 to the financial statements of Kshs.62,180,816 was not supported with documentation detailing the scope of services, approvals, and actual payments made.

Management response

1904. The management informed the committee that the Civil Servants medical scheme is a negotiated scheme that forms part of resource pooling that creates an opportunity to merge different pools to increase critical mass in population covered, diversity of health needs and risks.

Committee Observations and Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

9.0 Inaccuracies in Other Income

1905. The Committee heard that, the statement of profit or loss and other comprehensive income and as disclosed in Note 17 and Note 18 to the financial statements reflects rental income and other income of respectively. Further, Note 17 reflects gross rent from properties of VAT expense on property account of Kshs.22,960,967 and tax charge on rental income of Kshs.33,842,406. However, the management did not provide inventory/building register indicating Fund houses including the locations/LR Number, description of the building, building ownership, LR. No., building construction date, cost of construction, number of floors, estimated useful life, annual depreciation and accumulated depreciation contrary to Appendix 6(c) of Guidelines on Asset and Liability Management in the Public Sector, March 2020 which requires buildings register to be maintained. Note 18 further includes interest on investment of Kshs.27,471 ,449. However, the interest income of Kshs.27,471 ,448 does not include interest earned on a commercial bank call deposit of invested on 9 September, 2024 to earn an interest of 12.8% amounting Kshs.l Further, the investment register was not provided for review.

Management response

1906. The management informed the committee that, it acknowledges the auditor's observation and has initiated revaluation of the Fund properties under Social Health Authority and the required fields will be recorded in the building/inventory registers.

1907. The commercial bank call deposit of Kshs.70,000,000 invested on 9 September, 2024 related to Social Health Insurance Fund receipts, thus the earned interest of Kshs. 1,382,409 was reported under SHIF. NHIF financial statements were amended to reflect the correct income that excludes the above interest income.

Committee Observations and Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

10.0 Unsupported Board Expenses

1908. The Committee heard that the statement of profit or loss and other comprehensive income and as disclosed in Note 20 to the financial statements reflects board expenses of Kshs. 10,393,937. However, the ledger provided reflects an amount of kshs.10,808,147 resulting in a variance of Kshs.414,210.

Management response

1909. The management informed the committee that the Board expenses totalled Kshs. 10,393,937 as reported in the financial statements. The supporting documents for the total board expenses have

been provided to the auditor for review. The 2023/2024 financial statements have been restated to correct the effect of previous year expenses expensed in the current year. Management acknowledges the recommendation.

Committee Observations and Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

11.0 Unsupported Prior Year Adjustments

11. 1 Unsupported Prior Year Adjustments on Trade Payables

1910. The Committee heard that, the statement of financial position and as disclosed in Note 36 to the financial statements reflects trade payables of Kshs.31,520,097 in the 2023/2024 restated balance column in the 2024/2025 financial statements.

1911. However, Note 37 to the 2023/2024 audited financial statements reflects a balance of Kshs.28,877,264,847 resulting to trade payables increase of Kshs.2,254,255,250 which was not supported with the ledgers, payment vouchers, invoices, fee notes or certificates as a proof of services rendered before 30 June, 2024.

Management response

1912. The management informed the committee that, it acknowledges the auditor's observation and has restated the financial statements to capture the restatement of Prior Period Comparatives

Committee Observations and Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

11.2 Incurred but Not Reported (IBNR) Claims

1913. The Committee heard that, the statement of financial position and as disclosed in Note 33 to the financial statements reflects Incurred But 'Not Reported (IBNR) claim reserves of Kshs.4,753,796,655 in the 2023/2024 restated balance column in 2024/2025 financial statements.

1914. However, Note35 to the 2023/2024 audited financial statements reflects Incurred But Not Reported (IBNR) claim reserves balance of Kshs.(14,598,159,278) resulting to a variance of Kshs.19,351,955,933 which was not supported with actuary's certificate and valuation report to support revised balance.

Management response

1915. The management informed the committee that, it acknowledges the auditor's observation and has restated the financial statements to capture the restatement of Prior Period Comparatives.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Incurred but Not Reported (IBNR) ClaimsUnder unsupported claim reserves in its report for the Financial Year 2022/2023, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

11.3 Variances in Retained Earning

1916. The Committee heard that, the statement of financial position and as disclosed in Note 32 to the financial statements reflects retained earnings of Kshs.(5,908,148,751) in the 2023/2024 restated column balance in the 2024/2025 financial statements. However, Note 34 to the 2023/2024 audited financial statements reflects a balance of Kshs.9,598,503,951 resulting to a variance of Kshs.15,506,652,701 which was not supported with relevant ledgers and supporting documents.

Management response

1917. The management informed the committee that it acknowledges the auditor's observation and has restated the financial statements to capture the restatement of Prior Period Comparatives

Committee Observations and Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

12.0 Variances in the Statement of Changes in Equity

1918. The Committee heard that the statement of changes in equity reflects retained earnings brought forward on 1 July, 2024 of Kshs. (5,908,148,751) while the 2023/2024 audited financial statements reflect retained earnings of Kshs.9,598,503,950 as at 30 June 2024, resulting to a variance of kshs.15,506,652,701.

Management response

1919. The management informed the committee that it acknowledges the observation. The errors arose from inadvertent duplication of reporting periods and incorrect carry-forward of retained earnings balances during preparation of the Statement of Changes in Equity. Management has revised the financial statement to reflect the correct reporting periods in the statement of changes in equity in compliance with IFRS

Committee Observations and Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

13.0 Variance in Cash and Bank Balances

1920. The Committee heard that the statement of financial position and as disclosed in Note 30 to the financial statements reflects cash and bank balances of kshs.82,995,586 which includes cash on hand of Kshs.12,794 and bank balance of Kshs.82,982,792. However, the following observations were noted:

i. The statement of financial position and as disclosed in Note 30 to the financial statements reflects cash and bank balances of Kshs.82,995,586 white the cashbooks provided for audit reflects a balance of Kshs.80,630,031 resulting to variance of Kshs.2,365,555

ii. Review of cashbooks revealed that the cash books maintained sometimes do not provide description of transactions recorded and details of the payees were not clear. For examples payments amounting to kshs.20,532,170 made on 25 November, 2024 did include description on what was being paid and the payee was not specified.

Management response

1921. The management informed the committee that, it provided cashbooks that are tallied with the reported cash at bank and cash at hand balances of Kshs. 82,995,586

1922. Management acknowledges that the description field set in the system was not enough to key in the full names and description of the items reported.

Committee Observations and Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

14.0 Inaccuracies in Receivables

1923. The Committee heard that, the statement of financial position and as disclosed in Note 27 and Note 28a to the financial statements reflects trade receivables and other receivables of Kshs.11,348,180,600 and Kshs.75,922,688 respectively. Further, Note 27 to the financial statements reflects total receivables of kshs.28,587,465,388 which was not supported with schedule and ledgers. However, the provision of doubtful debts of Kshs.17,239,284,787 was not supported with a schedule that is aligned with Clause4.3.4.2 of NHIF Financial Management

Guidelines, 2019 which requires100% provision on debt aged over 24 months unless payment plans are in place and are being adhered to and Clause 4.3.4.1 of NHIF Financial Management Guidelines, 2019 which requires a provision of 50% on contributions aged between 12 months and 24 months.

Management response

1924. The management informed the Committee that, the trade receivables figures have been amended to reflect the correct receivables for NHIF as at 31st December 2024. The NHIF Financial Management Guidelines, 2019 requires a provision of 50% on contributions aged between 12 months and 24 months

Committee Observations and Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

15. 0 Variances in Other Payables Balance

1925. The Committee heard that, the statement of financial position and as disclosed in Note 37 to the financial statements reflects other payables balance of Kshs.456,358,513 which differs with recomputed balance amounting to Kshs.458,310278 resulting to variance of Kshs.1,951 ,765. Further, the supporting schedule provided reflects a balance of Kshs.456,358,513 but recomputed balance amount to Kshs.492, 773,299 resulting to a variance of Kshs.36,414,786.

Management response

1926. The management informed the committee that, it acknowledges the auditor's observation and has since provided the correct other payables list amounting to Kshs.456,358,513

Committee Observations and Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

16. 0 Unsupported Deferred Income and Lack of Adequate Disclosure

1927. The Committee heard that the statement of financial position and as disclosed in Note 35 to the financial statements reflects deferred income balance of Kshs.69,784,916 which include civil service exgratia payable and county scheme exgratia of and respectively. This amount comprises of contractual engagements entered into by NHIF relating to future reporting periods. However, Management did not provide detailed schedules and adequate disclosures regarding the timing, nature, and contractual basis of the related obligations.

Management response

1928. The management informed the Committee that, the deferred income relates to unutilized ex-gratia premiums for the civil servants and county schemes brought forward from previous financial periods. The schemes have since ceased after the roll out of SHI Act 2023 and the balances taken over by Social Health Authority.

Committee Observations and Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

17.0 Unsupported Trade Payables and Failure to Provide Ageing Analysis

1929. The Committee heard that,the statement of financial position and as disclosed in Note 36 to the financial statements reflects trade payables balance of Kshs.39,454,567,013 which includes hospital claims and WIBA claims payable of Kshs.33,520,071,092 and Kshs.5,934,495,922. Further, the hospital claims of Kshs. 33,520,071,092 include inpatient claims and outpatient claims of Kshs.29,943,154,309 and Kshs.3,576,916,782 respectively. However, the inpatient and outpatient claims were not supported with a list of health facilities owed the balance. Further also, trade payables ageing analysis was not provided and included in Note 37 contrary to Note 41 to the Public Sector Accounting Standards Board (PSASB) template which requires ageing analysis of trade and other payables into terms of payables under one year, between one (1) to two (2) years, between two(2) to three(3)years, and over 3 years.

1930. Further, the Fund trade payable have steadily increased over the last four years which may increase to unsustainable levels if not controlled It was also noted trade payables increased by 37% within the last six month up to 31 December, 2024. In addition, Management did not provide payment plans or commitments and reconciliations with healthcare providers or insurers and justification for continued non settlement.

Management response

1931. The management informed the Committee that, the trade payables relate to claims incurred and owed to healthcare providers by the Fund at close of business on December 31, 2024. This has been supported with a list of health facilities schedule provided for review. The trade payables ageing analysis was erroneously omitted in the financial statements and has been provided.

Committee Observations and Recommendations

The Committee had deliberated on the issue of inaccurate trade payables in its report for the Financial Year 2022/2023, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

18.0 Unsupported Fund Payables

1932. The Committee heard that, the statement of financial position and as disclosed in Note 34 to the financial statements reflects fund payables balance of Kshs.307,085,255. Further, Note 34 to the financial statements attributes the inter fund payable to Social Health Insurance Fund. However, the balance of Kshs.307,085,255 was not recognized in the financial statement of Social Health Insurance as a receivable from National Hospital Insurance Fund.

Management response

1933. The management informed the Committee that, the financial statements have been updated to include comprehensive disclosures on fund-specific payables. Appropriate notes and breakdowns are provided to enhance transparency and ensure compliance with financial reporting standards.

Committee Observations and Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

19.0 Unexplained Variances in Property, Plant and Equipment

The Committee heard that the statement of financial position and as disclosed in Note 22a to the financial statements reflects property plant and equipment balance of Kshs.12,500,812,344 while the fixed asset register provided reflects a balance of Kshs. 3,787,849,288 resulting to a variance of kshs.8,712,963,056.

Management response

1934. The management informed the Committee that, it acknowledges the Auditor's observations regarding property, plant and equipment balance of Kshs.12,369,840,197. However, the financial statements carries the correct value of PPE At the time of audit, the Fund had not updated the fixed asset register. Subsequently, the Social Health Authority having taken over the NHIF assets and liabilities it has engaged valuers to value the assets for purposes of updating the register.

Committee Observations and Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

20.0 Variances in Current Liabilities in the 2023/2024 Restated Column Balances

1935. The Committee heard that the statement of financial position reflects total current liabilities of Kshs.35,240, 122,793. However, recomputed balance amount to Kshs.35,160,823,524 resulting to a variance of kshs.79,299,269.

Management response

1936. The management informed the committee that, the variance is as a result of restatements done after the reporting period and the correct balances of Kshs.35,240,122,793 are as reflected in the financial statements.

Committee Observations and Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

21.0 Variances in Staff Car Loan and Mortgage Balance

1937. The Committee heard that the Appendix 1 to the financial statements reflects staff car loan and mortgage balance of Kshs.1,605,989,108 which differs with recomputed amount of Kshs. 1,410,425,845 resulting to variance of Kshs. 195,563,263.

Management response

1938. The management informed the Committee that, it acknowledges the error and the correct schedule reconciling the balance in the financial statements was provided.

Committee Observations and Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

22.0 Non-Compliance with Public Sector Accounting Standards Board Template

1939. The Committee heard that, the review of the financial statements revealed the inter entity confirmation letter was not signed by the Head of Accounts in the disbursing entities. The accuracy and completeness of reported amounts could not therefore be confirmed.

Management response

1940. The management informed the Committee that, it acknowledges the auditor's observation and commits to comply with the Public Sector Accounting Standards Board template by ensuring that the inter entity confirmation letters are signed by the Head of Accounts in the disbursing entities.

Committee Observations

The Fund did not comply with Public Sector Accounting Standards Board Template.

Committee Recommendations

The Committee reprimands the then Accounting Officer for failure to adhere to relevant laws and standards guiding on preparation and submission of financial statements namely the Public Finance Management (National Government) Regulations, 2015 and International Public Sector Accounting Standards. Subsequently, the accounting officer must always ensure the correct reporting period is disclosed in the financial statements.

23.0 Budgetary Control and Performance

1941. The Committee heard that, the statement of comparison of budget and actual amounts reflects total actual revenue on a comparable basis of kshs.22,565,815,167 and total actual expenditure of kshs.49,339,193,641 resulting to over utilization of kshs.26,773,378,474 or 119%.

Management response

1942. The management informed the Committee that, the financial year 2024/25 represents the final operational period for NHIF following its repeal under the Social Health Insurance Act of 2023. During this period, NHIF experienced higher expenditure utilization relative to revenue collection, primarily attributable to a provision for doubtful debts totaling KES 22 billion. This provision has been necessitated by outstanding receivables from the National Government, County Governments, and certain parastatals, which have remained unpaid for periods exceeding twelve months. In accordance with established accounting policies and prudent financial management practices, Management has deemed it necessary to create this provision to reflect the realistic collectability of these debts.

Committee Observations

The Fund over utilized its budget by kshs.26,773,378,474 or 119%. However, the management explanation that NHIF experienced higher expenditure utilization relative to revenue collection, primarily attributable to a provision for doubtful debts totaling KES 22 billion is in accurate since no evidence of approvals for the over-expenditure and nothing had been unforeseen.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure at all times that the budgets are realistic, achievable, and always adhere to annual work plans, procurement plans, and revenue collection schedules in compliance with Regulation 44(2) of the PFM (National Government) Regulations, 2015.

24.0 Unresolved Prior Year Audit Matters

1943. The Committee heard that the in the prior years' audit reports, 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, respectively. Review of the status during audit of the Fund in 2024/2025 revealed that several matters remained unresolved as provided for review.

Management response

1944. The management informed the Committee that, the report indicating measures taken to address the previous year's audit recommendations was been included in the amended financial statements and is hereby incorporated.

Committee Observations

The Committee observed that –the accounting officer had several unresolved prior year matters. However, Public Audit Act, CAP. 412B provides that a State organ or a public entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit.

Committee Recommendations

The Committee recommends that –

The Accounting officer should at all times comply with the Public Audit Act, CAP. 412B.

25.0 Performance and Solvency of the Fund-Significant Deficits in the Operations of the Fund

1945. The Committee heard that, the statement of profit or loss and other comprehensive income reflects revenue from the schemes of Kshs.22,424,123,417 and total benefit expenses of Kshs.22,601 ,560 ,591. The following observations were noted in regard to the performance and solvency of the Fund. The statement of profit or loss and other comprehensive income reflects total revenue from the schemes of kshs.22,424,123,417 and total benefit expenses of Kshs.22,601,560,591 resulting to a deficit from operations of kshs.177,437,173 in six months.

Management response

1946. The management informed the committee that, the deficit recorded during the six-month period was primarily attributable to transitional challenges in the implementation of Social Health Authority (SHA) reforms, delays in contribution enforcement, and increased service utilization.

Committee Observations and Recommendations

The Committee had deliberated on the issue of loss making schemes under Civil Servants Medical Scheme Expenses in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

25.2 Deficit Making Schemes

1947. The Committee heard that the statement of profit or loss and other comprehensive income reflects total contributions income of Kshs.22,424,123,417 and benefit expenses of Kshs.22,601,560,591 resulting to a deficit of Kshs. 177,437, 174. The deficit was attributed to civil servants medical scheme and GOK Sponsored indigents schemes.

Management response

1948. The management informed the committee that the enhanced schemes has been revised with the coming up of Social Health Insurance Act (SHI) of 2023 that repealed the defunct The National Health Insurance Fund (NHIF) Act.

Committee Observations and Recommendations

The Committee had deliberated on the issue of loss-making schemes under Civil Servants Medical Scheme Expenses in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

25.3 Negative Working Capital

1949. The Committee heard that the statement of financial position reflects current assets of Kshs.11,619,679,346 and current liabilities of Kshs.40,941,051,299 resulting to negative working capital of Kshs.29,321 ,371 ,953 or 28% current assets to current liabilities ratio. The Fund might therefore not be able to cover its short-term obligations as and when they fall due.

Management response

1950. The management informed the committee that the the negative working capital position resulting from high short-term obligations and delayed remittances. Liquidity improvement measures have been instituted, including enhanced follow-up on outstanding contributions, prioritization of critical payments, and ongoing engagements with the National Treasury to support timely release of exchequer and sponsored contributions.

Committee Observations

The Committee observed that-

The current liabilities exceeded current assets by Kshs.29,321 ,371 ,953 or 28% and therefore the Fund could not cover its short-term obligations as and when they fell due.

Committee Recommendations

The Committee recommends that within three months upon adoption of the report, the Accounting Officer -SHA to submit to the National Assembly documented strategies for turning around the Authority from the effects of negative working capital that bedevilled the defunct National Hospital Insurance Fund.

25.4 Low Contributor Retention Mechanisms and Over Reliance on Formal Sector

1951. The Committee heard that, the Management discussion and analysis report indicates that the total registered members as at 31 December, 2024 were 171,008,024. However, member contribution retention rate as at 31 December, 2024 was 44% compared to 100% targeted Further, there was no evidence of strategies to improve the retention rate to 100% since members contribution is the main source of revenue. It was also noted that formal sector recorded the highest active membership of 85% while the informal sector despite recording the highest membership numbers or 55% of total enrolled membership only 19% were active.

Management response

1952. The management informed the committee that, it acknowledges the low active contributor retention rate, particularly within the informal sector. A comprehensive contributor retention and compliance strategy has been developed and is under implementation. Key interventions include targeted sensitization programmes, expansion of digital payment channels, collaboration with counties and organized groups, and introduction of incentives for continuous contributions and minimum contribution periods before accessing benefits, subject to regulatory approval.

Committee Observations and Recommendations

The Committee deliberated on the issue of Low Contributor Retention Mechanisms and Over Reliance on Formal Sector under Performance and Solvency of the Fund-Member's Retention Rate in this report for the Financial Year 2022/2023, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

26.2 Failure to Achieve Performance Targets

1953. The Committee heard that, the Management discussion and analysis report indicates the Fund had targeted to enroll 1,902,826 new members but recruited 297,962 new members or 15% achievement of new member statistics.

Management response

1954. The management informed the committee that, the financial statements have been revised to include the statement of performance against pre-determined objectives that complies with Public Sector Accounting Standard Board template

Committee Observations and Recommendations

The Committee deliberated on the issue of Failure to Achieve Performance Targets

under Failure to Achieve Strategic Plan Targets in this report for the Financial Year 2022/2023, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

27.0 Long Outstanding Receivables

1955. The Committee heard that the statement of financial position and as disclosed in Note 27 to the financial statements reflects trade receivables of Kshs.11,348,180,600. Further Note 29 reflect gross trade receivables of kshs.22,587,465,388 before provision of doubtful debts of kshs.17,239,284,787

1956. However, trade receivables amounting kshs.7,965,607,982 have been outstanding for more than two years and Management has not disclosed measures put in place to collect these receivables.

Management response

1957. The management informed the Committee that, it was true that trade receivables amounting to Kshs.7,965,607,982 have been outstanding for long. The National Treasury has not honored Government related debts. Management has written several demand letters to the respective Ministries to settle the debts which have not been honored to date.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Long Outstanding Receivables under Long Outstanding & Doubtful Receivables in the Fifth report of the PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

28.0 Failure to Pay Taxes

1958. The Committee heard that, the statement of financial position and as disclosed in Note 38 to the financial statements reflected tax payable of Kshs.160,678,215, comprising rental income tax of Kshs. 155,155, 120 and withholding tax of Kshs.5, 523,096. The Note also reflects increase of tax payable from Kshs. 126,693,294 as at 30 June, 2024 to kshs.160,678,216 as at 31 December, 2024 resulting to increase of Kshs.33,984r922 or 27%. Failure and delay to pay taxes attract penalties and interest and contravenes Section 72 D of Income Tax Act, 2012 which states that

where any amount of tax remains unpaid after the due date a penalty of twenty percent shall immediately become due and payable.

Management response

1959. The management informed the Committee that, the taxes related to the month proceeding closure of financial year and have since been taken over by SHA following the roll out of SHI Act 2023. Management is committed to strengthening internal controls and statutory compliance.

Committee Observations

The Committee observed that–

i) The tax payable increased by Kshs. 33,984,922 or 27%. as at 31 December 2024. However, the outstanding taxes had not been settled within the statutory timelines. Failure to remit taxes when due contravenes Section 72D of the Income Tax Act, 2012, which stipulates that any unpaid tax after the due date automatically attracts a 20% penalty, in addition to interest.

ii) Although management indicated that the outstanding taxes relate to the period immediately preceding the financial year-end and have since been taken over by the Social Health Authority (SHA), no evidence was provided to confirm full settlement or transfer of liability.

Committee Recommendations

The Committee recommends that

i) Within three months upon adoption of this report, the Accounting Officer-SHA should submit to the National Assembly and Auditor-General for review, the tax Compliance Certificate that shows full settlement of the liability.

ii) The management should always ensure that all outstanding taxes are settled within the legal stipulated timelines or without delay to avoid additional penalties and interest.

29.0 Trade Payables Relating to Unlicensed Facilities

1960. The Committee heard that, the review of Hospital Creditors listing balance as at 30 September, 2024 revealed creditors amounting to kshs.785,614,753 did not have the KMPDC licenses for the year 2024 and had not renewed their 2025 annual licenses contrary to First Schedule to National Health Insurance Fund (Empanelment and Contracting) Regulations, 2022 which states that a healthcare provider desirous of empanelment under these Regulations shall have certificate of registration by Kenya Medical practitioners and Dentist Council(KMPDC) and license to operate a facility by-Kenya Medical practitioners and Dentist Council (KMPDC).

Management response

1961. The management informed the Committee that the issue occurred during transition, but management acted and suspended the facilities alongside other corrective measures of reporting to Directorate of Investigation for further legal measures

Committee Observations

The Committee observed that –trade payables amounting to Kshs. 785,614,753 related to health facilities that did not possess valid Kenya Medical Practitioners and Dentists Council (KMPDC) licenses for 2024 and had also not renewed their 2025 licenses. This was contrary to the First Schedule to the National Health Insurance Fund (Empanelment and Contracting) Regulations, 2022, thus exposing the Fund to legal, financial, and compliance risks.

Committee Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025 and recommended for special audit. Consequently, the Committee upholds the observations and recommendations therein.

30.0 Irregularities in Payment of claims

30.1 Payments to Uncontracted Health Service Providers

1962. The Committee heard that, the comparison between the National Hospital Insurance Fund (NHIF) list of contracted healthcare facilities and the inpatient claims data revealed payments of inpatient claims totalling Kshs.10,466,500 paid to three (3) uncontracted hospitals not included in the official NHIF list of contracted facilities at the time the services were rendered. This contravenes Section 22(1) of National Health Insurance Fund Act, 2022 which states the Board shall pay from the Fund benefit to an empanelled or contracted health care provider for an expense incurred by the provider, for the provision of health care services through the centralized healthcare provider management, to the number of beneficiaries determined by the Board.

Management response

1963. The management informed the Committee that, when the Social Health Authority (SHA) officially took over from the NHIF, one of its top priorities was to ensure continuity of healthcare services without disrupting access for beneficiaries. To achieve this, SHA swiftly issued contracts to all empanelled Healthcare Providers (HCPs), ensuring that every provider, regardless of when their contract was signed, was recognized as effective from 1 October 2024. This uniform start date created a level playing field and guaranteed seamless alignment in service delivery, claims submission, and payments during the transition phase.

Committee Observations

The Committee observed that –the payments totalling Kshs. 10,466,500 were made to three (3) uncontracted hospitals that were not included in the official NHIF list of contracted facilities at the time the services were rendered.

Committee Recommendations

The Committee deliberated on the issue of Irregular Transfer of Money from Social Health Insurance Fund to National Health Insurance Fund in this report for the Financial Year 2024/2025 and recommended for special audit. Consequently, the Committee upholds the recommendations therein.

30.2 Claims Paid Exceeding the Billed Amounts

1964. The Committee heard that, the review of billed claims compared to paid claims revealed eight thousand one hundred and sixty-six (8,166) claims whose total billed amount totaling to Kshs.112,017,188 differed with claims paid amounting to Kshs.182,471 ,612 resulting to an overpayment of Kshs.70,4541424. This is contrary to Section 22(1) of National Health Insurance Fund Act, 2022 which states the Board shall pay from the Fund, benefit to an empaneled or contracted health care provider for an expense incurred by the provider.

Management response

1965. The management informed the committee that during the early phase of system rollout, (October – December 2024), the access rules and benefit matrix parameters were not yet fully implemented. As a result, the system occasionally approved claim amounts above the set limits, leading to unintentional overpayments. This was primarily due to incomplete automation of tariff mapping and manual keying of claim amounts by facilities.

Committee Observations

The Committee observed that –bills paid totalling to Kshs.112,017,188 differed with claims paid amounting to Kshs.182,471 ,612 resulting to an overpayment of Kshs.70,4541424. Although management attributed the variance due to incomplete automation of tariff mapping and manual keying of claim amounts by facilities, there was no evidence of reconciliation of billed amounts to claims paid or recovery of overpayments.

Committee Recommendations

The Committee recommends that-

i) Within three months upon adoption of this report, the Accounting Officer-SHA to develop, document and institute a strategy to ensure that the E-claim system automatically flags discrepancies between billed amounts and claims paid to minimize clerical errors and establish a structured mechanism for recovery of overpayments.

ii) The Accounting Officer-SHA should submit evidence of recovery of the overpayments and provide quarterly variance analysis reports detailing reconciliations performed, anomalies

detected, and corrective actions taken to the National Assembly and Auditor-General for review.

30.3 Claims Calculated using Erroneous Rates or Days

1966. The Committee heard that, the review of the E-Claim system revealed control weaknesses that led to claims being calculated using erroneous rates or number of days as detailed below;

i) The signed hospital contract annexures cap the Renal Dialysis fees at Kshs.9,500 for the National Health Scheme and Linda mama. Analysis done revealed that there were one hundred and fifty (150) claims paid amounting Kshs.7,7901750 that were paid at rate greater than Kshs.91500 the claims' authorized amount of Kshs.1 415,500 resulting to an overpayment of Kshs.6,375,250.

ii) Further analysis revealed that there were thirty-nine (39) claims submitted by level 4 hospitals under case code 4 which exceeded the allowable claim limit of Kshs.3,000 per case, The total amount claimed and paid was Kshs.1,532,000 against an allowable total of Kshs,474,000 resulting to overpayment of claims by kshs.1,058,000

Management response

1967. The management did not respond to the audit issue.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Claims Calculated using Erroneous Rates or Days under Variances in National Health Scheme Expenses in its report for the Financial Year 2023/2024, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

31.0 Staff Costs

31.1 Acting Allowance Paid for More than Six (6) Months

1968. The Committee heard that, the analysis of the NHIF payroll data as at 30 September 2024 revealed that fifty-nine (59) employees were still working in an acting capacity for more than six (6) months. The officers were paid an acting allowance totaling Kshs.7,959,687 contrary to Section 4.5.5 of NHIF Human Resource Policy and Procedures Manual which states that appointment on acting basis is a temporary measure pending the substantive filling of the vacant post by either recruitment or resumption of duty by the substantive holder of the post. The appointment shall normally be limited to a continuous period of six (6) months or until the vacant post is filled whichever is the earlier but may be extended by the Board or Chief Executive Officer if the post remains vacant.

Management response

The management informed the committee that, the as part of the transition process, all acting appointments were stopped with effect from 1st December 2024, as per Memo Ref: SHA/HQ/ADM/006/VOL 1/39 dated 21st December 2024. Moving forward. management is committed to ensuring a smooth transition for staff members. Efforts will be made to ensure that roles are clearly defined, and staff members are fully integrated into the new structure in line with SHA's long-term objectives.

Committee Observations

The Committee observed that –fifty-nine (59) officers were in acting capacity for more than six (6) months and had received acting allowance amounting to Kshs.7,959,687 contrary to section 34 (3) of the Public Service Commission Act, CAP 185, which requires that an officer may be appointed in an acting capacity for a period not exceeding six months.

Committee Recommendations

The Committee recommended that –

Within three months upon adoption of this report, the Inspector General of State Corporations to surcharge and recover from the then Accounting Officer (s) and Board members, the Kshs. 7,959,687 and any other monies paid as acting allowances beyond the stipulated period of six months.

31.2 Staff Earning Less Than One-Third of Basic Pay

1969. The Committee heard that, the analysis of NHIF payroll data as at 30 September, 2024 revealed that there were three hundred and twenty-nine (329) employees who were receiving net salaries that were less than a third of their basic pay contrary to Section 19(3) of the Employment Act, 2007 which states that without prejudice to any right of recovery of any debt due, deductions from wages is not to exceed two-thirds such wages or such additional or other amount as may be prescribed by the Cabinet Secretary responsible for labor matters.

Management response

1970. The management informed the committee that, the detailed review of the affected employees' payroll records has been undertaken to identify the root causes of these violations. A number of Contributing factors have been identified including enhanced NSSF contributions, SHIF deductions, and the Housing Levy. These mandatory deductions have significantly impacted employees' net pay, further complicating compliance with the one-third rule.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Staff Earning Less Than One-Third of Basic Pay under Violation of One-Third Rule on Basic in its report for the Financial Year 2023/2024,

observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

32.0 Lack of Documentation on Digitization Systems

1971. The Committee heard that the during the period under review, the NHIF relied on multiple legacy digital platforms to support its core operations, including Enterprise Resource Planning (ERP), Payroll Management, and Digital Claims Management Systems, However, management did not provide a comprehensive project file documenting the full lifecycle of these digitization initiatives. Specifically, the following were not availed:

i. Missing details on service-level agreements (SLAs), governance structures, steering committees, and procurement approvals.

ii. Absence of system specifications, user requirements, integration plans, user acceptance testing (UAT) results, data migration records, training materials, and rollout plans.

iii. Lack of approved operational manuals, user guides, standard operating procedures (SOPs), helpdesk protocols, user access controls, and clearly defined roles and responsibilities for both SHA staff and vendors.

iv. No documentation on post-implementation evaluations, maintenance agreements, version control, audit trails, or system interoperability across key platforms like registration, claims, and provider management.

Management response

1972. The management informed the committee that, it acknowledges the observations raised regarding the documentation and governance of legacy digitization systems inherited from NHIF

Committee Observations and Recommendations

The Committee had deliberated on the issue of Lack of Documentation on Digitization Systems under Use of Un-Supported Software in its report for the Financial Year 2023/2024, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

33.0 Failure to Review Risk Management Framework

1973. The Committee heard that, the audit verifications carried out revealed that risk assessment was not conducted during the year under review and National Health Insurance Fund does not have a reviewed risk management framework. This contravenes Regulation 165 (1) (a) and (b) of the Public Finance Management (National Government) Regulations, 2015 which states that the accounting officer shall ensure that the national government entity develops risk management strategies, which include fraud prevention mechanism and that the national government entity develops a system of risk management and internal control that builds robust business operations.

1974. Further, audit verifications revealed the current risk management framework came into effect on June 2017 and was due for review in July 2020 contrary to Chapter eight of National Hospital Insurance Fund Risk Management Policy, 2017 which states that the Risk Management Policy shall be reviewed every three (3) years or from time to time as deemed necessary.

Management response

1975. The management informed the committee that the Risk Management Policy and Guidelines were reviewed in December 2024 and forwarded for board approval. The Risk Register was updated accordingly for the year ending December 2024.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Failure to Review Risk Management Framework (under the paragraph on Out-dated and Non-Operationalized Policies) in its report for the Financial Year 2022/2023, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

34.0 Legal Expenses

1976. The Committee heard that, the statement of profit or loss and other comprehensive income and as disclosed in Note 21 to the financial statements reflects operating expenses of Kshs.18,463,614,000 which includes legal expenses of Kshs.10,850. This reflects significant decline compared to Kshs.313,397,973 reported in 2023/2024 financial year. However, a review of the active litigation register revealed over 40 active legal matters, many involving substantial claims and ongoing proceedings. This indicates that the amount recognized for the current period could be materially understated and does not reflect the legal exposure of the entity.

Management response

1977. The management informed the Committee that, it acknowledges the Auditor's observations regarding the decline in legal expenses reported during the year and the potential understatement of legal obligations despite the existence of multiple active litigation matters.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Legal Expenses in its report for the Financial Year 2022/2023, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

EXAMINATION OF THE REPORT OF THE AUDITOR GENERAL ON THE AUDITED ACCOUNTS OF KENYA PLANT HEALTH INSPECTORATE SERVICE FOR THE FINANCIAL YEARS 2017/2018 -2024/2025

Prof. Theophilus Mutui, Managing Director, Kenya Plant Health Inspectorate Service accompanied by Ms. Nancy Ndumia (Director, Corporate Services) and Ms. Faith Kaluai (Director, Legal), appeared before the Committee to adduce evidence on the Audited accounts (KEPHIS) the Financial ears 2017/2018 -2024/2025

FINANCIAL YEAR 2017/2018

1.0 Property plant and equipment

1978. The Committee heard that, Property plant and equipment balance of Kshs. 1,086,717,000 as at 30th June 2018 includes eleven parcels of land valued at Kshs.264,666,000 situated in Nakuru, Muguga, Kitale, Kabete, Embu, Karen and Kisumu. However, and except for land in Karen, Embu, Kabete and Kisumu, the Inspectorate Service does not possess ownership documents for the others.

1979. As reported previously, out of the 125.3 hectares of land in Kitale held by third parties, the Inspectorate Service has so far recovered 34.09 hectares while a balance of 91.21 hectares is still held by private developers or occupied by squatters. Further, although the management has initiated the process of transferring the ownership of Nakuru and Muguga parcels of land from KARLO (formerly KARI) to KEPHIS, it is not clear if and when titles will be obtained.

Management response

i) **Nakuru Municipality (Approx. 190 Acres)**

1980. The Management informed the Committee that, The land is situated within a larger parcel owned by KALRO and is currently not under dispute. KEPHIS utilizes this acreage for seed testing and certification activities. To facilitate the subdivision and transfer of title, KEPHIS engaged KALRO and appointed GEODEV Kenya Ltd to carry out a comprehensive survey and titling exercise. We have since made good progress following completion of the survey, and surrender of the mother title by KALRO to facilitate the sub-division.

ii) **Muguga, Kiambu County (Approx. 12 Acres)**

1981. This parcel was part of a larger tract of land LR No. 23878 under KALRO. The subdivision and transfer of title for KEPHIS portion LR No. 23878 /2 measuring 4.743 hectares was concluded in 16th November 2023.

iii) **Kitale, Trans Nzoia County (Originally Approx. 400 Acres; Currently Approx. 100 Acres only is Under KEPHIS Control)**

1982. The land, originally 400 acres, had been set aside by the Government in 1970 for seed testing to support food security and was under management of KARI until 1996. Due to allocations in the early 1990s, the land size decreased to 330 acres—50 acres were allocated to the Coffee Research Institute and 20 acres to Top Station Primary School.

Following KEPHIS's establishment in 1996, the functions and assets of Kitale Seed Quality Station handed over to it in 1997. By then, 305 acres had been encroached, leaving only 25 acres

for installations and operations. After internal recovery efforts conducted by KEPHIS, land measuring approximately 80 acres was repossessed bring the total under its control to about 105 acres. This land still remains insufficient for seed testing and certification operations.

1983. The encroached land including the recovered portion was subdivided into 230 plots; many of which are under lease or developed by private individuals. Attempts to conduct survey and titling through appointment of a professional land agent have stalled due to insufficient documentation and agency support. In attempts to seek resolution to this land issues, KEPHIS has continually sought intervention from relevant government bodies, with recent correspondences

Appeal for Support from the Public Investments Committee (PIC)

The Kitale land dispute has been a long-running unsolved issue at the PIC, dating back to 1998.

KEPHIS hereby requests the assistance of the Public Investments Committee in engaging the Ministry of Lands, National Land Commission and EACC to expedite the following actions:

i. Survey, recovery, and formal registration of the Kitale parcel.

ii. Enforcement of legal mechanisms to address historical encroachment.

iii. Preservation of the remaining public land under KEPHIS jurisdiction.

The Corporation remains committed to safeguarding public assets and ensuring full compliance with legal and institutional frameworks.

Committee Observations

The Committee observed that-

i) The Property, Plant and Equipment balance of KShs. 1,086,717,000 comprises several parcels of land located in various stations including Nakuru, Muguga, Kitale, Kabete, Embu, Karen and Kisumu. However, except for the parcels in Karen, Embu, Kabete and Kisumu, the Inspectorate/KEPHIS does not possess ownership documents for the remaining parcels. The absence of title documents exposes public land to significant risks, including encroachment, loss, and unauthorized allocation.

ii) The Kephis Management had made progress regarding the Nakuru Municipality parcel (approximately 190 acres), where survey work had been completed and KALRO had surrendered the mother title to facilitate subdivision. However, issuance of a title to KEPHIS remains outstanding.

iii) The subdivision and transfer of the title for Muguga parcel (approximately 12 acres) to KEPHIS was completed on 16 November 2023, fully regularizing the ownership status of this parcel.

iv) The Kitale land, originally 400 acres allocated in 1970 under KARI (now KARLO) for seed testing activities, had undergone extensive historical encroachment and irregular allocation reducing to 330 Acres. However, only 25 acres remained under institutional control, with approximately 305 acres encroached upon or occupied by third parties by the year 1997.

v) KEPHIS subsequently recovered approximately 80 acres, bringing the total acreage currently under its control to about 105 acres, which remains inadequate for optimal seed testing and certification operations.

vi) The encroached land was subdivided into 230 plots, many of which have been leased or developed by private individuals, complicating ongoing recovery efforts. The Inspectorate continues to face significant challenges in reclaiming the land, including insufficient historical documentation, limited support from land administration agencies, and competing private claims.

vii) This matter has remained unresolved before the Public Investments Committee (PIC) since 1998, indicating a prolonged and systemic failure to secure public assets.

viii) The management of KEPHIS's sought PIC-SSAA intervention to facilitate in: Survey and formal registration of the Kitale parcel; Enforcement of legal mechanisms to address historical encroachments; and safeguarding of the remaining public land from further loss.

Committee Recommendations

The Committee recommends that-

i) Within three (3) months of adoption of this report, the Accounting Officer of KEPHIS should undertake official searches at the Lands registrar's Office in Kitale County to establish the current registered owners of the affected parcels. A comprehensive status report on all KEPHIS-owned land should be compiled and submitted to the National Assembly and the Auditor-General.

ii) Within six months upon submission of the report by KEPHIS, the National Assembly Departmental Committee on Lands shall conduct a comprehensive inquiry into the ownership of all parcels of land owned by Ministries, Departments and Agencies. The objective of the inquiry is to ensure that all public land vests in the respective government entities with legal title and possession. In this respect the Departmental Committee shall propose a Bill for enactment by Parliament that provides for;

    d) Vesting the custody of all public lands title deeds in the National Treasury.

    e) Comprehensive lands register for all public lands that shall always be maintained at the National Treasury with regular updates when necessary.

    f) Protective clauses under the Act and a national anti-corruption framework to enhance safeguards against encroachment on public land.

    The National Treasury through the National Assembly shall allocate adequate budget for the Departmental Committee on lands, the Ministry of Lands, Public Works, Housing and Urban Development and the National Land Commission to facilitate the inquiry, compensation and issuance of title deeds.

iii) Within three (3) months of adoption of this report, the Accounting Officer of KEPHIS should develop and implement a Land Management and Security Framework designed to

prevent future encroachments. This framework should include measures such as perimeter demarcation, structured monitoring mechanisms, and periodic reporting to the Board and oversight institutions.

2.0 Employee Costs

1984. The Committee heard that the statement of financial performance for the year ended 30th June 2018 and as disclosed under Note 12 to the financial statements reflects an expenditure of KShs. 524,784,000 relating to employee costs. This expenditure includes KShs. 78,932,000 relating to contributions to pensions and medical aids, out which KShs. 30,645,765 was paid as medical premium to National Hospital Fund (NHIF) for the Inspectorate Service employees. However, examination of documents in respect of the insurance premium has revealed the following anomalies:

i. The Inspectorate Service has continued to make the mandatory statutory NHIF deductions from employees which amounted to Kshs.6,378,800 during the year under review but for which available information shows that the employees and their dependants were denied the accruing benefits.

ii. The procurement of the medical Insurance was done through what has been explained as government to government and consequently, the procurement process was not fair, transparent, competitive and cost-effective as required under Article 227(1) of the Constitution of Kenya.

iii. The contract document signed between the Inspectorate Service and the Fund indicated the period covered to be between 15 May 2017 and 14 May 2017. Based on the dates of the period covered as stated in the contract document, it is not clear whether this was a binding contract between the Inspectorate Service and the Fund.

iv. No documentary evidence has been provided to confirm that the employees were made aware by the Inspectorate Service that they would forfeit the benefits accruing from their monthly contributions to the Fund (NHIF) upon joining the new medical cover scheme.

Management response

1985. The Management informed the Committee that the decision to hire NHIF to provide medical insurance was made in order to improve medical coverage benefits for employees while remaining within budget. In subsequent years, the Corporation reverted to private service providers such as PACIS, BRITAM, and APA, which resolved the issue. The specific responses to the issues are as follows:

i. Statutory deductions from employees were part of the medical cover consideration which resulted in lower cover premium. The cover was comprehensive enough and administered in line with set limits.

1986. Procurement of the medical insurance was done in accordance to the Public Procurement and Disposal Act of 2015 Section 103 Subsection 2(e) which allows direct procurement from another public entity. It is our assessment that value for money to the Inspectorate and its employees

i. The medical cover contract date was incorrect due to an inadvertent typing error which did not however affect provision of the insurance. The correct coverage period was from 15th May 2017 to 14th May 2018.

ii. There was no forfeiture of benefits since the cover was comprehensive and superior to previous insurance.

The Committee observed that-

i) The Inspectorate paid KShs. 30,645,765 to the National Hospital Insurance Fund (NHIF) as medical insurance premium for employees while simultaneously continuing to make mandatory statutory NHIF deductions totaling KShs. 6,378,800 during the year under review. Despite these deductions, employees and their dependants were denied access to benefits accruing from their statutory contributions for the period in which they were placed under the alternative medical scheme. Furthermore, no documentary evidence was provided to confirm that employees were formally informed of, or consented to, the forfeiture of benefits arising from their monthly statutory contributions to NHIF as a consequence of transitioning to the new medical insurance arrangement.

ii) The medical insurance cover was procured through a government-to-government arrangement, thereby circumventing the constitutional principles of fairness, transparency, competitiveness, and cost-effectiveness required under Article 227(1) of the Constitution of Kenya.

Committee Recommendations

The Committee recommends that-

i) Within three (3) months of the adoption of this report, the Director-General, Public Procurement Regulatory Authority (PPRA), undertakes a comprehensive review of the procurement process applied in acquiring the medical insurance cover. The review should determine whether the procurement complied with Section 103(2)(e) of the Public Procurement and Asset Disposal Act, CAP412C. Where non-compliance is established, the Director of Public Prosecutions (DPP) shall institute appropriate administrative or legal action against the responsible officers.

ii) Within three (3) months of the adoption of this report, the Accounting Officer shall establish, in full alignment with existing legal and regulatory requirements, a formal Employee Benefits Communication and Disclosure Framework. The framework should ensure that any change affecting employee welfare including medical insurance, pension arrangements, or other statutory deductions is communicated in writing, transparently disclosed, and formally acknowledged by employees. The approved Communication and Disclosure Framework shall be submitted to the National Assembly and the Auditor-General for review.

3.0 Remuneration of Directors

1987. The Committee heard that, the statement of financial performance for the year ended 30th June 2018 and as disclosed under note 13 to the financial statements reflects an expenditure of KShs. 17,726,000 in respect of remuneration paid to the Directors. Included in this figure is an amount of Kshs.459,626 being mileage allowances paid to a director, who was appointed on a three years' contract term as a board member with effect from 31 May 2016. Her appointment letter Ref:

MOA/B.1/60A/3(TY)Vol.1/124 of 10 August 2016 shows her permanent address as Nairobi whereas records examined revealed that the director made mileage claims based on Meru as her permanent residence. It is not clear and the management has not explained and produced evidence for verification as to when the permanent residence of the director changed from Nairobi to Meru.

1988. In addition, the records examined indicated that the Inspectorate Service paid a total of Kshs.654,000 as allowances to non-board members in attendance during the board committee meetings during the year under audit. The Inspectorate Service was, therefore, in breach of the law.

Management response

1989. The Management clarified that the board member is responsible for providing information about their residence. Therefore, members received mileage reimbursement for travel to and from Embu in accordance with her provided information. The provision of this clarification closed this issue, and we confirm non-recurrence of the finding in subsequent audits.

1990. The payment to the Inspectorate of State Corporations representation in the Board was consistent with existing procedure, as confirmed by the Auditor General in letter Ref. C.824/ (31) of 2017

Committee Observations

The Committee observed that-

i) The Inspectorate paid KShs. 459,626 as mileage allowance to a director appointed on a three-year contract with effect from 31 May 2016. However, despite the Director's appointment letter (Ref: MOA/B.1/60A/3(TY)Vol.1/124 dated 10 August 2016) indicating Nairobi as her permanent address the paid mileage claims were based on Meru. The Management did not provide evidence clarifying when or whether the Director's permanent residence changed from Nairobi to Meru, creating uncertainty regarding the legitimacy of the mileage claims.

ii) The Inspectorate Service paid a total of KShs. 654,000 as allowances to non-board members who attended board committee meetings. This practice is contrary to the Mwongozo code of conduct and other governing laws and regulations, thereby placing the Inspectorate in breach of applicable legal provisions.

Committee Recommendations

The Committee recommends that within three (3) months of adoption of this report, the Accounting Officer should recover with interest at the CBK prevailing rates, the KShs. 459,626 paid as mileage allowance to a director and the KShs. 654,000 paid as allowances to non-board members from the then Accounting Officer(s), affected board members and the Finance Officer who facilitated the payments. The evidence of recovery should be submitted to the National Assembly and the Auditor-General for review.

FINANCIAL YEAR 2018/2019

1.0 Lack of Land Title Deeds

1991. The Committee heard that, Kshs.1,110,521,000 PPE balance includes eleven (11) parcels of land valued at Kshs.264,666,000 situated in Nakuru, Muguga, Kitale, Kabete, Embu, Karen and Kisumu out of which the Service did not possess ownership documents for n Nakuru, Muguga and Kitale parcels of land.

1992. About 125.3 hectares of land in Kitale were held by third parties of which management has recovered 34.09 hectares leaving a balance of 91.21 hectares.

1993. The process of transferring the ownership of Nakuru and Muguga parcels of land from KARLO (formerly KARI) to KEPHIS, had not been concluded by the time of concluding the audit.

Management response

1994. The Management informed the Committee that, KEPHIS was established in 1996 through a process which entailed taking over functions which were previously undertaken by the Ministry and KALRO (then KARI). The process entailed taking over relevant assets and staff. Amongst the assets taken over by KEPHIS were three parcels of land in Nakuru, Kitale and Muguga of which the Corporation is still pursuing titling.

1995. Most of the initial 400 acres of land has been encroached or allocated to individuals. Processing of title for the parcel and recovery of encroached land has been a challenge.

1996. The land in Nakuru and Muguga are not in dispute and the process of subdivision and transferring the land from KARLO to KEPHIS is ongoing.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Lack of Land Title Deeds in its report for the Financial Year 2017/2018, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

3.0 Receivables from Exchange Transactions

1997. The Committee heard that, receivables from exchange transactions balance of Kshs.105,134,000 is net of Kshs.14,667,000 indicated as impairment allowance. However, the gross amount differs with the supporting schedules balance of Kshs.117,058,754 by Kshs.2,743,246 which has not been reconciled.

Management response

1998. The Management informed the Committee that, Kshs.2,743,246 related to debts which were deemed uncollectible and had been earmarked for consideration of write-off against the provision. This was adjusted back increasing the receivables balance from 117,058,753.66 to 119,801,570.26 on external audit recommendation.

Committee Observations

The Committee observed that –the gross receivables balance differed from the supporting schedules, by KShs. 2,743,246. However, although the amount related to debts deemed uncollectible and earmarked for potential write-off against the existing impairment provision the external auditors recommended a reinstatement, increasing the receivables balance from KShs. 117,058,753.66 to KShs. 119,801,570.26.

Committee Recommendations

The Committee recommends that within three (3) months of adoption of this report, the Accounting Officer undertakes a full reconciliation of all receivables, including the previously unreconciled amount of KShs. 2,743,246, and submits a detailed reconciliation report to the Auditor-General and the National Assembly. Also ensure that any future proposals for write-offs should be processed in accordance with Section 51 of the Public Finance Management Act and be submitted to the National Treasury and other relevant approving authorities for review.

2.0 Restriction of KEPHIS Inspections at the Entry and Exit Ports

1999. The Committee heard that administrative arrangement at the Port of Mombasa where for KEPHIS to inspect plants and plant product being imported into Kenya they had to seek approval from the Kenya Ports Authority could have compromised the food safety measures. Continued failure to include KEPHIS under Category 2 agencies, among other things, exposes the country to plants pests posing threat to agriculture and food security that may lead to losses in yield, high costs of management, and enhanced international market phytosanitary restrictions among others. Kentrade System give inadequate information on the consignment and cannot be able to display content of the consignment in advance before clearance by category 2 Agencies. Previously, the Service could use Information from KWATOS, SIMBA and ICMS that were able to give full details of the consignment before arrival of the ship.

Management response

2000. The Management did not respond to the audit issue.

Committee Observations

The Committee observed that-

i) The administrative arrangement at the Port of Mombasa, requiring KEPHIS to seek approval from the Kenya Ports Authority (KPA) before inspecting imported plants and plant products, poses a risk to national food safety and delays mandatory phytosanitary inspections.

ii) The continued exclusion of KEPHIS from classification as a Category 2 Agency exposes the country to increased risks of plant pests and diseases, threatening agricultural

productivity, escalating management costs, and potentially triggering stricter phytosanitary restrictions in international markets.

iii) The KenTrade System provides inadequate advance information and is unable to display full consignment content prior to clearance by Category 2 Agencies, thereby undermining KEPHIS's ability to conduct risk-based inspection planning.

iv) Previously, KEPHIS relied on systems such as KWATOS, SIMBA, and ICMS, which provided comprehensive pre-arrival consignment data. These enhanced pre-arrival risk assessment capabilities are no longer available under the current system configuration.

Committee Recommendations

The Committee recommends that–

Within three (3) months of adoption of this report, the Accounting Officer should fast-track and conclude all necessary actions to ensure that KEPHIS is formally recognized and operationalized as a Category 2 Agency at all entry and exit points. This should be undertaken within the applicable legal and regulatory frameworks to facilitate direct, timely, and unhindered phytosanitary inspections. The Accounting Officer shall submit evidence of these undertakings to the National Assembly and the Auditor-General.

Within three (3) months of adoption of this report, the Principal Secretary State Departmental for Agriculture in collaboration with the Attorney-General to make the necessary legal framework that gives KEPHIS unrestricted access to all points of entry and exit with powers to inspect Plant Health, Seed, Plant variety, and agro-inputs quality issues.

FINANCIAL YEAR 2019/2020

1.0 Lack of Land Title Deeds

2001. The Committee heard that Kshs.1,110,521,000 PPE balance includes eleven (11) parcels of land valued at Kshs.264,666,000 situated in Nakuru, Muguga, Kitale, Kabete, Embu, Karen and Kisumu out of which the Service did not possess ownership documents for n Nakuru, Muguga and Kitale parcels of land. About 125.3 hectares of land in Kitale were held by third parties of which management has recovered 34.09 hectares leaving a balance of 91.21 hectares. The process of transferring the ownership of Nakuru and Muguga parcels of land from KARLO (formerly KARI) to KEPHIS, had not been concluded by the time of concluding the audit.

Management response

2002. The Management informed the Committee that KEPHIS was established in 1996 through a process which entailed taking over functions which were previously undertaken by the Ministry and KALRO (then KARI). The process entailed taking over relevant assets and staff. Amongst the assets taken over by KEPHIS were three parcels of land in Nakuru, Kitale and Muguga of which the Corporation is still pursuing titling.

2003. Most of the initial 400 acres of land has been encroached or allocated to individuals. Processing of title for the parcel and recovery of encroached land has been a challenge.

2004. The land in Nakuru and Muguga are not in dispute and the process of subdivision and transferring the land from KARLO to KEPHIS is ongoing

Committee Observations and Recommendations

The Committee had deliberated on the issue of Lack of Land Title Deeds in its report for the Financial Year 2017/2018, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

2.0 Long Outstanding Debtors

The statement of financial position reflects an amount of Kshs.115,951,000 under receivables from exchange transactions and as disclosed under Note 21 to the financial statements. The amount is net of a provision of Kshs.16,695,000. However, an aged debtors' analysis provided for audit reflects an amount of Kshs.28,317,115 as being overa year and above, with some of the debtors being over three years old.

No reason was provided for failure to recover from the debtors as their accounts remain active to date. The validity of the balances exceeding one year therefore remains doubtful.

In the circumstances, the recoverability of debtors amounting to Kshs.28,317,115 could not be confirmed

Management response

2005. The Management informed the Committee that, KEPHIS offers services on credit to its clients as a policy to support the agriculture sector that continues to face many challenges such as unfavorable weather conditions, plant diseases, pests, and market risks. These challenges affect the ability of some of these clients to settle their debts resulting in delays.

Committee Observations

The Committee observed that –the Receivables from Exchange Transactions balance of Kshs. 115,951,000, although presented net of an impairment provision of KShs. 16,695,000, includes Kshs. 28,317,115 that are over one year old, with several accounts outstanding for over three years. No justification was provided for the failure to recover these long-outstanding debts, despite the respective client accounts remaining active, rendering the validity and recoverability of these receivables doubtful.

Committee Recommendations

The Committee recommends that-

i) Within three (3) months upon adoption of this report, the Accounting Officer should conduct a comprehensive review of all receivables outstanding for over one year and submit a detailed Ageing and Recoverability Report to the Auditor-General and the National Assembly, outlining, reasons, if any, for non-recovery, recovery actions taken to date and proposed next steps, including possible write-offs in accordance with the law.

ii) Within three (3) months upon adoption of this report, the Accounting Officer should submit to the Auditor-General and the National Assembly documented evidence of actions taken to strengthen the credit management framework, ensuring that:

   a. Credit is granted only to clients with demonstrated capacity to settle obligations;

   b. Recovery measures are escalated promptly for overdue accounts; and

   c. Impairment provisions are reviewed regularly and aligned with applicable public sector accounting standards.

3.0 Unsupported Increase in Provision for Doubtful Debts

2006. The statement of financial performance reflects an amount of Kshs.2,989,000 under increase in the provision for doubtful debts, and as disclosed in Note 28 to the financial statements. The amount includes Kshs.2,028,000 relating to additional provision in doubtful debts in the year. However, no basis was provided for the additional provision in doubtful debts.

2007. Consequently, the accuracy of the financial statements could not be confirmed

Management response

2008. The management informed the Committee that, the difference arises from comparison of the provision amounts for the two financial years.

Committee Observations

The Committee observed that –the additional provision for doubtful debts amounting to Kshs. 2,028,000 did not have a basis or supporting documentation to justify this increase, hindering its reasonableness and compliance with applicable accounting standards.

Committee Recommendations

The Committee recommends that within three (3) months upon adoption of this report, the Accounting Officer should provide to the Auditor-General and the National Assembly a well document financial policy detailing how future adjustments to impairment provisions will be supported by clear documentation, consistent methodology, and compliance with applicable Public Sector Accounting Standards.

1.0 Receivables from Exchange Transactions

2009. The Committee heard that, the statement of financial position reflects receivables from exchange transactions totaling Kshs. as further disclosed in Note 22 to the financial statements. The balance includes debtors totaling Kshs.94,094,310.89 and outstanding for between forty-five (45) days and three (3) or more years respectively which together constituted 85 % of the total exchange transactions balance as at 30 June, 2021, However, the debtors were still provided with services on credit contrary to Clause 3.2 of the KEPHIS Credit Policy and Regulations of March, 2016. The policy requires written approval of the Managing Director before additional credit is granted to clients indebted to the Inspectorate Service for inordinately long periods. There was no record of approvals and evidence of the measures taken by Management to recover the debts.

2010. In view of large proportion of old debtors, the extent Of recoverability of the gross debtors balance totaling Kshs.121,451,000 as at 30 June, 2021 could not be confirmed.

Management response

2011. The Management informed the Committee that, KEPHIS offers services on credit to its clients as a policy to support the agriculture sector which unfortunately faces many challenges such as unfavorable weather conditions, plant diseases, pests and market risks. These challenges would affect the ability of some of these clients to settle their debts resulting in delays.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Receivables from Exchange Transactions in its report for the Financial Year 2018/2019, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

2.0 Investments

2012. The Committee heard that, the Statement of Financial Position reflects investments totaling Kshs. 60,000,000 held by the Kenya Plant Health Inspectorate Service (KEPHIS) as at 30 June 2021, as disclosed in Note 28 to the financial statements. Records reviewed during the audit confirmed that these investments were sourced from the KEPHIS Staff Mortgage Scheme Fund, established in 2009.

2013. However, contrary to Section 84(3) of the Public Finance Management Act, 2012, and Section 47(1) of the Public Audit Act, 2015, management did not prepare or submit separate financial statements for the Mortgage Scheme Fund for audit in the year under review, or in prior years.

2014. Consequently, the accuracy and validity of the reported investment balance of Kshs. 60,000,000 could not be independently confirmed as at 30 June 2021.

Management response

2015. The Management informed the Committee that, Corporation operates a Kshs. 60,000,000 cash-backed scheme managed by Kenya Commercial Bank. The balances of interest and deposit were confirmed by the bank vide attached certificates of balances.

Committee Observations

The Committee observed that –as at 30 June 2021, the Kenya Plant Health Inspectorate Service (KEPHIS) held investments totaling KShs. 60,000,000, originating from the KEPHIS Staff Mortgage Scheme Fund established in 2009. However, since its inception, the Fund has not complied with the requirements of Section 84(3) of the Public Finance Management Act, 2012 and Section 47(1) of the Public Audit Act, 2015, which require the preparation and submission of separate financial statements for all public funds, including staff mortgage schemes.

Committee Recommendations

The Committee recommends that–

i. Within three (3) months of adoption of this report, the Accounting Officer prepares and submits separate financial statements for the KEPHIS Staff Mortgage Scheme Fund since inception, in full compliance with Section 84(3) of the Public Finance Management Act, 2012 and Section 47(1) of the Public Audit Act, 2015. These statements shall be submitted to the Auditor-General for audit and to the National Assembly for oversight.

ii. The Accounting Officer shall ensure that annual financial statements for the Mortgage Scheme Fund are prepared and submitted consistently going forward, in adherence to all statutory reporting requirements applicable to public funds.

3.0 Property, Plant and Equipment

2016. The Committee heard that, the statement of financial position reflects property, plant and equipment totaling Kshs, 1,116,649,000 as further disclosed in Note 26 to the financial statements. However, the land, buildings and other assets of the Inspectorate Service were last revalued inNovember, 2009, Therefore, the carrying value of assets presented in the financial statements may differ materially from their fair values.

2017. Further included in the aggregate fixed assets balance is Kshs.264,666,000 being the total value Of eleven parcels Of land situated in Nakuruj Kiambu, Trans Nzoia, Embu, Nairobi and Kisumu Counties. However, the Inspectorate Service did not possess ownership documents for the land in Nakuru, Kiambu (Muguga) and Kitale. Although records provided for audit indicated Management had made efforts to have ownership of the Nakuru and Kiambu (Muguga) lands transferred from the Kenya Agricultural and Livestock Research Organization (KARLO) to KEPHIS, it was no certain when the title documents would be obtained.

2018. In addition, as similarly reported in the previous year, out Of the 125.3 hectares Of land in Trans Nzoia irregularly possessed by private developers or occupied by illegal settlers, the Inspectorate

Service had as at 30 June, 2021 recovered 3409 hectares only. The prospects for recovery of the remainder 9121 hectares were not disclosed by Management

2019. In the circumstances, ownership of property; plant and equipment, and accuracy and completeness of the respective book balance totaling Kshs, 1,116,649,000 as at 30 June, 2025 could not be confirmed.

Management response

2020. The management informed the Committee that, KEPHIS was established in 1996 through a process which entailed taking over functions which were previously undertaken by the Ministry and KALRO (then KARI). The process entailed taking over relevant assets and staff. Amongst the assets taken over by KEPHIS were three parcels of land in Nakuru, Kitale and Muguga of which the Corporation is still pursuing titling.

2021. Most of the initial 400 acres of land has been encroached or allocated to individuals. Processing of title for the parcel and recovery of encroached land has been a challenge.

2022. The land in Nakuru and Muguga are not in dispute and the process of subdivision and transferring the land from KARLO to KEPHIS is ongoing

Committee Observations and Recommendations

The Committee had deliberated on the issue of Lack of Land Title Deeds in its report for the Financial Year 2017/2018, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

4.0 Unresolved Prior Year Matters

2023. The Committee heard that, various issues highlighted in the audit report for the year ended 30 June, 2020 had not been resolved as at 30 June, 2021. Management has not provided reasons for the delay in resolving the issues. Further, the report on the progress made on following up auditor's recommendations reflected in the financial statements does not disclose all the issues highlighted in the report for the previous year and is therefore incomplete.

Management response

2024. The Management did not respond to the audit issue

Committee Observations

The Committee observed that–

The accounting officer had several unresolved prior year matters which the management has not resolved or given any explanation contrary to section 31 (1) of the Public Audit Act, CAP. 412B which requires that state organ or a public entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit

Committee Recommendations

The Committee recommends that –

The Accounting officer should always comply with the provisions of section 31 (1) of the Public Audit Act, CAP. 412B.

FINANCIAL YEAR 2021/2022

1.0 Property Plant and Equipment

2025. The Committee heard that, the Statement of Financial Position reflects property, plant and equipment (PPE) with a net book balance of Kshs. 1,072,583,000, as disclosed in Note 26 to the financial statements. However, the land, buildings, and other assets of the Inspectorate Service were last revalued in November 2009, meaning the carrying values presented may differ materially from current fair values.

2026. Additionally, as previously reported, the total fixed asset balance includes Kshs. 264,666,000, representing the value of eleven parcels of land located in Nakuru, Kiambu (Muguga), Trans Nzoia, Embu, Nairobi, and Kisumu Counties. Despite this, the Service does not possess ownership documents for parcels situated in Nakuru, Kiambu (Muguga), and Kitale. While management provided records indicating ongoing efforts to secure title transfers from the Kenya Agricultural and Livestock Research Organization (KALRO) to KEPHIS, the timeline for receiving valid ownership documentation remains uncertain.

2027. Furthermore, out of a total 125.3 hectares of land in Trans Nzoia that have been irregularly occupied by private developers or illegal settlers, only 34.09 hectares had been recovered by 30 June 2022. The audit report notes that management has not disclosed the prospects or plan for recovering the remaining 91.21 hectares.

Management response

The management informed the Committee that–

a) Nakuru Municipality (Approx. 190 Acres)

2028. The land is situated within a larger parcel owned by KALRO and is currently not under dispute. KEPHIS utilizes this acreage for seed testing and certification activities. To facilitate the subdivision and transfer of title, KEPHIS engaged KALRO and appointed GEODEV Kenya Ltd to carry out a comprehensive survey and titling exercise. We have since made good progress following completion of the survey and surrender of the mother title by KALRO to facilitate the sub-division.

b) Muguga, Kiambu County (Approx. 12 Acres)

2029. This parcel was part of a larger tract of land LR No. 23878 under KALRO. The subdivision and transfer of title for KEPHIS portion LR No. 23878 /2 measuring 4.743 hectares was concluded in 16th November 2023.

c) Kitale, Trans Nzoia County (Originally Approx. 400 Acres; Currently Approx. 100 Acres only is Under KEPHIS Control)

2030. The land, originally 400 acres, had been set aside by the Government in 1970 for seed testing to support food security and was under management of KARI until 1996. Due to allocations in the early 1990s, the land size decreased to 330 acres—50 acres were allocated to the Coffee Research Institute and 20 acres to Top Station Primary School.

2031. Following KEPHIS's establishment in 1996, the functions and assets of Kitale Seed Quality Station handed over to it in 1997. By then, 305 acres had been encroached, leaving only 25 acres for installations and operations. After internal recovery efforts conducted by KEPHIS, land measuring approximately 80 acres was repossessed bring the total under its control to about 105 acres. This land still remains insufficient for seed testing and certification operations.

2032. The encroached land including the recovered portion was subdivided into 230 plots; many of which are under lease or developed by private individuals. Attempts to conduct survey and titling through appointment of a professional land agent have stalled due to insufficient documentation and agency support. In attempts to seek resolution to this land issues, KEPHIS has continually sought intervention from relevant government bodies with recent correspondences.

Appeal for Support from the Public Investments Committee (PIC)

The Kitale land dispute has been a long-running unsolved issue at the PIC, dating back to 1998.

KEPHIS hereby requests the assistance of the Public Investments Committee in engaging the Ministry of Lands, National Land Commission and EACC to expedite the following actions:

i. Survey, recovery, and formal registration of the Kitale parcel.

ii. Enforcement of legal mechanisms to address historical encroachment.

iii. Preservation of the remaining public land under KEPHIS jurisdiction.

The Corporation remains committed to safeguarding public assets and ensuring full compliance with legal and institutional frameworks

Committee Observations and Recommendations

The Committee had deliberated on the issue of Lack of Land Title Deeds in its report for the Financial Year 2017/2018, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

2.0 Investments

2033. The Committee heard that, the statement of Financial Position reflects investments totaling Kshs. 60,000,000 held by the Kenya Plant Health Inspectorate Service (KEPHIS) as at 30 June 2022, as disclosed in Note 28 to the financial statements. Records reviewed during the audit confirmed that these investments were sourced from the KEPHIS Staff Mortgage Scheme Fund, established in 2009.

2034. However, contrary to Section 84(3) of the Public Finance Management Act, 2012, and Section 47(1) of the Public Audit Act, 2015, management did not prepare or submit separate financial statements for the Mortgage Scheme Fund for audit in the year under review, or in prior years.

Management response

2035. The management informed the Committee that, during the ensuing financial years, the Corporation complied with Section 84(3) of the Public Finance Management Act of 2012 as well as Section 47(1) of the Public Audit Act of 2015. We request closure of the matter.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Investment in its report for the Financial Year 2020/2021, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

FINANCIAL YEAR 2022/2023

1.0 Property, Plant & Equipment

2036. The Committee heard that, the statement of Financial Position reflects property, plant and equipment (PPE) with a balance of Kshs. 3,216,213,000 as disclosed in Note 26 to the financial statements.

2037. Included within this is land valued at Kshs. 2,350,450,000, situated across Nakuru, Kiambu, Trans Nzoia, Embu, Nairobi and Kisumu Counties. However, the Inspectorate Service did not possess ownership documents for the parcels located in Nakuru, Kiambu (Muguga), and Kitale.

2038. Audit records indicated that management had initiated efforts to have ownership of the Nakuru and Kiambu (Muguga) parcels transferred from the Kenya Agricultural and Livestock Research Organization (KALRO) to KEPHIS. However, it remains uncertain when title documents will be obtained.

Additionally, as similarly reported in the previous year:

i) Out of the 125.3 hectares of land in Trans Nzoia irregularly occupied by private developers and illegal settlers, only 34.09 hectares had been recovered as of 30 June 2023.

ii) The prospects for recovering the remaining 91.21 hectares were not disclosed by management.

2039. In conclusion, the ownership, accuracy, and completeness of the net book balance for PPE totalling Kshs. 3,216,213,000 as at 30 June 2023 could not be confirmed.

Management response

The management informed the Committee that–

a) Nakuru Municipality (Approx. 190 Acres)

2040. The land is situated within a larger parcel owned by KALRO and is currently not under dispute. KEPHIS utilizes this acreage for seed testing and certification activities. To facilitate the subdivision and transfer of title, KEPHIS engaged KALRO and appointed GEODEV Kenya Ltd to carry out a comprehensive survey and titling exercise. We have since made good progress

following completion of the survey and surrender of the mother title by KALRO to facilitate the sub-division.

b) Muguga, Kiambu County (Approx. 12 Acres)

2041. This parcel was part of a larger tract of land LR No. 23878 under KALRO. The subdivision and transfer of title for KEPHIS portion LR No. 23878 /2 measuring 4.743 hectares was concluded in 16th November 2023.

c) Kitale, Trans Nzoia County (Originally Approx. 400 Acres; Currently Approx. 105 Acres only is Under KEPHIS Control)

2042. The land, originally 400 acres, had been set aside by the Government in 1970 for seed testing to support food security and was under management of KARI until 1996. Due to allocations in the early 1990s, the land size decreased to 330 acres—50 acres were allocated to the Coffee Research Institute and 20 acres to Top Station Primary School.

2043. Following KEPHIS's establishment in 1996, the functions and assets of Kitale Seed Quality Station handed over to it in 1997. By then, 305 acres had been encroached, leaving only 25 acres for installations and operations. After internal recovery efforts conducted by KEPHIS, land measuring approximately 80 acres was repossessed bring the total under its control to about 105 acres. This land still remains insufficient for seed testing and certification operations.

2044. The encroached land including the recovered portion was subdivided into 230 plots; many of which are under lease or developed by private individuals. Attempts to conduct survey and titling through appointment of a professional land agent have stalled due to insufficient documentation and agency support. In attempts to seek resolution to this land issues, KEPHIS has continually sought intervention from relevant government bodies with recent correspondences outlined.

Appeal for Support from the Public Investments Committee (PIC)

The Kitale land dispute has been a long-running unsolved issue at the PIC, dating back to 1998.

2045. KEPHIS hereby requests the assistance of the Public Investments Committee in engaging the Ministry of Lands, National Land Commission and EACC to expedite the following actions:

iv. Survey, recovery, and formal registration of the Kitale parcel.

v. Enforcement of legal mechanisms to address historical encroachment.

vi. Preservation of the remaining public land under KEPHIS jurisdiction.

2046. The Corporation remains committed to safeguarding public assets and ensuring full compliance with legal and institutional frameworks.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Lack of Land Title Deeds in its report for the Financial Year 2017/2018, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

Presentation and Disclosure of the Financial Statement

The Committee heard that–

i) Review of the financial statements submitted for audit revealed the following anomalies: The Statement of Changes in Net Assets and Note 26 on Property, Plant & Equipment did not provide sufficient comparative details as required under applicable accounting standards. This omission undermines the clarity and consistency of financial reporting across reporting periods.

ii) The opening balance for donated assets under deferred income in Note 31 reflects Kshs. 49,960,000, while the closing balance from the prior year was Kshs. 46,960,000, resulting in an unexplained variance of Kshs. 3,000,000.

iii) Note 31 indicates that Kshs. 46,960,000 was transferred to depreciation under public contributions and donations. However, this transfer is not reflected in Note 14 (Depreciation) or Note 26 (Property, Plant & Equipment), creating an inconsistency that raises concerns over the accuracy of reported figures.

Management response

2047. The management informed the Committee that, the omission of comparative information in the affected schedules. This was an inadvertent oversight during the final preparation of financial statements. Going forward, the Corporation shall put in place a checklist aligned with IPSAS disclosure guidelines, including a cross-verification to ensure that comparative data is properly structured and presented across all reporting years. These measures were embedded within the FY2024/2025 reporting framework to enhance transparency and compliance.

ii: Unexplained Variance in Deferred Income – Donated Assets Opening Balance

2048. We acknowledge the error in transposing previous years comparative information in the affected schedules. This was an inadvertent error during the final preparation of financial statements which will not reoccur again and the same to be adjusted in the statements.

iii: Inconsistent Disclosure of Depreciation on Donated Assets

2049. The value of the donated assets had been fully recognized under property, plant and equipment in the year of donation and were undergoing depreciation in accordance with the stipulated rates. The disclosure was consistent with the treatment under IPSAS 23 – Revenue from Non-Exchange Transactions:

Committee Observations

The Committee observed that–

i) The Statement of Changes in Net Assets and Note 26 (Property, Plant & Equipment) did not provide the required comparative information. This omission limits transparency hinders meaningful period-to-period analysis and constitutes non-compliance with IPSAS 1 disclosure requirements.

ii) A variance of Kshs. 3,000,000 was identified between the opening balance of deferred income for donated assets and the prior year's closing balance, indicating weaknesses in the roll-forward process and the reliability of reported balances.

iii) The reported transfer of Kshs. 46,960,000 to depreciation under public contributions and donations (Note 31) is not reflected in Note 14 (Depreciation) or Note 26 (Property, Plant & Equipment). This inconsistency raises concerns about the completeness, accuracy, and IPSAS 23-compliant disclosure of depreciation and deferred income movements.

iv) The Accounting Officer failed to prepare the financial statements in accordance with the accounting standards prescribed by the Public Sector Accounting Standards Board, contrary to Section 81(3) of the Public Financial Management Act, CAP 412A.

Committee Recommendations

i) The Committee reprimands the Accounting Officer for breaching Section 81(3) of the Public Financial Management Act, CAP 412A.

ii) The Committee further directs that the Accounting Officer to submit to the National Assembly and the Auditor-General for review a documented strategy that ensure.

   a. full compliance with prescribed accounting and disclosure standards;

   b. Implementation of structured disclosure frameworks and robust quality-assurance reviews before issuance of financial statements; and

   c. Establishment of clear alignment across all related notes, including reconciliation of depreciation on donated assets with corresponding movements in deferred income and Property, Plant & Equipment.

FINANCIAL YEAR 2023/2024

1.0 Inconsistencies in Property, Plant & Equipment

2050. The statement of financial position reflects property plant and equipment balance of Kshs. 3,150,118,000 as disclosed in Note 26 to the financial statements. Examination of the assets register however revealed that although Management indicates that there are four title deeds all for the Karen area Nairobi, the asset registers only disclosed three of the properties, thereby casting doubt on the completeness of the records of property, plant & equipment.

2051. Further, included in the land balance of Kshs. 2,350,450,000 are properties situated in Nakuru and Kitale valued at a total of Kshs. 1,241,250,000 that have been reflected in the Inspectorate's books.

However, the ownership documents were not provided for audit, and Management has indicated that follow-up on acquisition of titles is still ongoing.

2052. In addition, the land in Kitale is encroached by squatters, and recovery of the encroached land within Kitale Municipality has so far not been successful.

2053. In the circumstances, ownership, accuracy and completeness of property, plant and equipment of net book balance of Kshs. 3,150,118,000 as at 30 June, 2024 could not be confirmed.

Management response

2054. The management informed the Committee that, asset register currently reflects three parcels of land situated in Nairobi. The fourth parcel, a five-hectare plot in Kabete, is under dispute with the Directorate of Veterinary Services (DVS), from whom the land was delineated in 2003. KEPHIS has not taken possession of the parcel pending resolution of ownership, and communications surrounding this matter were shared with the audit team during the review process. According to the communications that are attached, the Directorate of Veterinary Services has been contesting the allocation since the year of 2007. Because of the disagreement and the fact that KEPHIS has not taken possession of land, the Inspectorate has not conducted valuation of the land in order to include it in the asset register.

2055. For the parcels in Kitale and Nakuru, collectively valued at KShs. 1.24 billion, ownership documentation has not yet been secured. The current position on the two parcels is as follows:

2056. Kitale Land - Processing of the title for the parcel and recovery of the encroached land has remained a significant challenge. Prior to the establishment of KEPHIS in 1996, the land—measuring approximately 400 acres—was under KARI and used for seed testing and certification. By the time KEPHIS assumed ownership of the asset, substantial encroachment had already occurred. In addition, 70 acres had been formally allocated to the Coffee Research Institute and Top Station Primary School. Of the remaining 330 acres, most had been irregularly allocated to private individuals, with only 25 acres remaining under KARI (KALRO) name.

2057. Through sustained efforts by KEPHIS, we have managed to repel some encroachers and recover a portion of the land. We currently maintain control of approximately 100 acres. However, our attempts to have the entire parcel surveyed, recovered, and titled have not yielded the desired results. This process requires intervention and support from the Ministry of Lands and the Ethics and Anti-Corruption Commission (EACC).

2058. KEPHIS requested the PIC to assist in engaging and prompting the relevant ministries and agencies to expedite recovery and regularization of the land.

2059. Nakuru Land - The land is currently under KALRO's administration; however, the Inspectorate is full possession of the property. The subdivision and titling process has commenced and is expected to be completed in 2026 subject to sustained collaboration between KEPHIS and KALRO.

2060. KEPHIS is committed to regularizing ownership documentation for all land parcels and maintaining a complete and auditable asset register.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Lack of Land Title Deeds in its report for the Financial Year 2017/2018, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

2.0 Variance Between Revenue from Exchange Transactions and Amount Reflected in E-Citizen Platform

2061. The Statement of Financial Performance reflects revenue from exchange transactions amounting to Kshs. 1,490,786,000, as disclosed in Note 8 to the financial statements. Included in this amount is the Rendering of Services totalling Kshs. 1,485,417,000.

2062. However, records from the E-Citizen platform indicate an amount of Kshs. 927,869,063, out of which Kshs. 916,891,911 was transferred back to the Inspectorate. This resulted in Kshs. 10,977,152 that was not transferred from the National Treasury.

2063. It could not be confirmed: Why the outstanding balance was not transferred during the financial year under review. When these funds would be made available to the Inspectorate.

Management response

2064. The management informed the Committee that, due to the continuous nature of service delivery and continued utilization of E-Citizen platform, the National Treasury had not remitted collections for 28th, 29th and 30th June as at close of the financial year on 30th June 2024 amounting to KShs. 10,977,152. We would like to confirm that the amount of KShs. 10,977,152 was remitted on 8th July 2024 as part of the KShs. 16,767,586 remittances on that day which also included revenue for 1st and 2nd July 2024.

Committee Observations

The committee observed that–

i) A significant variance between the Rendering of Services totaling Kshs. 1,485,417,000 as reported in the financial statements and the Kshs. 927,869,063 reflected on the E-Citizen platform. Further, of the Kshs. 927,869,063 collected through the E-Citizen system, only Kshs. 916,891,911 was transferred to the Agriculture and Food Authority (AFA), leaving an unexplained balance of Kshs. 10,977,152 that was not remitted by the National Treasury during the year under review. Consequently, the accuracy and completeness of the reported revenue from exchange transactions was misstated.

ii) The Management of the Inspectorate received from the funds from the National Treasury together with the subsequent collections for the days that followed. However, no evidence was provided to demonstrate the release or justification for the National Treasury withholding the inspectorate funds while the platform is system based.

Committee Recommendations

The Committee recommends that–

i) Within three months of the adoption of this report, the Accounting Officer undertakes a comprehensive reconciliation of all revenues collected through the E-Citizen platform since its inception against the amounts recorded in the Inspectorate's financial statements. This reconciliation should be jointly undertaken by the KEPHIS Finance Department, the E-Citizen platform administrators, and the National Treasury. The resultant reconciliation documentation should be submitted to the National Assembly and to the Auditor-General for review within the stated timeframe.

ii) Within three months of the adoption of this report, the Accounting Officer develops, documents, and submits to the National Assembly and to the Auditor-General a detailed framework of measures instituted to strengthen revenue reporting and monitoring controls. These measures should include, but not be limited to; Monthly revenue reconciliation procedures; Automated integration between KEPHIS systems and the E-Citizen platform; and Exception reporting for unremitted amounts. These controls should aim at enhancing accuracy, improving transparency, and preventing recurrence of discrepancies.

3.0 Negative Working Capital

2065. The Committee heard that, the statement of financial position reflects total current assets of Kshs. 208,598,000 against total current liabilities of Kshs. 270,307,000. This resulted in a negative working capital of Kshs. 61,709,000. The negative working capital implies that the Inspectorate may face challenges in meeting its short-term obligations as they fall due, which may in turn affect its operations and service delivery. However, this did not affect the auditor's opinion which remained unmodified

Management response

2066. The management informed the Committee that, the inadequate revenues had been the root cause of this situation. Through the establishment of increased service fees beginning on October 1, 2024, the Corporation has finally established a solution to the liquidity problem that it had been experiencing. This has resulted in positive net working capital in FY 2024/25.

Committee Observations

The Committee observed that –the Statement of Financial Position reflects current assets of Kshs. 208,598,000 against current liabilities of Kshs. 270,307,000, resulting in a negative working capital of Kshs. 61,709,000. This indicates that the Inspectorate may face challenges in meeting its short-term financial obligations as they fall due, potentially affecting operational continuity and service delivery.

Committee Recommendations

The Committee recommends that the Accounting Officer prepares and documents measures to strengthen liquidity management and ensure the Inspectorate maintains a sustainable working capital position. This should include:

i) Implementing strategies to improve short-term cash flows and enhance revenue reliability;

ii) Strengthening financial planning, including periodic cash-flow forecasting and monitoring; and

iii) Instituting internal controls that ensure timely settlement of obligations without compromising service delivery.

The Accounting Officer is further directed to submit the report to the Auditor-General and the National Assembly for review.

4.0 Long Outstanding Receivables from Exchange Transactions

2067. The Committee heard that, the statement of financial position reflects receivables from exchange transactions balance of Kshs.123,537,000 as disclosed in Note 21 to the financial statements. Included in this balance are receivables outstanding for more than one year of Kshs.88,179,557, which includes Kshs.17,828,460 being receivables that have been outstanding for over three years.

Management response

2068. The management informed the Committee that, KEPHIS acknowledges the audit observation on long-standing receivables. The Corporation's support for the seed companies and fresh produce exporters in providing services on credit may result in uncollectible debts.

2069. Upon recognizing the resultant collection challenges, the Corporation revised its credit policy in 2023 to implement a strict upfront payment model for services. The transition to the E-Citizen platform has further institutionalized this policy, requiring clients to settle fees prior to accessing KEPHIS services. This shift has significantly mitigated credit risk and enhanced financial discipline across the customer base

2070. Management continues to pursue recovery of unimpaired debts generated under previous policy through structured engagement and, where necessary, escalation mechanisms including stoppage of services and intends to engage services of a debt collector. The Corporation will also undertake periodic reviews of receivables, with corrective actions and write-offs subject to audit and required approvals.

2071. The debts have since decreased from the KShs. 123,537,000 reported in June 2024 to the current KShs. 53,957,237.68. KEPHIS plans to double efforts to recover the amount.

Committee Observations

The Committee observed that –the Receivables from Exchange Transactions balance of Kshs. Kshs.17,828,460 had been outstanding for over three years. No justification was provided for the

failure to recover these long-outstanding debts, despite the respective client accounts remaining active, rendering the validity and recoverability of these receivables doubtful.

Committee Recommendations

The Committee recommends that–

i) Within three (3) months of adoption of this report, the Accounting Officer should conduct a comprehensive review of all receivables outstanding for over one year and submit a detailed Ageing and Recoverability Report to the Auditor-General and the National Assembly, outlining, reasons, if any, for non-recovery, recovery actions taken to date and proposed next steps, including possible write-offs in accordance with the law.

ii) Within three (3) months of adoption of this report, the Accounting Officer should submit to the Auditor-General and the National Assembly documented evidence of actions taken to strengthen the credit management framework, ensuring that:

   a. Credit is granted only to clients with demonstrated capacity to settle obligations;

   b. Recovery measures are escalated promptly for overdue accounts; and

   c. Impairment provisions are reviewed regularly and aligned with applicable Public Sector Accounting Standards.

5.0 Failure to Align Notes to the Financial Statements

2072. The Committee heard that, review of statement of financial performance, statement of financial position and statement of cash flows against the supporting notes revealed lack of alignment of the notes, from Note 28 to Note 38, to the said statements. The notes numbering was therefore misleading and inconsistent.

2073. In the circumstances, the preparation and presentation of the annual reports and financial statements is contrary to Section 81 (3) of the Public Finance Management Act, 2012 which requires that the accounting officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Public Sector Accounting Standards Board.

Management response

2074. The Management informed the Committee that, it has taken corrective action to ensure full compliance with IPSAS 2 on the presentation of financial statements. Continuous efforts are being made to maintain consistency, accuracy, and adherence to applicable reporting standards in subsequent financial periods. Consequently, this anomaly did not recur in the 2024/25 financial year.

Committee Observations

The Committee observed that –Notes to the Accounts were not aligned to the Statement of Financial Performance, Statement of Financial Position, and Statement of Cash Flows. The

numbering and sequencing of the notes were therefore misleading and internally inconsistent, impairing the clarity and reliability of the financial statements thus non-compliant with Section 81(3) of the Public Finance Management Act, CAP 412A which mandates that accounting officers prepare financial statements in accordance with the accounting standards prescribed by the Public Sector Accounting Standards Board (PSASB).

Committee Recommendations

The Committee reprimands the Accounting Officer for failing to ensure proper alignment and presentation of notes to the financial statements as required under Section 81(3) of the PFM Act CAP 412A.

6.0 Officers in Acting Position Beyond the Stipulated Time Period

2075. The Committee heard that, during the year under review, examination of human resource records revealed that five (5) members of staff have been in acting capacity beyond the stipulated period with one officer having been in an acting position for more than four (4) years. This was in contravention of Section 6.5(e) of the KEPHIS Human Resource Policies and Procedures Manual which provides that acting capacity is limited to a continuous period of six months and only be extended for a further 6 months by the Board if the post remains vacant. In addition, we were not provided with the Board approval for the extensions

Management response

2076. The management informed the Committee that, the posts are scheduled for filling in the 2025/2026 financial year. Management initiated the process through the Board as evidenced by the attached Board Paper detailing the posts and Board Committee notice. The matter was presented to the Board in January 2026 and the recruitment is expected to commence in March 2026.

Committee Observations

The Committee observed that –five (5) members of staff served in acting positions beyond the allowable duration of six months, with one officer having acted for over four (4) years. This contravenes section 34 (3) of the Public Service Commission Act, CAP 185, which requires that an officer may be appointed in an acting capacity for a period not exceeding six months.

Furthermore, no evidence of Board approval for these extended acting appointments was provided for audit review. This raises concerns regarding adherence to established HR governance frameworks and exposes the institution to risks related to accountability, succession planning, and equitable staff progression.

Committee Recommendations

The Committee recommended that –

The Committee reprimands the then Accounting Officers for breach of section 34 (3) of the Public Service Commission Act, CAP 185.

7.0 Audit of Climate Regulations

2077. The Committee heard that, the discussions with the Management revealed that there was no designated unit with adequate staff and financial resources and an appointed senior officer as head of the unit to coordinate the mainstreaming of the climate change action plan and other climate change statutory functions and mandates into sectoral strategies for implementation contrary to Climate Change Act 2016 Part IV(15) (5) which states that each state department and national government public entity shall (c) designate a unit with adequate staff and financial resources and appoint a senior officer as head of the unit to coordinate the mainstreaming of the climate change action plan and other climate change statutory functions and mandates into sectoral strategies for implementation.

2078. In the circumstances, Management was in breach of the law.

Management response

2079. The management informed the Committee that, the inspectorate has made significant progress in integrating its climate change action plan by dedicating a comprehensive Key Result Area to climate change within its Strategic Plan for the period 2023-2027. The activities associated with the climate change Key Result Area are comprehensive, budgeted, and have been delegated to the appropriate management personnel for execution. While the existing institutional framework does not include a specific departmental unit to undertake climate issues, strategies and activities have been assigned to the relevant Heads of Directorate

Committee Observations

The Committee observed that –the Inspectorate had not established a designated climate change unit with adequate staffing, financial resources, and a senior officer responsible for coordinating climate-related functions. This is contrary to Section 15(5)(c) of the Climate Change Act, 2016, which requires every State department and national government entity to designate a unit to coordinate the mainstreaming of the climate change action plan and other statutory climate change functions into sectoral strategies. The absence of such a unit impedes effective institutional coordination, compliance with statutory obligations, and integration of climate change priorities into operational and strategic frameworks.

The Committee recommends that within three months upon adoption of this report, the Accounting Officer to establish a fully designated climate change unit in compliance with Section 15(5)(c) of the Climate Change Act, 2016, Allocate adequate financial and human resources to ensure the unit's effective operation and appoint a senior officer to lead the unit and oversee the mainstreaming of climate change action plans and statutory responsibilities across all sectoral

strategies. The evidence of the set-up should be submitted to the Auditor-General and the National Assembly.

8.0 Non-Compliance with Rights and Privileges of Persons with Disabilities (PWD)

2080. The Committee heard that, during the year under review, analysis of Human resource records and staff Bio data provided for audit revealed that the Inspectorate has eleven (11) engaged persons living with disabilities in its human resource which represent three (3) percent of the total staffing contrary to Section B (23) (2) of the Public Service Commission Human Resource Policies, May 2016 states which requires government entities to engage at least five (5) percent of persons with disabilities in its human resource.In the circumstances, Management was in breach of the law.

Management response

2081. The management informed the Committee that, the representation of three (3) percent falls below the minimum threshold of five (5) percent as required under Section B (23)(2) of the Public Service Commission Human Resource Policies, May 2016.

2082. Management affirms commitment to full compliance with this requirement. In this regard, the Inspectorate is undertaking deliberate and sustained efforts to progressively increase the number of persons living with disabilities within our human resource establishment. These efforts include targeted recruitment strategies, enhanced outreach during recruitment cycles, and collaboration with relevant institutions to ensure that qualified persons with disabilities are aware of and encouraged to apply for available opportunities. Through the efforts, the Inspectorate has increased the number of persons from 11 to 21 as of 30th September 2025, however the percentage is still 3%.

Committee Observations

The Committee observed that –the Inspectorate had eleven (11) employees living with disabilities, representing three percent (3%) of the total workforce. This falls below the minimum five percent (5%) threshold required under Section B.23(2) of the Public Service Commission Human Resource Policies (May 2016).

This shortfall reflects non-compliance with established public service inclusion requirements and undermines the government's commitment to equitable representation of persons with disabilities within public institutions.

Committee Recommendations

The Committee recommends that, within three (3) months of the adoption of this report, the Accounting Officer:

i) Develop and implement a targeted recruitment and retention strategy aimed at progressively achieving and sustaining the minimum five percent (5%) PWD staffing requirement;

ii) Ensure the strategy is fully aligned with existing laws, regulations, and PSC human resource policies; and

iii) Submit the finalized strategy to both the National Assembly and the Auditor-General for review and oversight.

9.0 Long Outstanding Trade and Other Payables

2083. The Committee heard that, the statement of financial position reflects trade and other payables from exchange transactions of Kshs.228,478,000 as disclosed in Note 30 to the financial statements. Included in this figure is trade creditors of Kshs.215,503,000 out of which Kshs.4,977,540 when it was paid has been outstanding for more than one year and no explanation has been offered on the measures Management has instituted in an effort to settle these liabilities.

2084. In the circumstances, the Inspectorate may incur litigation charges resulting from suits by suppliers leading to loss of funds.

Management response

2085. The prolonged outstanding trade and other payables were attributed to the financial constraints stemming from an insufficient revenue in 2023/24FY, resulting from a decrease in the government recurrent grant from KShs. 162,000,000 to KShs. 122,000,000 and decreased growth of fees due to reduction in agricultural imports. To remedy the financial constraints, the Inspectorate implemented revenue enhancement measures in 2024/25FY which enabled it to settle the long outstanding debts. Consequently, the Inspectorate did not owe debts above six months old as at 30th June 2025.

Committee Observations

The Committee observed that –trade creditors amounting to Kshs. 4,977,540 had remained outstanding for over one year, with no evidence provided on measures taken by Management to settle these obligations. Such prolonged delays in settling payables exposes the institution to financial, operational, and legal risks, erode supplier confidence and demonstrate weaknesses in liquidity management and internal financial controls.

Committee Recommendations

The Committee recommends that, within three (3) months of the adoption of this report, the Accounting Officer to develop and implement a clear settlement plan for all long-outstanding payables, with priority given to liabilities overdue for more than one year and submit to the National Assembly and the Auditor-General a status report detailing; Actions taken to address the overdue amounts, Payments settled and measures instituted to prevent future accumulation of long-outstanding payables.

10.0 Failure by Board of Directors to Approve the Budget within the Required Timelines

2086. The Committee heard that, examination of the Board minutes revealed that the Board of Directors for the inspectorate approved or ratified the proposed budget for the financial year 2023/2024 during the 126th board meeting held on 14 February, 2024. This was beyond the deadline of submission of budgets by the National Treasury of 31st January. Further, the Board did not comply to section 2.6.1 of the Kenya Plant Health Inspectorate Service Financial Policies and Procedures Manual, 2018 which requires the budget to be approved by the board of directors before submission to the National Treasury.

Management response

2087. The management informed the Committee that, the budget had been duly reviewed and approved by the Finance and Administration Committee of the Board within the timelines provided by the National Treasury. In line with established governance practice, the full Board subsequently ratified the Committee's approval during its 126th meeting held on 14 February 2024.

2088. Management remains committed to ensuring full compliance with Section 2.6.1 of the Kenya Plant Health Inspectorate Service Financial Policies and Procedures Manual, 2018, which requires Board approval prior to submission of the budget to the National Treasury. To strengthen adherence going forward, Management has ensured that subsequent budgets have been approved by the full Board before 31st January deadline for budget submission.

Committee Observations

The Committee observed that –the Board of Directors approved or ratified the Inspectorate's FY 2023/2024 budget during its 126th meeting held on 14 February 2024, well after the National Treasury's submission deadline of 31 January.This non-compliance undermines effective financial governance, weakens planning controls, and exposes the institution to risks associated with delayed approval of key resource allocation decisions.

Committee Recommendations

The Committee reprimands the Accounting Officer and the Board of Directors for failing to comply with statutory and internal policy requirements governing budget approval timelines. The Committee further recommends that all future budgets be submitted to the Board for approval within the timelines prescribed by the National Treasury and in full compliance with Section 2.6.1 of the KEPHIS Financial Policies and Procedures Manual, 2018.

11.0 Absence of Management Budget Committee

2089. Review of Budget process and upon enquiry about the minutes of Management Budget Committee, no evidence was provided on the existence of Management Budget Committee. Lack of such committee which is to be tasked with ensuring that there is prioritization on resources allocated to the Corporation and regularly reviewing, monitoring budget implementation and advice on the

budget execution, major capital expenditures and reviewing budget performance and strategies may result to expenditure which are not for service delivery to the nation.

Management response

2090. The Corporation had appointed the Committee in 2016 but had not updated membership to incorporate staff changes resulting in dormancy. This has now been done as evidenced by the appointment memo. The Inspectorate remains committed to enhancing financial reporting accuracy and upholding best practices in public sector accounting.

Committee Observations

The Committee observed that –no evidence was provided to demonstrate the existence or functioning of a Management Budget Committee that would be essential for ensuring effective prioritization of resources, regular monitoring of budget implementation, advising on major capital expenditures, and reviewing budget performance and strategies.

Committee Recommendations

The Committee recommends that the Accounting Officer to ensure the relevant committee are formally constituted and operationalized in line with best public financial management practices with the membership, terms of reference, and meeting schedules properly documented and approved.

FINANCIAL YEAR 2024/2025

1.0 Variance between Revenue from Exchange Transactions and Amount Reflected in E-Citizen Platform

2091. The Committee heard that, the statement of financial performance reflects rendering of services amount of Kshs. 2,118,756,000 as disclosed in Note 8 to the financial statements. However, records from the E-Citizen platform indicate an amount of Kshs. 1,802,924,937 out of which Kshs. 1,777,351,772 was transferred back to the Inspectorate thus resulting to an amount of Kshs. 25,573,165 not transferred from the National Treasury. This results in an unexplained and unreconciled variance of Kshs. 315,831,063. Further, it could not be confirmed why the balance was not transferred during the financial year under review and when these funds would be made available to the Inspectorate.

2092. In the circumstances, the completeness validity and accuracy of the rendering of services amount of Kshs. 2,118,756,000 could not be confirmed

Management response

2093. The management informed the Committee that, the Statement of Financial Performance includes revenue from rendering of services amounting to Kshs. 2,118,756,000, as disclosed in Note 8. Of this amount, Kshs. 1,802,924,937 was collected through the E-Citizen platform, while Kshs. 315,831,063 relates to seed certification and laboratory services that had not yet been onboarded onto the E-Citizen platform during the year.

2094. The delay in onboarding these services arose because the respective electronic systems were still under development and therefore could not be integrated with the E-Citizen platform at that time. Following the completion of system development in 2025, the seed certification services have since been successfully onboarded, and the onboarding of laboratory services is currently in progress.

2095. Management further confirms that all revenue from these services was received through the Inspectorate's bank account, duly recorded in the accounting system, and appropriately reflected in the financial statements. The relevant bank statements and ledger extracts have been provided to the Auditor for verification.

2096. Further, we wish to confirm that the E-Citizen collections for 27th to 30th June which had not been remitted by the National Treasury as at end of the financial year, were remitted on 1st July and 3rd July 2025 as shown in the appended bank statements extracts.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Variance between Revenue from Exchange Transactions and Amount Reflected in E-Citizen Platform in its report for the Financial Year 2023/2024, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

2.0 Lack of Ownership Documentation and Land Encroachment.

2097. The Committee heard that, the statement of financial position reflects property, plant and equipment balance of Kshs. 3,151,197,000 as disclosed in Note 26 and Note 27 to the financial statements which include eleven (11) parcels of land valued at Kshs. 2,350,450,000. Included in the land balance are two (2) properties situated in Nakuru and Kitale valued at Kshs. 1,241,250,000. However, the ownership documents were not provided for audit. In addition, the land in Kitale is encroached by private land developers and recovery of the encroached land within Kitale Municipality has not been successful and Inspectorate risks losing the land through encroachment.

2098. In the circumstances, the ownership of the parcels of land valued at Kshs. 1,241,250,000 could not be confirmed.

Management response

2099. The management informed the Committee that, KEPHIS is committed to regularizing ownership documentation for all land parcels and maintaining a complete and auditable asset register. The position on the two parcels is as follows;

2100. Kitale Land - Processing of the title for the parcel and recovery of the encroached land has remained a significant challenge. Prior to the establishment of KEPHIS in 1996, the land—measuring approximately 400 acres—was under KARI and used for seed testing and certification. By the time KEPHIS assumed ownership of the asset, substantial encroachment had already

occurred. In addition, 70 acres had been formally allocated to the Coffee Research Institute and Top Station Primary School. Of the remaining 330 acres, most had been irregularly allocated to private individuals, with only 25 acres allotted to KALRO.

2101. Through sustained efforts by KEPHIS, we have managed to repel some encroachers and recover a portion of the land. We currently maintain control of approximately 100 acres. However, our attempts to have the entire parcel surveyed, recovered, and titled have not yielded the desired results. This process requires intervention and support from the Ministry of Lands and the Ethics and Anti-Corruption Commission (EACC).

2102. We therefore request the PIC to assist in engaging and prompting the relevant ministries and agencies to expedite recovery and regularization of the land.

2103. Nakuru Land - The land is currently under KALRO's administration; however, the Inspectorate is full possession of the property. The subdivision and titling process has commenced and is expected to be completed in 2026 subject to sustained collaboration between KEPHIS and KALRO.

Committee Observations and Recommendations

The Committee had deliberated on the issue of Lack of Land Title Deeds in its report for the Financial Year 2017/2018, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

3.0 Budgetary Control and Performance

2104. The Committee heard that, the statement of comparison of budget and actual amounts reflects approved estimates and actual receipts of Kshs. 2,049,940,000 and Kshs. 2,225,504,000 respectively resulting to an over receipt of Kshs. 253,740,000 or 9% of the budget. Similarly, the Inspectorate spent a total of Kshs. 2,001,343,000 against actual receipts of Kshs. 2,225,504,000 resulting to an under-utilization of Kshs. 224,161,000 or 11% of the actual receipts.

2105. The underutilization affected the planned activities and programmes, which may have impacted negatively on effective service delivery to the public.

Management response

2106. The management informed the Committee that, over-performance in revenue was deliberate and attributable to the implementation of targeted revenue-enhancement measures during the year. These initiatives included review of services which commenced on 1st October 2024 and progressive automation of service processes. As a result, the Inspectorate realized collections above the approved budget.

2107. The resulting surplus funds arose directly from this improved revenue performance. However, the corresponding expenditure absorption was lower than the actual receipts because the additional revenue was above the revised budget for 2024/25 and therefore could not be utilized without additional supplementary budget approval.

2108. The noted underutilization of surplus revenue did not affect the performance of the Inspectorate. During the period, the Inspectorate attained an improved "very good" rating in performance contracting for 2024/25. Going forward, management will continue to enhance revenue forecasting, strengthen budget absorption planning, and engage the parent Ministry and the National Treasury to ensure timely revision of budgets where revenue performance exceeds projections.

Committee Observations

The Committee observed that –the Inspectorate received Kshs. 2,225,504,000, resulting in an over-receipt of Kshs. 175,564,000 (9%), while total expenditure amounted to Kshs. 2,001,343,000, leaving Kshs. 224,161,000 (11%) of the actual receipts unutilized. This level of under-utilization adversely affected the execution of planned activities and programmes and may have inhibited timely and effective service delivery to the public. The variances indicate weaknesses in budget forecasting, resource absorption capacity, and implementation planning.

Committee Recommendations

The Committee recommends that the Accounting Officer ensure that budgets are realistic, achievable, and fully aligned with approved annual work plans, procurement plans, and revenue collection schedules, in compliance with Regulation 44(2) of the Public Finance Management (National Government) Regulations, 2015. Further, the Committee directs the Accounting Officer to strengthen budget planning and forecasting processes to ensure revenue projections and expenditure plans are accurate and effectively support operational priorities.

5.0 Unresolved Prior Year Matters

2109. The Committee heard that, in the previous year's audit report, several issues were raised. Management did not submit a report demonstrating how the recommendations and findings of the prior year's audit were addressed, nor did they provide evidence supporting the resolution of the issues indicated as resolved.

Management response

2110. The management informed the Committee that, the issues raised in the Auditor General's report of 2023/24 had not bee resolved because the report had not been discussed by PIC. Nevertheless, the Corporation continued to implement the recommendations. In addition, the Auditor General's reports were presented to the Board.

Committee Observations

The Committee observed that –unresolved prior year issues were not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board hence the Management did not provide the reasons for the delay in resolving them contrary to Section 68 (2) (l) of the PFM Act CAP 412A that requires

accounting Officer to take appropriate measures to resolve any issues arising from audit which may remain outstanding.

Committee Recommendations

The Committee reprimands the then Accounting officer for dereliction of duties and recommends that the Accounting Officer, as a preliminary step, submit a report to the Parliament and the Auditor-General for review, on how it has addressed the recommendation made in respect of this report within three months upon adoption of this report.

6.0 Non-Compliance with Law on Fiscal Responsibility Principal Wage Bill

2111. The Committee heard that, the statement of comparison of budget and actual amounts reflects the total expenditure on employees of Kshs.898,908,000 against a total actual revenue of Kshs.2,225,504,000 representing forty percent (40%), while the total of capital and development expenditure are Kshs.88,920,000, representing only four percent (4%) of the actual revenue. This is contrary to Regulation 26 of Public Finance Management Regulations, 2015 which requires that national government's expenditure on compensation of employees (including benefits and allowances) shall not exceed 35% of the National Government's equitable share of the revenue raised nationally plus other revenues generated by the national government and that the national government expenditure on development shall be at least thirty percent in line with the requirement under Section 15(2)(a) of the Act. In the circumstances, Management was in breach of the law

Management response

2112. The management informed the Committee that, the high proportion of employee expenditure relative to the total Budget is largely due to the nature of KEPHIS operations, which are labour-intensive and field based. Core activities such as inspections, certifications, and laboratory testing require significant human involvement across multiple locations, resulting in higher ratio of personnel-related of the total budget.

2113. Management further notes that employee expenses were maintained within the approved budget. Nonetheless, management recognizes the need to progressively rationalize the employee/budget ratio to align with regulatory requirements. The progressive improvement is evident from the reduction of the percentage from 47% in 2023-24FY to 40% in 2024-25FY. Management remains committed to ensuring sustainability, regulatory compliance is attained.

Committee Observations

The Inspectorate wage bill was 40% of the total actual revenue which was 5% above the level allowed under Regulations26. (1) of the Public Finance management -National Government Regulations 2015 under the fiscal responsibility principles set out in Fiscal responsibility section 15 of the Act which states that government's expenditure on the compensation of employees (including benefits and allowances) shall not exceed 35 percent of the national government's equitable share of the revenue raised nationally plus other revenues generated by the national government pursuant to Article 209 (4) of the Constitution.

Committee Recommendations

The Committee recommends that within three months upon adoption of this report, the Accounting Officer to develop, implement and submit to the National Assembly a wage-bill rationalization strategy aimed at progressively aligning the employee compensation ratio to the 35% fiscal limit prescribed by the PFM Act and Regulations, Strengthen workforce planning and restructuring measures, ensuring staffing levels, job roles, and remuneration structures support operational efficiency without breaching statutory thresholds.

6.0 Long outstanding Receivables from Exchange Transactions

2114. The Committee heard that, the statement of financial position and Note 21 to the financial statements reflect receivables from exchange transactions balance of Kshs. 61,074,000, comprising gross receivables of Kshs. 88,352,000 and a provision for doubtful debts of Kshs. 27,278,000. Review of the ageing analysis of service debtors indicated that Kshs. 22,326,218 has been outstanding for more than three (3) years.'

2115. In the circumstances, the recoverability of the long outstanding receivables of Kshs. 22,326,218 could not be confirmed.

Management response

2116. The management informed the Committee that, the Inspectorate ceased offering services on credit in 2023 following the implementation of an upfront-payment model. In addition, the services have since been onboarded onto the E-Citizen platform, where settlement of fees is a mandatory prerequisite to accessing KEPHIS services. This shift has substantially mitigated the credit risk that existed in prior years.

2117. Management is committed to the recovery of unimpaired debts generated under the previous credit policy. Measures implemented during the period included engagement with the clients, intervention by the Ministry on debts held by ministries and state corporations, and suspension of services.

2118. These measures and commitment are evidenced by the continued reduction of outstanding debt balance from the KShs. 123,537,000 reported in the Auditor-General's report to KShs. 88,352,000 in the 2024/25 financial statements.

2119. The Inspectorate remains committed to enhancing financial reporting accuracy and upholding best practices in public sector accounting.

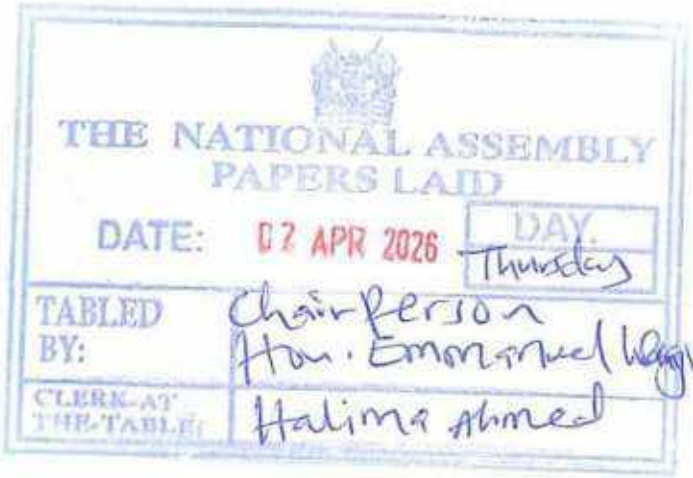
Committee Observations and Recommendations

The Committee had deliberated on the issue of Long outstanding Receivables from Exchange Transactions in its report for the Financial Year 2019/2020, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

Signature.....Date.....02/04/2026

HON. EMMANUEL WANGWE CBS, MP

CHAIRPERSON – PUBLIC INVESTMENTS COMMITTEE ON SOCIAL SERVICES, ADMINISTRATION AND AGRICULTURE



THE NATIONAL ASSEMBLY
13TH PARLIAMENT – FIFTH SESSION (2026)

PUBLIC INVESTMENTS COMMITTEE ON SOCIAL SERVICES
ADMINISTRATION & AGRICULTURE

REPORT WRITING ADOPTION LIST

27th/3/2026.

	HON. MEMBER	DATE	SIGNATURE
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2.	Hon. Caleb Amisi Luyai, MP – Vice Chairperson		
3.	Hon. Ferdinand Kevin Wanyonyi, MP		
4.	Hon. Martin Peters Owino, MP		
5.	Hon. (Amb.) Benjamin Langat Kipkirui, MP		
6.	Hon. Nixon Nicholas Ngikor Ngikolong, MP		
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