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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT– THIRD SESSION

THE PUBLIC ACCOUNTS COMMITTEE

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

FOR THE

FINANCIAL YEAR 2016/2017

VOLUME I

DIRECTORATE OF COMMITTEE SERVICES
THE NATIONAL ASSEMBLY,
PARLIAMENT BUILDINGS,
NAIROBI

NOVEMBER, 2019

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List of Abbreviations

AGL	-	Above Ground Level
AIA	-	Appropriation-In-Aid
AIE	-	Authority to Incur Expenditure
ASCU	-	Agricultural Sector Coordinating Unit
ATC	-	Agricultural Training Centres
CBK	-	Central Bank of Kenya
CBS	-	Commander of the Burning Spear
CFS	-	Consolidated Fund Services
CoB	-	Controller of Budget
CoK	-	Constitution of Kenya
CRBR	-	Counter Receipt Book Registers
CRJ	-	Chief Registrar of Judiciary
CSFC	-	Cereals and Sugar Finance Corporation
DCI	-	Director Criminal Investigations
DPP	-	Director of Public Prosecution
DYT	-	Department of Youth Training
EABL	-	East African Breweries Limited
EAC	-	East African Community
EACC	-	Ethics and Anti-Corruption Commission
FEPACI	-	Pan-African Federation of Film
GAA	-	Government Advertising Agency
GDP	-	Gross Development Product
GFS	-	Government Financial Statistics
GSU	-	General Service Unit
ICDC	-	Industrial and Commercial Development Corporation
ICTA	-	Information Communication Technology Authority
IDB	-	Industrial Development Bank
IDPs	-	Internally Displaced Persons
IFMIS	-	Integrated Financial Management Information System
IGRTC	-	Inter-Governmental Relations Technical Committee
IPSAS	-	International Public Sector Accounting Standards
JCF	-	Joint Consolidated Fund
JSC	-	Judicial Service Commission
KALRO	-	Kenya Agricultural and Livestock Research Organization
KCAA	-	Kenya Civil Aviation Authority
KCB	-	Kenya Commercial Bank
KCFNMS	-	Kenya Citizens and Foreign National Management
KEMRI	-	Kenya Medical Research Institute
KEPSHA	-	Kenya Primary School Heads Association
KIMC	-	Kenya Institute of Mass Communication
KLLSF	-	Kenya Local Loans Support Fund
KPA	-	Kenya Ports Authority
KPLC	-	Kenya Power and Lighting Company
KPSTC	-	Kenya Police Service Training College
KPTC	-	Kenya Posts and Telecommunication Corporation
KRA	-	Kenya Revenue Authority
KTCIP	-	Kenya Transparency Communication Infrastructure Project
LPO	-	Local Purchase Order
MDAs	-	Ministries Departments and Agencies
MOE	-	Ministry of Education

MOHA	-	Ministry of Home Affairs
MOU	-	Memorandum of Understanding
MOYAS	-	Ministry of Youth Affairs and Sports
MTC	-	Ministerial Tender Committee
MTEF	-	Medium Term Expenditure Framework
NALM	-	National Assets and Liabilities Management
NCAJ	-	National Council for Administration of Justice
NCCC	-	National Consultative Coordination Committee
NCLR	-	National Council for Law Reporting
NCPB	-	National Cereals and Produce Board
NDMA	-	National Disaster Management Authority
NHIF	-	National Hospital Insurance Fund
NOCK	-	National Oil Company of Kenya
NOFBI	-	National Optic Fiber Backbone Infrastructure
NPS	-	National Police Service
NPSC	-	National Police Service Commission
OAG	-	Office of the Auditor General
OOP	-	Office of the President
PAC	-	Public Accounts Committee
PA-K	-	President's Award Kenya
PAYE	-	Pay As You Earn
PFM	-	Public Finance Management Act
PIN	-	Personal Identification Number
PMG	-	Paymaster General
PMIS	-	Pension Information Management System
PSASB	-	Public Sector Accounting Standard Board
PSSSA	-	Public Service Superannuation Scheme Act
RDU	-	Rapid Deployment Unit
SAGAs	-	Semi-Autonomous Government Agencies
SCAC	-	State Corporation Advisory Committee
SRC	-	Salaries and Remuneration Commission
TMEA	-	Trade Mark East Africa
UNDP	-	United Nations Development Programme
UNHCR	-	United Nations High Commissioner for Refugees
UNICEF	-	United Nations Children's' Fund
USAID	-	United States Agency for International Development
VGA	-	Volunteer Graduate Assistants
VAT	-	Value Added Tax
YEDF	-	Youth Enterprise Development Fund

CHAIRPERSON'S FOREWORD

Honourable Speaker, on behalf of the Public Accounts Committee (PAC), and pursuant to Standing Order 199, it is my pleasant duty and honour to present to the House the report of the Committee on the audited financial statements of Ministries, State Departments, Commissions and Independent Offices for financial year 2016/2017.

The National Assembly exercises oversight over national revenue and its expenditure pursuant to Article 95(4) (c) of the Constitution through PAC which, in turn, derives its mandate from Standing Order 205. Further, Article 203(3) of the Constitution provides that the equitable share of the revenue raised nationally and allocated to the National Government and County Governments is to be calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.

Honourable Speaker, the Committee takes very seriously the responsibility that has been bestowed upon it by the Constitution and House Standing Orders and endeavours, at all times, to discharge this responsibility with utmost objectivity.

With the tabling of this report, the Committee has now effectively cleared the heavy backlog of unexamined audited accounts that it inherited from the 11th Parliament. Hon. Speaker, I am further pleased to report that the Committee, having commenced examination of the audited financial statements for 2017/2018 financial year – the latest to be submitted to the National Assembly by the Auditor-General - has achieved the target it had set for itself of delivering an up-to-date scrutiny of and reporting on the audited accounts. The import of this is that, going forward, revenue sharing between the two levels of government will be based on more realistic statistics – a factor that can only contribute to the strengthening of devolution, for the benefit of the people at the grassroots.

The Committee held a total of Fifty-Eight (58) sittings during which it received both written and oral evidence from Accounting Officers on audit queries raised by the Auditor-General. Minutes of the Committee's meetings are annexed to this report.

Honourable Speaker, I wish to commend, once again and most sincerely, all the Accounting Officers whose financial statements were given a clean bill of health by the Auditor General. The Committee remains forever grateful to them for their dilligence. I encourage all other Accounting Officers to emulate these examples.

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

In conclusion, Honourable Speaker, I wish to register my appreciation to fellow Honourable Members of the Committee, the Offices of the Speaker and the Clerk of the National Assembly and the Office of the Auditor General for facilitating the work of the Committee and making the production of this report possible. Special appreciation goes to the Directorate of Committee Services and, in particular, members of the Committee Secretariat for their commitment and devotion to duty.

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

HON. JAMES OPIYO WANDAYI, MP

1.0 INTRODUCTION

1.1 Establishment of the Public Accounts Committee

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

1.2 Mandate of the Committee

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

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

1.3 Guiding Principles

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

1) Constitutional Principles on Public Finance

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

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

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

2) Direct Personal Liability

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

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

3) Obligations of Accounting Officers

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

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

And section 74 (2) of the same PFM Act stipulates that: **"If a Cabinet Secretary reasonably believes that an Accounting Officer is engaging in or has engaged in improper conduct within the meaning of subsection (4), the Cabinet Secretary shall: -**

i. **Take such measures as may be provided in regulations; or**
ii. **Refer the matter to the relevant office or body in terms of the statutory and other conditions of appointment or employment applicable to that Accounting Officer."**

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

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

1.4 Committee Membership

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

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

Members

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

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

Hon. Tom J. F. Kajwang, MP
Ruaraka - Constituency
Orange Democratic Movement Party

Hon. Christopher Nakuleu Doye
TurkanaNorth Constituency
Jubilee Party

Hon. Patrick Makau King'ola, MP
Mavoko Constituency
Wiper Democratic Movement Kenya Party

Hon. Florence Mwikai Mutua, MP
Woman Representative - Busia County
Orange Democratic Movement Party

Hon. Mathias Robi Nyamabe, MP
Kuria West Constituency
Jubilee Party

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

Hon. Gideon Koske Kimutai, MP
Chepalungu Constituency
Chama Cha Mwananchi Party

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

Hon. Francis Kuria Kimani, MP
Molo Constituency
Jubilee Party

Hon. Samson Ndindi Nyoro, MP
Kiharu Constituency
Jubilee Party

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

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

Hon. James Gichuhi Mwangi, MP
Tetu Constituency
Jubilee Party

Hon. Daniel Kipkogei Rono, MP
Keiyo South Constituency
Jubilee Party

Hon. Qalicha Gufu Wario, MP
Moyale Constituency
Jubilee Party

1.5 Committee Secretariat

Oscar Namulanda

Principal Clerk Assistant II

Nebert Ikai

Third Clerk Assistant

Josh Kosiba

Senior Fiscal Analyst

Peter Mwaura

Legal Counsel II

Caroline M. Njue

Research Officer III

Salat Abdi Ali

Senior Serjeant At Arms

Elijah Ichwra

Audio Officer

2.0 GENERAL OBSERVATIONS AND RECOMMENDATIONS

1.0 Introduction

The chapter covers general observations, findings and recommendations of the Committee arising from the proceedings, evidence-taking and selected project visits relating to the report of the Auditor-General on the financial statements for Ministries, Departments, Commissions, Funds and other accounts of the National Government for the financial year ending 30th June 2017.

2.0 General Observations and Findings

1. **The execution of the approved budget for the Financial Year ended 30th June 2017:-**

   The Accounting Officers of the MDAs, Judiciary, Parliament, Constitutional Commissions and Independent Offices are required to monitor, evaluate and oversee the management of public finances in their respective entities including ensuring proper management and control of, and accounting for, their finances in order to promote the efficient and effective use of budgetary resources pursuant to the provisions of Section 66 of the PFM Act, 2012.

2. The Committee made the following general observations on the execution of the approved budget for the Financial Year 2016/2017:

   (a) Equitable Sharing of Revenue and Approved Budget:-

   The approved gross expenditure estimates for the Financial Year 2016/2017 was Kshs. 2,541,568,251,270 while approved Appropriations-In-Aid (AIA) was Kshs. 448,217,771,819 resulting in net approved expenditure estimates of Kshs. 2,093,350,479,451 as shown in table 1.0:

Table 1.O: Summary of the Approved Gross Expenditure Estimates for the Financial Year 2016/2017

National Government	Gross Estimated Expenditure (Kshs.)	Estimated AIA (Kshs.)	Approved Net Expenditure (Kshs.)	As a % of Approved Total Net Expenditure
Recurrent Votes	929,104,106,437	88,491,935,859	840,612,170,578	40%
Development Vote	801,530,580,399	359,725,835,960	441,804,744,439	21%
Consolidated Fund Services (CFS)	526,211,209,434	0	526,211,209,434	25%

Sub-Total National Government	**2,256,845,896,270**	**448,217,771,819**	**1,808,628,124,451**	**86%**
County Governments	284,722,355,000	0	284,722,355,000	14%
Grand Total	**2,541,568,251,270**	**448,217,771,819**	**2,093,350,479,451**	**100%**

Data Source: The Auditor-General

Committee Observations and Findings

The County Governments equitable share of revenue of Kshs. 284,722,355,000 for the Financial Year 2016/2017 was based on the audited revenue for the Financial Year 2013/2014, since the audited financial statements for the Financial Year 2014/2015 had not been considered, tabled and adopted by the National Assembly pursuant to Article 203(3) of the Constitution.

(b) Net Actual Expenditures for the National Government:

The financial statements for the Financial Year 2016/2017 for the National Government showed total actual expenditure of Kshs. 2,026,052,946,211 representing 90 percent of the gross estimated expenditure of Kshs. 2,256,845,896,270. The actual expenditure of Kshs. 2,026,052,946,211 represents an increase of Kshs. 291,097,875,295 or 17 percent when compared with actual expenditure of Kshs. 1,734,955,070,916 in the Financial Year 2015/2016. There was a gross under-expenditure of Kshs. 230,792,950,059 made up of under-expenditure of Kshs. 204,391,303,075 for combined recurrent and development votes and under-expenditures of Kshs. 26,401, 646, 984 for CFS.

Committee Observations and Findings

The total under-expenditure of Kshs. 204,391,303,075 for recurrent and development votes was mainly attributed to delays in exchequers, inadequate exchequer issues occasioned by inadequate actual revenue collections, delayed disbursement of donor funds, persistent systemic challenges associated with the Integrated Financial Management Information Systems (IFMIS) and challenges associated with implementation of procurement laws & procedures. The continued absorption for the budget especially in development vote denies the Kenyans the much-needed development projects planned and budgeted for by the National Government.

3. Statement on Audited Accounts of Revenue for the period ending 30th June 2017: -

The total revenue recorded under various revenue statements as received by the National Government for the Financial Year 2016/2017 amounted to Kshs. 1,357,698,178,325 representing an increase of

Kshs. 164,079,039,661 or about 14 percent when compared to actual collections of Kshs. 1,193,619,138,664 realized in the Financial Year 2015/2016. The total revenue of Kshs. 1,357,698,178,325 when compared to total budgeted receipts of Kshs. 1,449,051,153,281 resulted in an under-collection of revenue of Kshs. 91,352,974,959 or approximately 6 percent. The total revenue of Kshs. 1,357,698,178,325 comprised of Kshs. 1,319,297,139,846 and Kshs. 38,401,038,479 relating to recurrent and development revenues, respectively. However, actual recurrent revenue collected during the year reflected a shortfall of Kshs. 68,669,167,578 or 4.9 percent while there was a shortfall of development revenue collected of Kshs. 22,683,807,381.

The statement of arrears of revenue reflected revenue receipts amounting to Kshs. 193,997,651,702 as at 30th June 2017, which though budgeted for has remained uncollected. The balance constitutes arrears for PAYE, Other Income Tax, VAT and Excise Taxes, loan redemptions and loan interests. Although the amount reconciles with the respective statement of arrears of revenue by the KRA, the management has not accounted for the movement of the arrears from the earlier balance of Kshs.194,951,716,541 for the Financial Year 2014/2015 and Kshs. 380,600,178,374 in the Financial Year 2015/2016 recorded during the previous reports of the Auditor-General.

The statement of revenue reflected an amount of Kshs. 1,357,698,178,325 as having been collected during the Financial Year 2016/2017. The brought forward balance from Financial Year 2015/2016 amounted to Kshs. 2,046,650,137 bringing the total revenue available in Financial Year 2016/2017 to Kshs. 1,359,744,828,462. The statement of revenue, however, reflects an amount of Kshs.1,354,564,223,623 as having been paid to the Exchequer during the year leaving a substantial balance of Kshs.5,180,604,839 not remitted to the Exchequer as at 30th June 2017.

Committee Observations and Findings

The National Treasury has not been able to explain satisfactorily verifiable measures put in place to address the increases in arrears of revenue and non-remittance of revenue contrary to the provisions of Article 206(1) of the Constitution and Section 17(2) (a) of the PFM Act, 2012. The significant arrears of revenue due and uncollected, undermines the principle of equitable sharing of national revenue between the national and county governments as enshrined in Articles 202 and 203 of the Constitution of Kenya, 2010. Further, the persistent increase in arrears of revenue denies the national and county governments the scarce financial resources that they need to undertake their development projects.

4. **Outstanding Imprest:**

The Accounting Officers and the various Authority to incur Expenditures (AIE) holders are mandated to manage imprest transactions in the various National Government entities pursuant to Regulation 92 of the PFM (National Government) Regulations 2015. The Committee observed instances where some Accounting Officers and or AIE holders did not ensure that imprests were surrendered within the stipulated time as per the provisions of PFM Act 2012 and Regulation 93 of the PFM (National Government) Regulations 2015.

Committee Observations and Findings

The total un-surrendered/unaccounted for imprests amounted to Kshs. 518,096,643 in the Financial Year 2016/2017. The top five (5) entities with significant outstanding imprest during the Financial Year were: Ministry of Health (including projects) Kshs. 77,105,884; National Humanitarian Fund Kshs. 71,960,000; State Department of Environment Kshs. 66,747,385; Ministry of Lands and Physical Planning Kshs. 66,202,974; and Judiciary (Judicial Performance Improvement Project) Kshs. 40,080,170. The consistent failure to account for imprests on due dates undermines the accountability principle of public finance as contemplated in Article 201(1) of the Constitution and is in contravention of the law as stipulated in the PFM Act, 2012 and its attendant Regulations.

5. **Pending Bills: -**

During the year ended 30th June 2017, a number of National Government entities did not settle bills amounting to Kshs. 16,712,379,101. The total amounts of reported pending bills has decreased compared to Kshs. 20,472,313,203 in the Financial Year 2015/2016. Six (6) entities incurred pending bills totaling Kshs.12,407,838,608. Table 2.0 provides a summary of the entities which incurred pending bills exceeding Kshs. 1 billion as at 30th June 2017.

Table 2.0: Summary of National Government Entities with Pending Bills Exceeding Kshs. 1 billion as at 30th June 2017

Entity	Pending Bill Kshs.
State Department of Livestock	1,084,210,383
State Department for Broadcasting and Telecommunication	1,123,808,354
State Department of Housing and Urban Development	1,257,844,010
Independent Electoral and Boundaries Commission	2,680,742,000
State Department of Public Service and Youth	2,964,606,488
State Department for Devolution	3,296,627,373
Total	**12,407,838,608**

Data Source: Auditor-General

Committee Observations and Findings

The pending bills are occasioned by various factors mainly delays/non release of exchequers, variations of estimated costs of projects by the Accounting Officers, austerity measures enforced through budget rationalization in the supplementary budget estimates, weak budget controls including unrealistic annual cash flow plans, and introduction of new projects in the course of the financial year which is not contemplated in the provisions of Article 223 of the Constitution

and Section 44 of the PFM Act, 2012 as read together with Regulation 40 (3) of the PFM (National Government) Regulations, 2015. The accumulation of pending bills distorts the implementation of successive year's budget.

6. **Statement on Outstanding Public Debt: -**

The principles of public finance stipulated in Article 201(c) of the Constitution require that the burdens and benefits of the use of resources and public borrowing should be shared equitably between present and future generations. The trend of growth of public debt stock is as shown in table 3.0.

Table 3.0: Trends of Total Outstanding Public Debt from Financial Year 2012/13 to Financial Year 2016/2017

Financial Year	Debt Amount (Kshs.)	Percentage Change	Actual Gross Expenditure (Kshs.)	Debt as a % of Total Budget
2012/2013	1,767,017,069,021	18%	1,275,862,845,060	20%
2013/2014	2,250,845,910,286	27%	1,461,965,849,061	15%
2014/2015	2,674,806,364,195	19%	1,906,841,500,924	30%
2015/2016	3,385,910,449,825	27%	1,999,174,760,912	5%
2016/2017	4,194,102,152,577	24%	2,390,531,985,901	5%

Data Source: The Auditor-General

Committee Observations and Findings

The total outstanding amount of public debt increased significantly over the years from Kshs. 1,767,017,069,021 reported in the Financial Year 2012/2013 to Kshs. 4,194,102,152,577 (net of redemption on loans of Kshs. 220,174,538,145 made during the year) in the Financial Year 2016/2017, representing an increase of Kshs. 2,427,085,083,556 or approximately 137% over the five-year period. Further, the summary statement of outstanding public debt shows that the outstanding treasury bonds balance was Kshs. 1,313,560,945,967 as at 30th June 2017. However, the schedule of outstanding treasury bonds reflected a balance of Kshs. 1,338,719,195,967 as at the same date. Thus, the Treasury Bonds balance was understated by Kshs. 25,158,250,000.

7. **Disclaimer of Opinion: -**

The issuance of disclaimer of opinion by the Auditor-General amounts to serious or persistent material breach of the measures established under the public finance laws to protect public funds as contemplated in Section 94(1) (d) of the PFM Act, 2012. During the audit review of the period, there were instances where the Auditor-General withheld an opinion or issued a disclaimer due to inadequacies in the financial statements or records. The total number of National Government financial statements relating to the year ended 30th June 2017, examined were one hundred and twenty-nine (129) out of which forty-six (46) or 36% had clean (unqualified) audit opinion, fifty-nine (59) or 46% had qualified audit opinion, thirteen (13) or 10% had an adverse opinion expressed while on eleven (11) or 8%, no opinion could be expressed hence a disclaimer of opinion was issued.

The following eleven (11) entities incurred total expenditure amounting to Kshs. 34,913,975,952 on which the Auditor-General was not able to express his opinion: Agricultural Information Resource Centre Revolving Fund; Government Clearing Agency Fund; Kenya Local Loans Support Fund; Land Settlement Fund Trustees; Ministry of Lands and Physical Planning- Revenue; National Government Affirmative Action Fund; National Youth Service -Mechanical and Transport Fund; Prisons Industries Revolving Fund; State Department for Planning and Statistics; Stores and Service Fund; and Strategic Grain Reserve Trust Fund.

Committee Observations and Findings

There were various reasons which led to a disclaimer of opinion on the various financial statements including: various unexplained discrepancies; omission of expenditure from the financial statements; lack of documentation to support some of the figures shown in the financial statements; and failure by the Accounting Officers to provide information and explanation considered necessary for the purpose of the audit. The Auditor-General was not able to establish whether expenditure reflected in the eleven (11) financial statements with disclaimer of opinions were incurred lawfully and in an effective way as required under Article 229(6) of the Constitution. For, example, the Accounting Officer for the Ministry of Lands & Physical Planning did not avail the agency agreement between the ministries for land rent collected by KRA on behalf of the Ministry of Kshs. 880,104,997.

8. The IFMIS Platform and Financial Reporting: -

There are still system challenges associated with the IFMIS platform integration and financial reporting. The Consolidated Fund Services (CFS), for example, was not fully integrated into the IFMIS platform. The IFMIS was used for the first time to capture expenditure in the Financial Year 2016/17 and encountered various teething problems. A total of Kshs. 3,905,744,684 which represented all exchequers issues for Independent Constitutional Offices holders and other miscellaneous expenses under CFS-R52 were not captured in the IFMIS report but were later captured and posted in the ledger. Basic anomalies such as miss-posting in the IFMIS general ledger and poor record keeping are still prevalent as audit queries.

Committee Observations and Findings

The challenges associated with IFMIS have been continuously brought to the attention of Cabinet Secretary for the National Treasury by the Accounting Officers. Further, it was observed that some of the Accounting Officers did not complete payment process as a result of deactivation of IFMIS responsibilities and late loading of supplementary budget which was effected in the last week of June 2017. It was also noted that a number of Accounting Officers did not undertake daily reconciliations

and waiting until the last minute of the financial year to attempt such reconciliations thereby occasioning artificial challenges with IFMIS.

9. Fixed Asset Register:

The Accounting Officers are charged with the responsibility of management of the assets and liabilities of National Government entity and managing those assets in a way which ensures that the National Government entity achieves value for money in acquiring, using and disposing of those assets as contemplated in Section 72 (1) of the PFM Act, 2012. Further, Regulation 143 of the PFM (National Government), 2015 requires an Accounting Officer to maintain a register of assets under his or her control or possession as prescribed by the relevant laws.

Committee Observations and Findings

(i) **The Committee observed a continuing trend in many entities which did not keep and maintain fixed asset registers as required under the PFM Act, 2012 and Regulations. It was thus impossible to establish ownership of assets belonging to those entities. For example, the Judiciary did not provide its fixed asset register for audit review to confirm that the acquired assets were taken on-charge and recorded in the register. The financial statements did not include a summary of the fixed assets register as stipulated in the IPSAS reporting template prescribed by the PSASB.**

(ii) **Further, vehicles used by the Judicial Service Commission, were not included in the fixed asset register maintained by the Commission but were instead controlled and managed by the Judiciary. This contravened Section 13(1) (a) of the Judicial Service Act, 2011 that requires the Commission, to account for all vehicles purchased or acquired. The Judiciary also incurred a total of Kshs. 76,079,641 for purchase of vehicles and other transport equipment for the year ending 30th June, 2017 but no ownership documents for the purchase of two Toyota Prados and one Subaru Outback worth Kshs. 27,535,000 in aggregate were provided for audit verification. Lack of properly maintained and updated asset registers poses a grave risk of loss of public funds resulting from unaccounted for public assets.**

3.0 General Recommendations:

The Committee makes the following recommendations:

(i) **To address challenges associated with credibility of budget execution, the Cabinet Secretary for the National Treasury & Planning should within three (3) months of the adoption of the report establish & gazette a technical taskforce comprising of representatives of the Executive, Judiciary and Parliament to review the effectiveness and efficiency of the medium-term expenditure framework (MTEF) which has been used since the Financial Year 2000/2001. The taskforce should, among other things, prescribe measures to address the ability of the National**

Government to accurately and consistently meet its revenues and expenditure targets to ensure that government upholds its budget commitments. It should also seek to understand why government has persistently deviated from these commitments;

(ii) Budget rationalization through the numerous supplementary budget estimates in the course of the year was identified as one of the causes of the accumulating pending bills. The supplementary budget estimates are associated with introduction of new projects in the course of the financial year which is not contemplated in Article 223 of the Constitution and Section 44 of the PFM Act, 2012 as read together with Regulation 40 (3) of the PFM (National Government) Regulations, 2015. Parliament should review the legislative framework governing the processing and frequencies of supplementary budgets with a view to amending the PFM Act, 2012 and its attendant regulations;

(iii) The Cabinet Secretary, the National Treasury & Planning, should within three (3) months of adoption of this report issue a written reprimand to all the Accounting Officers who failed to manage imprests by ensuring that the outstanding imprests due were surrendered in time in line with the provisions of the PFM Act 2012 and Regulation 93 of the PFM (National Government) Regulations 2015;

(iv) The Cabinet Secretary should within three (3) months of adoption of this report, draft and submit to the National Assembly, amendments to Section 67 of the PFM Act by introducing a new sub-section after sub-section 2 to provide for annual tabling for approval of all the names of persons designated as Accounting Officers for the respective entities together with the annual appropriation bill. Any Accounting Officer whose entity received a qualified audit opinion from the Auditor General should not be eligible for designation as Accounting Officer unless cleared through writing by the Auditor-General;

(v) The issuance of disclaimer of opinion by the Auditor-General amounts to serious or persistent material breach of the measures established under the public finance laws to protect public funds as contemplated in Section 94(1) (d) of the PFM Act, 2012. Within three (3) months of adoption of this report, the Cabinet Secretary for the National Treasury should take administrative action against all the Accounting Officers whose entities received a disclaimer of opinion in the Financial Year 2016/2017;

(vi) The Committee notes that it is mandatory for all entities to keep comprehensive asset registers to protect public asset. The Cabinet Secretary National Treasury, should within three (3) months of adoption of this report, ensure that all Accounting Officers within the National Government entities prepare and submit up-to-date registers of assets to the National Treasury. Further, compile a national register of assets for all assets owned by the National Government and submit a comprehensive report to the National Assembly within six (6) months of adoption of this report;

(vii) The total outstanding amount of public debt increased significantly to Kshs. 4,194,102,152,577 in the Financial Year 2016/2017, representing an increase of approximately 137% over a five-year period. Further, the outstanding treasury bonds balance was Kshs. 1,313,560,945,967 differed with a schedule balance of Kshs. 1,338,719,195,967 as at 30th June 2017. Thus, the treasury bonds balance was understated by Kshs. 25,158,250,000. The Cabinet Secretary, National Treasury, should take administrative action on the responsible officer charged with management of treasury bonds and bills;

(viii) The Auditor-General should within three (3) months of adoption of this report undertake a special audit on the treasury bonds and bills records for the period 2012/2013 to 2018/2019 Financial Years. The report should be tabled in the National Assembly within six (6) months of adoption of this report;

(ix) The Cabinet Secretary, National Treasury, should within three (3) months of adoption of this report, appoint an independent consultant to review the suitability of the IFMIS platform in budget execution and reporting to ensure that it provides an efficient financial management for both the national and county governments and transparent financial management and standard financial reporting as contemplated by Article 226 of the Constitution. Further, Accounting Officers must ensure that they undertake day-to-day accounts reconciliations in the IFMIS system to avoid accumulation of the workload which leads to clogging of the system and failures at the end of the financial year;

(x) The total revenue recorded under various revenue statements as received by the National Government for the Financial Year 2016/2017 amounted to Kshs. 1,357,698,178,325 representing an increase of Kshs. 164,079,039,661 or about 14 percent when compared to actual collections of Kshs. 1,193,619,138,664 realized in the Financial Year 2015/2016. The total revenue amount of Kshs. Kshs. 1,357,698,178,325 should form the basis of equitable sharing of revenue between the national and county governments as contemplated in Article 203 (3) of the Constitution.

4.0 General Observations and Recommendations on Other Fiduciary Risks

(i) **Unbudgeted Expenditures:** The State Department of Natural Resources spent a total of Kshs. 230,000,000 on wildlife compensation in the Financial Year 2016/2017. The Accounting Officer did not provide to the Auditor-General an explanation on how the funds were sourced neither was there any explanation or reallocation warrants or authority sought from the National Treasury. The use of Kshs. 230 million without the National Treasury authority and approval by the National Assembly amounts to unauthorized excess vote which undermines the role of the National Assembly and the National Treasury in the budgeting making process as provide for in the Constitution and the PFM Act, 2012.

Committee Recommendation

The Cabinet Secretary for the National Treasury should within three (3) months take an administrative action including a written reprimand against the then Accounting Officer pursuant to Section 67 of the PFM Act, 2012. Further, the National Assembly debars the then Accounting Officer from the responsibility of management of public finances for undermining the authority of the National Assembly and the National Treasury in budgeting making as provided for in the Constitution and the PFM Act, 2012.

(ii) Under Collection and Under-Reporting of Revenue: The Cabinet Secretary, National Treasury, is required to designate in writing persons as receivers of National Government revenue under Article 209(1), (2) and (4) of the Constitution and who shall be responsible for receiving and accounting for such National Government revenue provided in any law or in regulations as the Cabinet Secretary may specify in any Financial Year in the letter of appointment. The receivers of revenue are required to collect the revenue and separately account for it in accordance with Articles 206(1) and 209(1), (2) and (4) of the Constitution. The total revenue of Kshs. 1,357,698,178,325 for the Financial Year 2016/2017 when compared to total budgeted receipts of Kshs. 1,449,051,153,281 resulted in an under-collection of revenue of Kshs. 91,352,974,959 or 6 percent. The failure by the various receivers of revenues by either under-collecting or under-reporting revenue violates the provisions of Constitution and the PFM Act, 2012.

Committee Recommendation

The Cabinet Secretary for the National Treasury should within three (3) months take an administrative action including a written reprimand against the then Accounting Officer pursuant to Section 82 of the PFM Act, 2012. Further, the National Assembly debars all the receivers of revenue from the responsibility of management of public finances for failure to discharge their responsibility with regards to revenue collection as provided for in the Constitution and the PFM Act, 2012.

(iii) Stalled and Incomplete Projects: - During the year under review it was noted that the National Government continued to incur huge expenditure for projects which had either stalled or remained incomplete for a long time even after the expiry of their completion dates. In other instances, payments were made for work not done. This casts doubt on value for money for such expenditure. Table 4.0 provides a summary of selected stalled and incomplete projects on which various government entities continued to incur significant amount of public money.

Summary of Selected Stalled/Incomplete Projects Funded in the Financial Year 2016/2017		
Entity	**Project Description**	**Amount (Kshs.)**
1. State Department of Sports Development	National Sports Fund: Incomplete partitioning of their new offices at Flamingo Towers	7,091,718
2. State Department for Social Protection	Proposed Dormitory for Dagoretti Rehabilitation Girls School	9,731,997
3. State Department of Natural Resources	Incomplete refurbishment of 20th and 21st floors of offices at Block A of NSSF Building	16,978,834
4. State Department of Public Service and Youth	Construction of classrooms and workshop at National Youth Service Ruaraka	25,912,277
5. State Department for Special Programmes	Stalled Wajir Sewerage project	32,182,850
6. State Department for Technical and Vocational Training	Incomplete construction of the proposed Lamu East Technical Training Institute Kshs.38,079,615; and Incomplete construction of the proposed Kakrao TTI Kshs.48,720,833	86,800,448
7. State Department for Labour	Proposed National Employment Promotion Centre, Kabete	117,998,228
8. The Judiciary	Various Stalled Projects for Courts	625,626,493
9. State Department for Natural Resources	Construction of in-block irrigation infrastructure – Kimira Oluch	746,541,711
10. State Department for Correctional Services	Stalled and incomplete Projects for Accommodating Prison Staff	876,249,414
Total		**2,545,113,970**

Committee Recommendation

The Cabinet Secretary for the National Treasury should within three (3) months of adoption of this report, constitute a national committee on National Government stalled projects to undertake an audit with a view to formulating a policy framework and strategic measures on financing and completion of all the stalled projects. The report should be availed to the National Assembly within six (6) months of adoption of this report.

(iv) **Irregular Payment for Goods and Services: -** There still exists instances where Accounting Officers make irregular payments for goods and services. Accounting Officers are required in accordance with Article 226(2) of the Constitution and Section 68(1) of the Act, to be accountable to the National Assembly and required to immediately report to the relevant authority, in writing where he or she reasonably believes that an unauthorized, or irregular expenditure has occurred, immediately report, in writing, particulars of the expenditure to the relevant authority as provided for in the PFM Act, 2012 and the Regulation 23 (2) of the PFM (National Government) Regulations 2015. For example: The Department of Pensions incurred pension payment of Kshs. 519,800 on two deceased beneficiaries between the year 2007 and 2015. A further Kshs. 42,000 was paid between July 2015 and Jan 2016; the Ministry of Health incurred irregular payment on supply of one hundred (100) portable medical clinics at Kshs. 10,000,000 each totaling to Kshs.1 billion.

Committee Recommendation

All Accounting Officers who incurred irregular payment for goods and services during the year under review should within three (3) months of adoption of this report, be investigated and if found culpable, charged for an offence of financial misconduct as provided for in Section 197(1) (h) of the PFM Act, 2012.

3.0 THE NATIONAL TREASURY

FINANCIAL STATEMENTS FOR VOTE 1071

Dr. Julius Muia, the Accounting Officer for the National Treasury (Vote 1071) appeared before the committee on 9th July 2019, 16th September 2019, 17th September 2019 and 19th September 2019 to adduce evidence on the Audited Financial Statements for the National Treasury (Vote 1071) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Stanley Kamau - Ag Director General Public Investments and Portfolio Management**
2. **Mr. Bernard Ndungu - Director General Accounting Services**
3. **Mr. Kimathi Mugambi - Senior Chief Finance Officer**
4. **Mr. Edward Mbugua - Deputy Commissioner Kenya Revenue Authority**
5. **Mr. Shem Nyakutu - Pensions Secretary**
6. **Mr. Jonah Wala - Ag. Director Accounting Services**
7. **Ms. Beatrice Gathirwa - Director NALM**
8. **Mr. Hannington Ogere - Chief Manager-Finance Kenya Revenue Authority**
9. **Mr. Francis L. Amuyunzu - Assistant Accountant General**
10. **Mr. Hubert Anyanga - Accountant**
11. **Mr. Githii Mburu - CG-Kenya Revenue Authority**
12. **Ms. Sharon Kirai - Parliamentary Liaison Officer Kenya Revenue Authority**

Basis for Qualified Opinion

1. **Grants and Transfers to Other Government Entities**

The statements of receipts and payments for the year ended 30 June 2017 reflects an expenditure amounting Kshs. 28,070,205,786 under grants and transfers to other Government units. Examination of National Treasury records revealed that the amounts constitute both recurrent and capital transfers across different account heads and items out of which an amount of Kshs. 167,704,106 was indicated to have been paid to individual persons and companies. Consequently, it was not possible to ascertain the propriety of the balance of Kshs. 167,704,106 under transfers to other government units.

Submission by Accounting Officer

The Accounting Officer submitted that the statements of receipts and payments for the year ended 30th June 2017 reflect an expenditure amounting to Kshs.28,077,205,786/= under grants and transfers to other Government Units. He confirmed that the budgetary allocations to; Financial Reporting Centre, Global Funds Programme, Accountant General's Department, Public Sector Accounting Standard Board, Pension Department, Regional Implementation and Integration Programme (RIIP), Nairobi Financial Centre and

Public Private Partnership secretariat had an item on grants and transfers to the Government entities but no funds were transferred to them since they did not have separate Accounting Departments and therefore they were being serviced from the National Treasury Headquarters. The Kshs. 167,704,106/= indicated as having been paid to individual persons and companies were payments made under the above-mentioned institutional budget heads. Original payment vouchers were availed for audit review

Committee Observations and Findings

(i) The Committee observed that the verification of documents provided was done and the response provided was satisfactory.
(ii) The Committee marked the matter as resolved.

2. Pending Bills

Note 19 to the financial statements reflect pending bills amounting to Kshs. 80,450,957. Examination of available records revealed that the above balance includes bills amounting to Kshs. 12,170,055 that were rolled over from the financial year 2015/2016. It has not been explained why the amount of Kshs.12,170,055 was not cleared as a first charge during the respective years but continue to be rolled over the years with some dating as far back 2011.

Failure to settle bills during the year to which they relate distorts the financial statements for the year and adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by Accounting Officer

The Accounting Officer submitted that Note 19 of the financial statements reflects pending bills amounting to Kshs. 80,450,957/= as at 30th June 2017. Of this amount Kshs.12,170,055/= were bills rolled over from the financial year 2015/2016 and not cleared as a first charge during the respective years and some dating as far back as F/Y 2011/2012. The delay to settle these historical bills was due to lack of necessary supporting documents such as departmental requisitions, Local service orders (LSO's) and Local Purchase Orders (LPO'). Bills totaling Kshs.70,292,592.15/= including Kshs.2,011,690.60/= from previous years (F/Y 2011/2012) were settled during F/Y 2017/2018 leaving uncleared balance of Kshs.10,158,364.40/

Committee Observations and Findings

(i) The Committee observed that the progress made in verification and has noted the constraints in settling the other pending bills; and
(ii) The Committee observed that the bills amounting to Kshs 12,170,055 relating to 2014/15 and earlier years had not been paid by 30 June 2017 and constituted the amount of Kshs. 80,450,957 that was carried forward to the next year 2017/18.

Committee Recommendation

Accounting Officers must at all times ensure that pending bills are treated as a first charge in the subsequent financial year approved budget and prepare estimates of expenditure and revenues of the entity in conformity with the strategic plan pursuant to the provisions of section 68(2) (h) of the Public Finance Management Act, 2012. Further, the Cabinet Secretary for the National Treasury should put in place mechanisms to ensure that bills due are promptly settled to ensure responsive, prompt, effective, impartial and equitable provision of services as articulated in Section 7 of the Public Service (Values and Principles) Act, 2015 subject to verification and authentication.

Other Matter

3. Budget Performance and Control

A review of the statement of comparison between the budget and actual amounts for the year ended 30 June 2017 as drawn from the Appropriation Accounts revealed that the Development Vote D1071 registered a net expenditure of Kshs.25,182,007,997 compared to a budgeted provision of Kshs.36,105,345,657, thereby resulting to an under expenditure of Kshs.10,923,337,660 or 30percent. Although the National Treasury had an overall satisfactory performance, some individual items registered dismal performance while others performed exceedingly above their budgeted amounts.

Submission by Accounting Officer

The Accounting Officer submitted that the National Treasury had an overall satisfactory performance. The Development vote total expenditure was Kshs. 25,182,007,997/= against a budget provision of Kshs. 36,105,345,657/= (including Appropriation-in-Aid of Kshs. 14,577,461**,355/=).** The reasons for under expenditure were various and included procurement of consultant services had not been concluded by end of the financial year, austerity measures adopted by the National Treasury, contractual employees not recruited for the funds, stringent donor conditions leading to delayed procurement process, repairs works not being complete among others

Committee Observations and Findings

There were various reasons for under expenditure including delays in procurement of consultant services, austerity measures adopted by the National Treasury, failure to recruit contractual employees for the funds, stringent donor conditions leading to delayed procurement process, and repairs works not being complete among others; and

Committee Recommendations

(i) **The Cabinet Secretary, National Treasury should ensure that the budget prepared by the National Treasury is realistic and adheres to credible budgeting process; and**

(ii) **The Cabinet Secretary, National Treasury must at all times ensure that austerity measures by the National Treasury done through supplementary appropriations adhere to the legal requirements as provided in Article 223 of the Constitution, Section 44 of the PFM Act, 2012, and Regulation 40(3) of the PFM (National Government) Regulations 2015.**

NATIONAL EXCHEQUER ACCOUNT

Unqualified Opinion

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

Emphasis of Matter

Budget Control and Performance

The statement of comparison of budget and actual performance shows that the exchequer issues to some Ministries, Departments and Agencies was below 80percent. The criteria used by the National Treasury in authorizing exchequer requests from the Ministries, Departments and Agencies may be subjective as some entities received 100percent budget allocation while others received as low as 33.39percent. The budget formulation and implementation process of such Ministries, Departments and Agencies whose funds were withheld may also be hampered. The under issue of the budgeted amounts to the entities may hinder the accomplishment of the planned projects and hence affect the service delivery to the citizens. The Government may not achieve its intended objectives as earmarked projects may not be implemented due to lack of such funding.

Submission by Accounting Officer

The Accounting Officer submitted that the Exchequer releases on Development votes include GoK and Donor Component. In this case therefore the performance of both GoK and donor funds releases affect the total Exchequer releases. The Ministries with low age release on Development Exchequer are mainly due to low level of donor release of funds for onward disbursement to respective MDAs and insufficient revenue collected.

Committee Observations and Findings

(i) **The exchequer releases on development votes include GoK and donor component. The MDAs with low age release on Development Exchequer are mainly due to low level of donor release of funds for onward disbursement to respective MDAs and insufficient revenue collection by the government; and**

(ii) **The criteria used by the National Treasury in authorizing exchequer requests from the MDAS is subjective as some entities received 100 % budget allocation while others received as low as 33.39%.**

Committee Recommendations

(i) **The Cabinet Secretary, National Treasury should ensure that the budget prepared by the the National Treasury is realistic and adheres to credible budgeting process; and**
(ii) **The Cabinet Secretary, National Treasury should within three (3) months of adoption of this report put in place framework to address challenges associated with low donor financing absorption. Further, donor financed programmes and projects should only be included in the budget if the MDAs have the capacity to meet the donor conditions.**

THE RECEIVER OF REVENUE (RECURRENT)

Basis for Qualified Opinion

4. Arrears of Revenue

The statement of arrears of revenue reflects revenue receipts amounting to Kshs.193,997,651,702 as at 30 June 2017, which though budgeted for has remained uncollected. The balance constitutes arrears for PAYE, Other Income Tax, VAT and Excise Taxes, loan redemptions and loan interests. Although the amount reconciles with the respective statement of arrears of revenue by the collector of revenue, (the Kenya Revenue Authority), the management has not accounted for the movement of the arrears from the earlier balance of Kshs.194,951,716,541 (2015) and Kshs.380,600,178,374 (2016) recorded during the previous periods.

The public may lose colossal sums of money through non-collection of the budgeted revenue as well as the arrears if not effectively followed up and enforced by the collector of revenue, (Kenya Revenue Authority). Besides the failure to collect the arrears, the National Treasury has not explained satisfactorily how it is addressing the persistent increase in arrears of revenue.

Submission by Accounting Officer

The Accounting Officer submitted that the financial statement reflects arrears of revenue due and uncollected as 30th June 2017 of Kshs.193,997,651,702/=. The balance constitutes arrears for tax on income profits and capital gains (PAYE and Other Income tax) of Kshs.168,882,445,115/=, Taxes on international trade (VAT and Excise taxes) of Kshs.23,407,850,495/=, loan redemption Kshs.265,720,854/= and loan interest of Kshs.1,441,635,239/=. Movement of arrears from the earlier balance of Kshs. 194,951,716,541/= (2015) and Kshs.380,600,178,374/= (2016) has been accounted for and analysis to support this have been submitted for Audit review.

Collection of arrears is a continuous process and therefore as some arrears are being cleared additional debts arise through the following:-

(i) Self-assessment/VAT penalties

(a) When returns of income are submitted, debt is created and debited in the period of year of income for Income Tax. Applicable interest and penalties are appropriately charged.
(b) Default penalties are charged on monthly basis where returns have not been submitted for VAT.

(ii) Additional assessments

Additional assessments are issued when tax audit and investigations are concluded in various tax heads.

(iii) Estimated assessments

Estimated assessments are issued when taxpayers have not submitted self-assessment returns or have not made declaration of income and tax due.

(iv) Accrual of interest

For any outstanding tax balances, interest continue to accrue at 2percent per month compounded up to 100percent of the outstanding principal tax.

Measures put in place to address the increase in arrears of revenue are as follows:-

(i) Demand notice is issued on tax that is not in dispute

This is the effective method commonly used.

(ii) Agency Notices

This is an enforced method used to collect tax from third parties where tax payers fail to pay when demand notice is issued.

(iii)Collection by Distrait

The commissioner appoints a Distrait Agent who is usually an Auctioneer/Bailiff to levy distress on the assets of the tax defaulter.

(iv) Use of Caveats/Charges on the Debtors Property

Commissioner of lands creates a caveat/charge debtors property on request by the commissioner of taxes. The caveat is not lifted until the outstanding tax is paid in full.

(v) Waiver of Interest and Penalties

Upon request by the tax payer, the Commissioner, Commissioner General or the Cabinet Secretary for The National Treasury may waive interest and penalties wholly, partly or reject depending on the mitigating factors advanced by the tax payer.

(vi) **Write off/Abandonment of tax**

The Cabinet Secretary for the National Treasury may write off or abandon collectable tax on recommendation by the Commissioner whereby the tax has become irrecoverable due to various reasons.

LOAN REDEMPTION AND INTEREST ARREARS

In the case of loan redemption and Interest, the arrears are attributed to various institutions which have different reasons for non-repayment of loans. These include dormancy, poor financial performance, restructuring /reforms or the companies being under receivership or liquidation. Below are initiatives put in place to address the challenges.

i. Write off, Interest Waiver and restructuring

The Head of Public Service, vide letter Ref: CAB/GEN/3/1/1/XIV/ (260) dated 29th May, 2018 to the Principal Secretary/National Treasury communicated the Cabinet Directive arising from the consideration of Cabinet Memorandum CAB (17) 65 submitted by the Cabinet Secretary National Treasury and Planning which granted the approval on twenty three (23) entities non-performing loans categorized as follows:-

- seven (7) entities facing financial challenges,
- five (5) collapsed/liquidated entities; and
- eleven (11) dormant entities.

The Cabinet considered the Memorandum

- Approved waiver of accrued interest amounting to **KShs.2,906,730,729.45**;
- Approved restructuring of principal loans amount of **KShs.764,344,924.39.**
- Approved write-off loans amounting to **Kshs.4,790,142,417.81** included
- Approved conversion of Loan amount of **Kshs.268,184,200/=** to grants,

In view of the Cabinet directive, we updated the loan records to reflect the write off status and advised the respective entities to implement the cabinet directive accordingly. The Cabinet Memorandum further directed the Cabinet Secretary National Treasury and Planning to prepare an additional Cabinet Memorandum to take care of the cases which may have been left out. We have initiated the process for constitution of a Taskforce to sphere head this enormous task of reviewing the remaining fifteen (15) cases that requires a more complex and elaborate approach before concrete recommendations.

(i) Demand notes

The National Treasury and Planning continues to demand for the amounts due and the latest demand letters are in the process of being sent to various institutions.

(ii) Managing Policy Changes

Where there have been changes in law or reforms in the sector such that the loan obligations are expected to move to other institutions, efforts are being made to transfer the loan to the respective receiving entity. The Inter-Governmental Relations Technical Committee is expected to play a key role in the transfer of assets & liabilities especially in the sectors under the devolution process.

(iii) Privatization

Privatization process of some of the institutions especially in the sugar sector is ongoing. It is expected that the outstanding loan arrears will be addressed through the balance sheet restructuring. Detailed of analysis of the institutions is provided

Committee Observations and Findings

(i) The statement of arrears of revenue reflects revenue receipts amounting to Kshs. 193,997,651,702 as at 30 June 2017, which though budgeted for has remained uncollected. The balance constitutes arrears for PAYE, Other Income Tax, VAT and Excise Taxes, loan redemptions and loan interests;

(ii) The year on year persistent increase in arrears of national revenue denies the national and county government the scarce financial resources that it needs to undertake their development programmes and projects;

(iii) The Cabinet Secretary for the National Treasury and receivers of revenues for the National Government entities have been granting waivers of interest and penalties and write off/abandonment of tax including tax exemption. However, full details of these waivers and exemptions have not been disclosed to the Auditor General in contravention of the provisions of Article 210 of the CoK, 2010 and Sections 76 and 82 of the PFM Act 2012. These waivers and tax exemptions (tax expenditures) lead to losses of national revenue of approximately 2.5 of the GDP (approximately Ksh. 200 billion annually) as per studies by KRA and World Bank;

(iv) The arrears of revenue due and uncollected of Kshs. 193.9billion for the Financial Year 2016/2017 undermines the principle of equitable sharing of revenue raised nationally between the national and county government as enshrined in Articles 202 and 203 of the Constitution of Kenya, 2010. Had these arrears been effectively collected, the ratio of revenue share between National Government and Counties would have varied in ages; and

(v) The National Treasury has not explained satisfactorily how it is addressing the persistent increase in arrears of revenue as the arrears of revenue have assumed a steady upward trend. The committee marked the mater as unresolved.

Committee Recommendations

(i) The Cabinet Secretary, National Treasury and the relevant institutions must make demonstrable efforts in collecting and accounting for tax revenue arrears for PAYE and Other Income Tax. The tax policy, reforms, & administrative measures should be geared

towards collecting the arrears of revenue due and uncollected, sealing leaking revenue loopholes, providing the requisite support to SMEs entrepreneurs, leveraging on ICT to harness the country's revenue potential, and use of alternative disputes resolutions (ADR) mechanism to solve revenue related disputes;

(ii) The Committee upholds its recommendations made in the 2015/2016 adopted report;

THE RECEIVER OF REVENUE (DEVELOPMENT)

Unqualified Opinion

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

Emphasis of Matter

The statement of comparison between the actual receipts and the budget provision for the year ended 30 June 2017 revealed that an amount of Kshs.38,401,038,479 was received and utilized out of the budgetary provision of Kshs.61,084,845,860. This therefore means that the National Treasury under collected and underutilized Kshs.22,683,807,381 or 37percent of the total budget provision. Although management has indicated that the absorption was adversely affected by the late release of donor funds and the lengthy procurement processes, some projects recorded low absorption rates despite funds having been made available. Further, the procurement processes are well documented and known; therefore, elaborate efforts ought to have been put in place well in advance for better management of project implementation.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of comparison between the actual receipts and the budget provision for the year ended 30 June, 2017 reflected receipts of Kshs.38,401,038,479/= against a budget provision of Kshs.61,084,845,860/= leading to under collection of Kshs.22,683,807,381/= or 37percent of the total budget provision. The reasons for under collection are:-

(i) The project implementing units are required to exhaust funds already released to them in the prior period before accessing funds allocated in the current year;
(ii) The development partners attach stringent conditions to AIA payments, most of which involve colossal sums of money, which include prior review of project financing and concurrent by the financiers at various key stages of procurement cycle.
(iii) There is delay from the development partners in issuing 'No Objection' as some projects are funded directly and do not use the country system.

Committee Observations and Findings

It was observed that the paragraph was for the information purposes to the Accounting Officer. The Accounting Officer was directed to take note of the Comments of the auditor General and improve on the same.

Committee Recommendations

The Committee commends the Accounting Officer for maintaining financial statements of development revenue accounts that present fairly, in all material respects, the financial position as at 30th June 2017, and of its operations for the year.

THE STATEMENT OF OUTSTANDING LOANS

Basis for Adverse opinion

5. Outstanding Loan balances

The statement of outstanding loans as at 30 June 2017 reflects total loans issued of Kshs.811,372,028,795 which includes new loans issued in 2016/2017 totaling Kshs.223,856,759,335. An amount of Kshs.17,635,666,924 of the loans issued had been redeemed/repaid, leaving a balance of Kshs.793,736,361,870 outstanding as at that date which represents an increase of Kshs.221,487,512,242 or approximately 39percent of total outstanding loan balance of Kshs.572,248,849,628 reported as at 30 June 2016.

However, accuracy of the outstanding loan balance of Kshs.572,248,849,628 as at 30 June 2016 could not be confirmed as some eighteen (18) institutions/parastatals with a total loan balance of Kshs.150,164,723,345 reflected in the statement differed significantly with the loan balance of Kshs.117,530,162,338 independently confirmed by institutions/parastatals during the 2014/2015 financial year as indicated below.

Outstanding Loans Independently Confirmed as at 30th June 2016

	Name of Institution	Amount of loan in GOK records Kshs.	Amount of loan confirmed Kshs.	Variance Kshs.
1	Agricultural Finance Corporation	529,119,163	538,587,64	(9,468,481)
2	Agricultural Settlement Fund and Central Land Board	83,026,236	10,963,879	72,062,357
3	Agro Chemical & Food Company Limited	1,107,075,120	2,941,884,000	(1,834,808,880)

4	Coast Water Service Board	1,551,379,206	795,400,000	755,979,206
5	Coffee Board of Kenya	752,510,309	709,358,000	43,152,309
6	Kenya Airport Authority	1,524,889,530	2,536,891,308	(1,012,001,777)
7	Kenya Civil Aviation Authority	2,016,927,789	2,021,866,063	(4,938,274)
8	Kenya Electricity Generating Co .Ltd	79,461,731,502	64,082,093,864	15,379,637,639
9	Kenya Industrial Estates Ltd	423,950,484	743,218,039	(319,267,555)
10	Kenya Meat Commission	940,241,100	300,000,000	640,241,100
11	Kenya Power and Lighting Co. Limited	34,568,563,918	31,527,309,970	3,041,253,947
12	Kenyatta University	10,857,620,656	4,656,592,535	6,201,028.121
13	K-Rep Bank	97,495,981	66,223,569	31,272,412
14	Lake Victoria South Water Service Board	5,734,185,606	2,361,053,466	3,373,132,140
15	National Irrigation Board	2,262,036,544	-	2,262,036,544
16	National Water Conservation and Pipeline Corporation	2,460,874,897	-	2,460,874,897
17	Rift Valley Water Services Board	1,411,529,796	1,362,012,293	49,517,503
18	Tanathi Water Services Board	4,381,565,506	2,877,707,708	1,503,857,798
	Totals	**150,164,723,345**	**117,530,162,338**	**32,633,561,007**

The resultant variance of Kshs. 32,633,561,007 was not reconciled or explained casting doubt on the accuracy of the outstanding loan balance of Kshs. 572,248,849,628 carried forward during the 2016/2017 financial year. In absence of reconciliations and elaborate reporting instrument there is high likelihood of holding onto non-existent balances and eventual loss of public funds.

Submission by Accounting Officer

The Accounting Officer submitted that the outstanding loan balances for the loans lent to various Corporations and other Agencies by the Government stood at Kshs.572,248,849,628/= as at 30 June 2016. In the FINANCIAL YEAR2016/17 the National Treasury circularized thirty-four (34) active loan holders to confirm, directly to the Auditor General, the amount of Government loans outstanding in their books of accounts as at 30th June, 2016. This would enable the Auditor General to ascertain the accuracy of the National Treasury loan balances.

Of the loan balances confirmations received, eighteen (18) institutions confirmed loan balances totaling Kshs.117,530,162,338/= which significantly differed with that reported by the National Treasury of

Kshs.150,164,723,345/=. The resultant variance of Kshs. 32,633,561,007/= has been analyzed and the reasons for the differences are as explained below and in the attached schedule.

The above variances were mainly due to:-

(i) The Statement of Outstanding loan captures loans amounts in Kenya Shilling upon execution of loan agreement, while the entities recognize only the disbursed loan amounts. The on lent loans are disbursed in foreign currency and converted into Kenya shilling at the exchange rate prevailing at the date of receipt of funds thus resulting into a variance. The process of introducing the loan disbursements element in the Statement of Outstanding loan is being initiated by liaising with the Financiers and the implementing Agencies to ensure accuracy of the outstanding loan balances maintained.
(ii) The mechanism applied for the Government lending in the past was mostly through budgetary provision under the respective Ministries without Loan Contract Agreements and specific terms for the loans. The loans were taken over by The National Treasury through Treasury Circular No.03/2012 dated 11th June, 2012. These were loan balances based on previous year audited statements. Some of these loans lacked proper records and supporting documents required for reconciliation hence posing challenges in analyzing the variance between the two set of record.

In view of the above, The National Treasury again circularized for the confirmation of the loan balances as at June 30, 2017 from the entities to be sent directly to the Office of Auditor General with a copy to The National Treasury. The entities were also required to provide a detailed analysis of the confirmed loan balances to The National Treasury to facilitate reconciliation. A team has been constituted in this regard and is expected to complete the reconciliation by 31st July, 2019.

Committee Observations and Findings

(i) The outstanding loan balances for the loans lent to various Corporations and other Agencies by the Government stood at Kshs.572,248,849,628/= as at 30th June 2016. The accuracy of the outstanding loan balance as at 30 June 2016 could not be confirmed as some eighteen (18) institutions and parastatals with a total loan balance of Kshs.150,164,723,345 reflected in the statement differed significantly with the loan balance of Kshs.117,530,162,338 independently confirmed by institutions/parastatals during the 2014/2015 financial year.
(ii) The Accounting Officer attributed the resultant variance of Kshs.32,633,561,007 to various reasons including foreign exchange differences, poor lending mechanism by the government and poor –record keeping;
(iii) The explanation by the Accounting Officer is not satisfactory and the additional information so far provided to the Auditor-General is inadequate and not in agreement with the National Treasury – DGIP, and
(iv) Therefore, matter remained unresolved.

Committee Recommendations

(i) **The Accounting Officer should ensure that the MDAs including the National Treasury keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;**

(ii) **The committee directs the Accounting Officer to reconcile the amounts within 3 months and repoprt to the committee through the Cklerk of the National Assembly.**

6. Non-Performing or Dormant Loans

As was reported during the previous financial year, the total outstanding loans balance of Kshs.793,736,361,870 reflected in the statement of outstanding loans as at 30 June 2017 includes loans amounting to Kshs.21,972,597,717 issued to various institutions over the years. However, during the year under review, the said institutions have not made any efforts to repay their respective loans upon maturity as shown below.

	Corporation/ Entity	**Amount Lent (Kshs.)**	**Effective year of repayment**
1	Associated Sugar Factory Ramisi	15,818,960	June,1988
2	Coast Water Services Board	6,756,217,290	June,2018
3	East African Sugar Industries Ltd, Muhoroni	177,123,100	Not indicated
4	Eldoret Municipal Council	1,058,673,824	June,1999
5	Halal Meat Products	27,701,420	Not indicated
6	Kenya Meat Commission	940,241,000	Not Indicated
7	Moi University	231,250,000	Not Indicated
8	Kenya National Federation of Cooperatives	5,595,600	Not indicated
9	Kenya Torray Mills	2,982,480	Not indicated
10	Kenya Tourist Development Corporation	48,000,000	Not Indicated
11	Kenya Urban Transport Various Towns	40,706,140	Not indicated
12	Local Government Loans Authority	7,594,273,720	Not indicated
13	Miwani Outgrowers Mills Ltd	22,600,020	Not indicated
14	Miwani Sugar Mills Ltd (Miwani sugar co. (1989) Ltd)	78,088,180	Not indicated
15	National Water Conservation & Pipeline Corporation	2,460,874,897	Not Indicated
16	Nzoia Sugar Co. Ltd	158,510,100	Not indicated
17	P.J. Products	2,036,820	Not Indicated
18	Pyrethrum Board of Kenya	863,368,270	2008
19	Rift Valley Water Services Board	1,411,529,796	November,2011
20	South Nyanza Sugar Company	47,200,200	Not Indicated
21	Uplands Bacon	26,205,900	
22	Mumias Outgrowers	3,600,000	Sept,1981
	TOTALS	**21,972,597,717**	**Not Indicated**

Submission by Accounting Officer

The Accounting Officer submitted that the total outstanding loans balance of Kshs.793,736,361,870/= reflected in the Statement of Outstanding loans as at 30 June 2017 includes loans amounting to Kshs.21,972,597,717 issued to the various institutions which have made little or no efforts to repay their respective loans. The partial/non-repayment of the loans is mainly attributed to poor financial performance, reforms in the respective sectors, and changes in law, entities under receivership or liquidation, ongoing privatization process, and/or dormancy.

The National Treasury has consistently been making demands in an effort to have the entities meet their loan obligation. In response, most of the defaulting entities have requested the government to consider either write-off, restructuring/rescheduling, conversion of the loans to equity or grant, and waiver of accrued interest sighting poor financial performance, or the effect reforms in the sector.

Some of the long outstanding loans were reviewed, analyzed and a report recommending the way forward forwarded to the cabinet for approval. The Special Cabinet Meeting held on 29th May, 2018 ((CAB (17)65)) made approvals for write-off, waiver on accrued interest and restructuring of the loans that have now been implemented. The reasons for non-payment for each institution are as explained in the attached schedule**.**

Committee Observations and Findings

(i) The total outstanding loans balance of Kshs.793,736,361,870 reflected in the statement of outstanding loans as at 30 June 2017 includes loans amounting to Kshs.21,972,597,717 issued to various institutions over the year. The amount reported as non-performing/dormant loans in the financial year is an increment of Ksh. 6,169,932,065 compared to Ksh. 15,802,665,652 reported in the Financial Year 2015/2016;

(ii) The submission by the Accounting Officer that failure to repay loans mainly attributed to poor financial performance, reforms in the respective sectors, and changes in law, entities under receivership or liquidation, ongoing privatization process, and/or dormancy was not persuasive.

Committee Recommendations

(i) The Accounting Officer should ensure that they prepare and submit a report on the status of repayment of these loans within three (3) months of the adoption of this report; and

(ii) The Cabinet Secretary should within three (3) of tabling and adoption of this report, prepare a framework (including write-off and recovery) for clearing the long outstanding non- performing loans from the financial statements and share it with the committee through the clerk of the National Assembly.

7. Presentation of the statement

The statement did not contain disclosure on the applicable reporting framework and other non-financial information as required by the PSASB as well as statement on progress made on the auditor's report among others. Further, the statement did not include other requirements as provided for under section 81 of the Public Finance Management Act 2012 such as the statement of receipts and payments, cash flow and notes to the statement. In addition, the IPSAS 24 provides for the inclusion of the statement of comparison between the budget and actual amounts to assess the performance of management but the same was not included.

In the absence of the necessary statements and disclosures, the statement of outstanding loans as at 30 June 2017 did not comply with the Public Sector Accounting Standard Board requirements.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of Outstanding Loan was prepared pursuant to the then Government Financial Regulations and Procedures as outlined in the now repealed Government Financial Orders under the now repealed Exchequer and Audit Act, Cap.412 which required a stand-alone statement to be submitted for Audit.

With the enactment of Public Finance Management Act, 2012, The Statement of Outstanding Loans is not a stand-alone Statement but a schedule of outstanding loans lent by the Government to various institutions. It is therefore a memorandum statement which forms part of the notes to the consolidated revenue statement by the National Treasury to support the loan redemption and loan interest repayments from institutions that honored their loan obligation.

The National Treasury prepared and submitted The Statement of Revenue in conformity with the International Public Sector Accounting Standards (Cash Basis) as prescribed by the Public Sector Accounting Standards Board (PSASB) and submitted for audit.

Further, accounting policies and other explanatory notes with respect to the Statement of Revenue were incorporated as part of the Financial Statement.

Committee Observations and Findings

(i) The statement did not contain disclosure on the applicable reporting framework and other non-financial information as required by the PSASB as well as statement on progress made on the auditor's report among others; and

(ii) The statement also did not include other requirements as provided for under section 81 of the PFM Act 2012 such as the statement of receipts and payments, cash flow and notes to the statement. In addition, the IPSAS 24 provides for the inclusion of the statement of comparison between the budget and actual amounts to assess the performance of management but the same was not included; and

(iii) In view of the explanations provided, the subsequent year's statement is expected to be an annexure.

(iv) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer must at all time ensure that the financial statements are prepared in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time as stipulated in Section 81(3) of the PFM Act, 2012

Other Matter

8. Lack of fundamental documents and Criteria of loan disbursement

The management did not provide the annual work plans, cash books, ledger, trial balances, quarterly reports and monitoring and evaluation reports for the loans issued during the year or such other document as to determine the beneficiaries, terms of the loans and the approval /authorization of disbursement. The determination of loans to benefiting institutions appears to be done outside the Department of Government Investment in Public Entities (DGIPE) thus reducing it to the level of implementation of decisions made elsewhere. As a result, some institutions have not been repaying their loans once they mature while failing institution continue to receive additional funding even when they are underperforming. This is exhibited by the continued growth of the outstanding loans amounts now standing at Kshs.811billion. There are high chances that the outstanding loans may not be repaid leading to bad debts and loss of public funds.

Submission by Accounting Officer

The Accounting Officer submitted that the National Government has over time advanced loans to various public and other entities to finance various projects in the Country with a view to facilitate achievement of National Government objectives. The National Government through the National Treasury on-lend loans borrowed from multi/bi-literal lenders after due process has been conducted through Resource Mobilization department and execution of the Financing Loan Agreement. The loan facility is thereafter on-lent to respective implementing entities through Subsidiary Loan Agreements with clear terms and conditions on the execution of the loan.

Upon the execution of the Subsidiary Loan Agreements, the details of the loan, terms and conditions are captured in respective ledger card and repayment schedules generated and sent to the entities notiFinancial Yearing of the loan repayment due dates. The fundamental documents in this case are the Project Appraisal document, Financing Loan Agreements; Subsidiary Loan Agreements and ledgers cards which are available for Audit**.**

The criterion used on government lending is as follows:-

(iii) Projects implemented through government lending are aligned to the national development policies and programmes, as prescribed by the National Treasury.
(iv) Project identification and design will be based on feasibility study.
(v) All government lending are appropriated by national assembly before commitment and disbursements

(vi) After disbursement of the proceeds the implementing agency submit report within fifteen days after the end of each quarter to the government on the expenditure and performance achieved in relation to the project and amount lent

(vii) The amount lent and project implementation will be subject to Audit by the Office of the Auditor General on performance and value for money.

(viii) Where non-compliance with the loan conditions by an implementing agency is established through the audit or fiduciary review process, the Cabinet Secretary may suspend the disbursements and institute measures to recover any amounts misappropriated.

(ix) Loan repayment and interest thereon should be paid to The National Treasury promptly as stipulated in the Agreement to avoid penalties.

Committee Observations and Findings

(i) The Accounting Officer did not at the time of audit, provide the annual work plans, cash books, ledger, trial balances, quarterly reports and monitoring and evaluation reports for the loans issued during the year or such other document as to determine the beneficiaries, terms of the loans and the approval /authorization of disbursement;

(ii) The committee observed that although the explanations have been provided on the criteria used on government lending, the required documentation does not seem to have been provided. The matter remains unresolved.

Committee Recommendations

The Accounting Officer should at all times prepare and maintain medium term debt strategy as required by section 64 (2) of PFM Act 2012 and cprovide documents to the Auditor General pursuant to section 62 (1) (b) and (2) of the Public Audit Act 2015.

EQUALISATION FUND

Unqualified Opinion

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

Emphasis of Matter

Use of Budget as a Control Tool

A review of the statement of comparison between the budget and actual amounts revealed that whereas the National Treasury had budgeted to transfer an amount of Kshs.12,400,000,000 to implementing Ministries, Departments and Agencies, only an amount of Kshs.942,313,944 or 7.6percent of the budgeted amount was transferred to Ministries, Departments and Agencies. This is indeed a very dismal performance by the Fund management with regard to the set objectives. This is despite the fact that the allocation to the Fund was applied retrospectively to the financial year 2011/2012.

Submission by Accounting Officer

As reported in the Financial Statement, an amount of Kshs.942,313,944/= was released to the implementing Ministries, Departments and Agencies during the financial year 2016/2017 against a budget of Kshs.12,400,000,000/=. The low level of disbursement was due to the delay in gazettement of the regulations and extensive public consultations regarding project identification and eventual formation and submission of the Appropriation Act to the National Assembly.

Committee Observations and Findings

The financial statement of the Equalization Fund received an unqualified opinion in the Financial Year 2016/2017 which is commendable.

Committee Commendation

The Committee commends the Accounting Officer for maintaining financial statements of the Equalization Fund accounts that present fairly, in all material respects, the financial position as at 30th June 2017, and of its operations for the year.

PETROLEUM DEVELOPMENT LEVY FUND - HOLDING ACCOUNT

Unqualified Opinion

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

Committee Observation and Findings

The financial statement of the Petroleum Development Levy Fund - Holding Account received an unqualified opinion in the Financial Year 2016/2017 which is commendable.

Committee Commendations

The Committee commends the Accounting Officer for maintaining financial statements of the Petroleum Development Levy Fund - Holding Account that present fairly, in all material respects, the financial position as at 30th June 2017, and of its operations for the year.

CONTINGENCIES FUND

Unqualified Opinion

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

Committee Observation and Findings

The financial statement of the Contingencies Fund Account received an unqualified opinion in the Financial Year 2016/2017 which is commendable.

Committee Commendations

The Committee commends the Accounting Officer for maintaining financial statements of the Contingencies Fund that present fairly, in all material respects, the financial position as at 30th June 2017, and of its operations for the year.

RAILWAY DEVELOPMENT LEVY FUND - HOLDING ACCOUNT

Unqualified Opinion

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

Other Matter

9. Budget as a Control Tool

During the financial statement review, it was noted that the funds budget is prepared and maintained by the State Department for Infrastructure, which is the implementing agency. The National Treasury does not maintain other key accounting records such as the ledger and trial balance from where the financial statements ought to be prepared. The financial statements are thus prepared from entries in the cashbook and the bank statements records. Further, the disbursements of funds are not supported by the budget provisions but are solely on approvals from the fund's Advisory Committee. This may have led to a budget absorption rate of 43percent and 39percent performance in revenue generation and revenue disbursement respectively.

Submission by Accounting Officer

The Accounting Officer submitted that the National Treasury disburses funds based on the budget provision of the State Department for Transport. The Funds are transferred as per the approvals from the fund's Advisory Committee which is within budget provision.

The National Treasury followed the laid down procedures in releasing the funds as per the Custom and Excise Act (Railway Development Levy Fund) Regulations 2013. Approval minutes of the Railway Development Levy Fund) Advisory Committee for the transfers were availed for audit review

Committee Observations and Findings

(i) It was observed that the paragraph was for the information purposes to the Accounting Officer. The Accounting Officer was directed to take note of the Comments of the auditor General and improve on the same.

(ii) The financial statement of the Railway Development Levy Fund - Holding Account received an unqualified opinion in the Financial Year 2016/2017 which is commendable.

Committee Commendations

The Committee commends the Accounting Officer for maintaining financial statements of the Railway Development Levy Fund - Holding Account that present fairly, in all material respects, the financial position as at 30th June 2017, and of its operations.

RURAL ENTERPRISE FUND

Basis for Adverse Opinion

10. Winding up of the Fund

The Rural Enterprise Fund was recommended for winding up through Legal Notice No. 97 dated 29 June 2012 as contained in a special issue of the Kenya Gazette Supplement No. 119 of 14 September 2012 upon which, any outstanding amounts in the Fund was to be paid into the Consolidated Fund. However, the National Treasury has not yet closed the Fund's books of account despite the Legal Notice and has continued to prepare and submit the Fund's financial statements for audit five years after the winding up decision was made. The financial statements presented reflect balances brought forward whose accuracy and validity could not be vouched after the winding-up notice of the Fund. Further, the Fund management has not provided any information on the progress made since and the probable time when the process is expected to be completed.

Submission by Accounting Officer

This Fund was wound up Vide Legal notice No 119 of the 14th September 2012. The Ministry to all District Accountants vide letter Ref No.AG 13/027 Vol. 1 (79) dated 3rd March 2015 requesting them to return any monies held in their Deposits Accounts that relates to Rural Enterprise Fund to enable close the Funds books of Accounts. The District Accountants have responded giving the challenge of documentation relating to the Fund due to manual record keeping of that time. The Ministry is in the process of closing the account through requesting for a write off after incorporating the recommendation of the Attorney General vide his letter Ref:No. AG/CONF/6/E/170 VOL II(5) of 17th May 2019.

Committee Observations and Findings

(i) **The Rural Enterprise Fund was wound up vide legal notice no.119 of 14th November, 2012. However, the National Treasury is in the process of closing the books of accounts through requesting for a write-off; and**

(ii) **The balances submitted to the Auditor-General were unsupported. It has not been explained why the winding up of the fund has not been finalized since 2012. The matter remains unresolved.**

Committee Recommendations

The Cabinet Secretary for the National Treasury should within three (3) months of tabling and adoption of this report, finalize the winding up of the Fund and submit the winding up report in line with the PFM Act and Regulation 209 of the PFM (National Government) Regulations 2015.

11. Unresolved Prior Years Matters

A review of the unsatisfactory matters highlighted in the report prior to 2015/2016 revealed that the issues raised remained unresolved during the year 2016/2017 as indicated below:

i) Unbanked Cash

The statement reflects unbanked cash balances totaling Kshs. 3,348,895 brought forward from 2012/2013 and earlier years. According to available information, the amount comprises of Kshs.1,951,921 representing cash with District Commissioners (Loans Repaid); Kshs.108,840 being cash with District Commissioner (Interest on Loans); and Kshs.1,288,135 relating to cash in the District Commissioners miscellaneous deposit account.

Further, there was no evidence to confirm actual existence of the balance of Kshs. 3,348,895 at the District Commissioners Office. In addition, the balance of Kshs. 1,951,921 under District Commissioners (Loans Repaid) included advances amounting to Kshs. 207,344 in form of IOUs issued from the Fund to some five officers working at the District Commissioner's Office, Kisumu in 1997/1998. The IOUs had not, however, been surrendered as at 30 June 2014.

ii) Unreconciled Balance

As was reported in the previous year, the statement of assets and liabilities for deposits as at 30 June 2013 had reflected a debit balance of Kshs. 1,828,388 in respect of the Fund, while the fund accounts for the same year had reflected a balance of Kshs. 397,908,774. The significant difference of Kshs. 396,080,387 between the two sets of records has not been reconciled or explained since.

Submission by the Accounting Officer

Paragraph 10 and 11

The Accounting Officer submitted that the National Treasury has not yet closed Funds Books of Account despite the winding up Legal Notice No.97 dated 14th September 2012 and has continued to prepare and submit the Funds Financial Statements for audit. Also the Funds Statements of financial position as at 30 June 2017 presented for audit continue to reflect a total amount of **Kshs.397,908,774.30** under financial assets made up of balances of **Kshs.394,559,879.30, Kshs.1,951,920.60, Kshs.108,839.70,** and **Kshs.1,288,134.70** against Account Receivables-Loanees, Cash with D.C.(Loans Repaid), Cash with D.C. (Interest on Loans) and Cash in the DC'S Miscellaneous Deposit Account respectively.

We wrote to all District Accountants vide letter Ref No.AG 13/027 Vol. 1 (79) dated 3rd March 2015 requesting them to return any monies held in their Deposits Accounts that relates to Rural Enterprise Fund to enable close the Funds books of Accounts. The District Accountants have responded giving the challenge of documentation relating to the Fund due to manual record keeping of that time**.** We are in the process of closing the account through requesting for a write off after incorporating the recommendation of the Attorney General vide his letter Ref: No.AG/CONF/6/E/170 VOL II(5) of 17th May 2019

Committee Observations and Findings

(i) The Committee observed that no explanation has been provided for the failure to bank the cash held and no reconciliation has been provided for the difference noted.
(ii) The matter remains unresolved.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

STATE OFFICERS AND PUBLIC OFFICERS MOTOR CAR LOAN SCHEME FUND

Unqualified Opinion

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

Emphasis of Matter

Idle Cash

Whereas the State Officers and Public Officers Motor Car Loan Scheme Fund was established in 2015 through Legal Notice No. 195 of 25 September, 2015 and pursuant to guidelines provided by Salaries and Remuneration Commission on car loan benefit for state officers and other public servants in December 2014, the Fund management has not undertaken any activities since then. The National Treasury however, has continued to transfer money to the Fund account at the Central Bank of Kenya which stood at Kshs. 2,835,000,000 as at 30th June 2017. Although the amount has been confirmed to exist it could have been utilized for other more deserving cases in the Government while the National Treasury continues to develop or create an enabling environment for the Fund's operation.

Through the Fund, the National Treasury management continues to withhold vital services to government officers earmarked to benefit from the loan scheme and hence loss of revenue from interest earnings that would have accrued over the years.

Submission by Accounting Officer

The Accounting Officer submitted that the State Officers and Public Officers' Motor car Loan Scheme Fund was established in 2015 through legal notice No.195 of 25th September, 2015. As at 30th June, 2017 the Fund Account at Central Bank of Kenya stood at **Kshs.2,835,000,000/=** which had not been utilized.

The delay in utilization was due to the complex nature of the tendering process for provision of Financial Services to the Fund which took longer than anticipated. Upon completion, the Fund began preparation of a detailed contract with the winning tenderer the Kenya Commercial Bank (KCB). This was done and forwarded to the Attorney General for review before sending it back to KCB Bank for review and signature.

He noted that this being a complex kind of contract required a lot of smoothing and fine tuning hence a series of meetings were arranged and attended further delaying the benefit to the Government officers earmarked to benefit from the scheme. The Scheme has since transferred Funds to an interest earning Account with KCB Bank as arrangements to start piloting of the set structures is being done with a view of improving the loan issuance guidelines

Committee Observations and Findings

(i) **The State Officers and Public Officers' Motor car Loan Scheme Fund was established in 2015 through legal notice No.195 of 25th September, 2015. As at 30th June, 2017 the Fund Account at Central Bank of Kenya stood at Kshs.2,835,000,000/= which had not been utilized;**

(ii) **The Government continues to borrow through T-Bills and T-Bonds, its own money deposited in commercial banks such as the Ksh. 2,835,000,000 deposited in the KCB; and**

(iii) **There was no compelling justification as to why the National Treasury deposited the Ksh. 2,835,000,000 into KCB account knowing very well that it was not ready to roll-out the scheme. The seed capital for the Fund should have been appropriated after the completion of the tendering process for provision of Financial Services to the Fund**.

Committee Recommendations

(i) **The Cabinet Secretary, the National Treasury should within three (3) months of tabling and adoption of this report, roll out the Fund to the State Officers and Public Officers in order to achieve the objective of providing motor car loans to the civil servants. If this is not possible, withdraw all the money plus interest deposited at KCB and appropriate money into the exchequer.**

(ii) **The Accounting Officer should in the subsequent financial year's statements provide to the Auditor-General, a comprehensive statement including interest earned from the Kshs. 2,835,000,000 deposited at KCB and the justification why the money was deposited and the justification why the money was deposited.**

GOVERNMENT CLEARING AGENCY FUND

Basis for Disclaimer of Opinion

12. Unsupported Long Outstanding Balances

As was reported during the financial year 2015/2016, the statement of assets and liabilities as at 30 June 2017 reflects a balance brought forward of Kshs.300,931,776 and Kshs.52,973,897 under accounts receivables – debtors and accounts payables - creditors respectively. However, this balance has not been supported with records and documents such as debtors and creditors' ledgers or registers. Specifically, the creditors' balances have not been supported with contracts, local purchase/services orders, invoices and delivery notes. As a result, the accuracy, completeness and validity of the balances cannot be ascertained. Further, the debtors' balance of Kshs. 300,931,776 was net of a Clearance Account balance of Kshs. 654,000,000 which had also not been supported with any verifiable documents making it difficult to ascertain what it represents.

13. Unsupported Fund Balance

The statement of assets and liabilities reflects a Fund balance brought forward (Old Account) of Kshs. 247,957,879 which, as in the previous instance, have not been supported with verifiable documents. As a result, the accuracy and validity of the balances cannot be confirmed**.**

Submission by Accounting Officer

Paragraph 12 and 13

The Accounting Officer submitted that the statement of financial position as at 30th June 2017 for the Government Clearing Agency Fund reflects balances of Kshs. 300,931,776.15 and Kshs. 52,973,896.80 under Accounts Receivables – Debtors and Accounts Payables -Creditors respectively. Further, the debtor's balance of Kshs. 300,931,776.15 is net of a clearance Account balance of Kshs.654, 000,000/= which have not been supported with relevant analysis and verifiable documents.

The statement also reflects a brought forward Fund balance of Kshs.2,147,492.05 and a paymaster General (PMG) overdraft balance of Kshs. 245,810,387.30 which as in the previous instance, have not been supported with verifiable documents including a bank balance confirmation certificate and bank reconciliation statement. These are unsupported old balances that have been carried forward for very many years. This is a historical problem that affects the whole Government and the National Treasury formed a taskforce on the winding up of Dormant Funds to address issues of old balances appearing in Ministries' books of Accounts with a view of clearing the same. The taskforce completed its work and the recommendations forwarded to the Attorney General (AG) for advice. We are in the process of implementing AG's recommendations. GCA fund used to be operated within the Ministry of Finance Deposit bank account and not as a separate account. Bank reconciliation statements for the deposit account used to incorporate GCA transaction

14. Cash and Cash Equivalent

The statement of cash flow for the year ended 30 June 2017 reflected a cash and cash equivalent closing balance of Kshs. 18,849,635. A review of the cashbook and bank reconciliation statements for Government Clearing Agency Mombasa branch as at 30th June 2017 revealed that the Agency branch had a reconciled closing cash balance of Kshs. 56,352,095 which is excluded from the cash balance disclosed in the financial statements. This reconciled closing cash balance of Kshs. 56,352,095 has not been disclosed in the financial statements.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of cash flow and Statement of assets and liabilities for the year ending 30th June 2017 reflected a closing balance of Kshs.**18,849,635.05** while the cash book and bank statements for GCA Mombasa branch as at 30th June 2017 reflected Kshs.**57,377,118.60** which was not included in the Financial Statements presented. This was an oversight and the National Treasury is coming up with a policy on how Mombasa operational activities will in future be incorporated when preparing Financial Statements.

Committee Observations and Findings

(i) It was observed that the paragraphs above relate to paragraph 10 and the matter remains unresolved. A working paper had been completed awaiting Cabinet approval and onward transmission to Parliament; and

(ii) The Government Clearance Agency Fund has consistently over the last three financial year's (Financial Year 2014/15; Financial Year 2015/2016; and Financial Year 2016/2017) received a disclaimer of opinion from the Auditor-General which is a serious material breach or persistent material breach of the measures provided in the PFM Act, 20112 to guard public funds.

Committee Recommendations

The Cabinet Secretary, National Treasury should within three(3) months of tabling and adoption of this report, review the operations of the GCA and the Fund to determine the reasons for the breach due to disclaimer of opinion by the Auditor-General and assess its financial state as stipulated in Section 95 of the PFM Act, 2012.

15. Use of Budget as a Control Tool

Contrary to the International Public Sector Accounting Standards (IPSAS) paragraph 1.9.8 on Presentation of a Comparison of Budget and Actual Amounts, management did not include the statement of comparison of budget and actual amounts. A review of the National Treasury budget indicated that the Government Clearing Fund operational budget is captured under the Head 1071009000 where a provision of Kshs. 48,507,381 was made and an amount of Kshs. 37,175,938 or 77percent was expended during the year. However, it was noted that no Appropriation-in-Aid or revenue component was budgeted for and there was no designated officer as a receiver of revenue for its operations. In absence of any revenue or Appropriation-in-Aid budget component, the Agency commercial operations are not budgeted for and thus the revenue collected is not under the control of the National Treasury which therefore exposes the Government to operate outside the budget processes.

Submission by Accounting Officer

The Accounting Officer submitted that the National Treasury did not include the Statement of Comparison of budget and actual amount because there was no Appropriation-In-Aid budget component for the same. This was an oversight. In future, the National Treasury will ensure strict adherence to the budget processes and procedures and that all the activities of the Agency are anchored in the budget**.**

In addition, he confirmed that in order to ensure the Agency is under control of the National Treasury, the under listed controls are in place: -

(i) GCA is headed by an Ag. Director who oversees its operations and often prepares reports to the Accounting Officer.
(ii) The Agency is audited by our Ministry's Internal Auditors and Internal Auditors based at Mombasa office.
(iii) Relevant accounting records are maintained by the Agency. These include cashbooks, general ledgers, official receipts, payment vouchers, bank statements, etc.
(iv) Cash board of survey is conducted after every end of financial year.
(v) Bank reconciliation statements for GCA Mombasa are prepared on monthly basis

Committee Observations and Findings

The issue of non-inclusion of the statement of comparison contrary to IPSAS and the non-inclusion of budgeted revenue (A-I-A) should be reviewed by the Auditor-General in the subsequent audit to ensure compliance. The matter will be kept in view in the audit of the subsequent years;

Committee Recommendations

The issue of non-inclusion of the statement of comparison contrary to IPSAS and the non-inclusion of budgeted revenue (A-I-A) should be reviewed by the Auditor-General in the subsequent audit to ensure compliance. The matter will be kept in view in the audit of the subsequent years;

16. Failure to Execute Mandate

A review of the Agency operations manual revealed that the Agency functions are indicated as receiving of clearance/shipping documents from Government ministries/departments/state corporations and preparation and processing of imports/exports, warehousing and transport documents through customs, port authorities, shipping, transport, insurance agents - (underwriters) including banks and cargo surveillance agents; among other services. It was estimated that only three institutions of such government undertaking are regularly cleared by the Agency while the rest of the businesses is taken by private companies and individuals in the industry.

Submission by Accounting Officer

The Accounting Officer submitted that the Government clearing services is responsible for receiving of clearance/shipping documents, preparation and processing of imports/exports, warehousing and transporting of goods for Government Ministries/Departments/Agencies (MDAs). The National Treasury vide Circular letter No.Conf.1/08A/ (44) dated 16th April, 2007 encouraged MDA's to consult GCA for advice on all issues relating to shipment before the actual shipment of goods is done. Due to liberalization of the economy, it is not mandatory for MDAs imported goods to be cleared through GCA. The Agency has nevertheless continued to clear Government security and strategic goods.

In addition, the National Treasury has constituted a committee to review the Agency's operations and advice on the requisite reform initiatives to enhance service delivery. The Ministry has also enhanced the human resource capacity and skill of the Agency staff through and promotion. However, from 1st July 2019 the Agency will be under the Ministry of Transport, Infrastructure, Housing, Urban development and Public Works as per Executive Order No.2 of 2018.

Committee Observations and Findings

(i) The GCA functions include receiving of clearance/shipping documents from MDAS and State Corporations and preparation and processing of imports/exports, warehousing and transport documentation processing. However, only three government institutions are regularly cleared by the Agency while the rest of the businesses are taken by private companies and individuals in the industry; and

(ii) The GCA is one of the oldest government agencies having been established in 1907 as the Government Coast Agency. However, the agency has no mandatory mandate to clear all goods imported by the MDAs.

Committee Recommendation

The Cabinet Secretary, Transport, Infrastructure, Housing, Urban development and Public Works should within three (3) months of tabling and adoption of this report, constitute a technical team to determine the economic viability, review mandate and prospects of continued existence of the GCA and the clearance programmes for government's strategic/ security imports.

THE TREASURY MAIN CLEARANCE FUND

Basis for Qualified of Opinion

17. Winding up of the Fund

The Treasury Main Clearance Fund has not been in operation for a long time. Consequently, the Public Accounts Committee in its sitting made recommendations for the Fund to be wound up among other dormant Funds.

However, over the years and despite the recommendations from the Public Accounts Committee, the National Treasury is yet to close the Fund's books of account and has continued to prepare and submit the Fund's financial statements for audit. The financial statements contain brought forward balances whose accuracy, existence and validity could not be vouched. Although on 3 September, 2013 the National Treasury constituted a task force to review and recommend for closure of such dormant Funds. The taskforce has endlessly been seeking for extension of time to finalize their work.

The management has not provided any information on the progress made by the task force for the last five years of its existence.

Committee Observations and Findings

The Committe observed that the matter was dealt with in the financial year 2015/2016.

Committee Recommendations

The Committee upholds its recommendations for the adopted report of the financial year 2015/2016.

18. Unresolved Prior Years Matters

A review of the unsatisfactory matters highlighted in the audit report for 2015/2016 and prior years revealed that the issues still remained unresolved during the year 2016/2017 as indicated below:

i) Accounts Receivable – Debtors

As was reported during the 2015/2016 and earlier years, the statement of assets and liabilities as at 30 June 2017 reflects an accounts receivable-debtors balance of Kshs.12,503,607,446 out of which Kshs.2,332,170,394 had not been analyzed. Consequently, the completeness and accuracy of the balance could not be ascertained.

Further, the balance of Kshs.12,503,607,446 has been outstanding for a long period of time. No progress has been made towards the recovery of the debts which have been due for many years.

ii) Accounts Payable – Creditors

Similarly, as was reported during the previous year, the statement of assets and liabilities of the Treasury Main Clearance Fund Account as at 30 June 2017 reflects an accounts payable - creditors balance of Kshs.12,490,478,941 which included amounts of Kshs.523,686 under Pay Master General special account, Kshs.2,285,511,054 under advance deposits, Kshs.29,963,830.85 under advance deposits - Ministry of Information and Communications and Kshs.93,455 under Joint Consolidated Fund interest all brought forward from 2015/2016 and earlier years. However, and as reported in the previous years, these amounts have not been analyzed or supported with relevant documents.

Consequently, the completeness and accuracy of the creditors balance of Kshs. 12,490,478,941 as at 30 June 2017 could not be ascertained and cleared from the books of account.

iii) Deficit Balance Brought Forward

As was reported during the previous year, the statement of assets and liabilities as at 30 June 2017 also reflects a net financial position as closing fund balance of Kshs.13,128,505 which constitute a deficit brought forward of Kshs.871,495 and fund balance brought forward of Kshs.14,000,000 that has not been reconciled. The balance as reflected in the statements of financial position without proper reconciliation cast doubt on the accuracy of the Treasury Main Clearance Fund statement.

Submission by Accounting Officer

Paragraph 17 and 18

Receivable - Debtors, Accounts payables Creditors and Deficit balance brought forward

The Accounting Officer submitted that the Treasury Main Clearance Fund was established under the Revised Financial Orders of 1968 edition 'Funds outside the supply system' 8.1.3 section C in the Exchequer and Audit Act Cap412 to facilitate overseas payments in foreign currency in respect of Government Imports and Pension payments through crown agents in United Kingdom.

This is a dormant fund and it is in the process of being wound up through the Taskforce on the winding up of Dormant Funds and also following the Legal advice and recommendations of the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II(5) of 17th May 2019.

Committee Observations and Findings

(i) This is a dormant fund and it is in the process of being wound up through the Taskforce on the winding up of Dormant Funds and also following the Legal advice and recommendations of the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II(5) of 17th May 2019; and
(ii) The matter remains unresolved.

Committee Recommendation

The explanation by the Accounting Officer was satisfactory therefore the matter is waiting the finalization of the report by the Task force appointed to clear old balances and take note of the solicitor general advisory.

DONOR FUNDED PROJECTS

FINANCIAL SECTOR SUPPORT PROJECT (IDA CREDIT NO. 5627 – KE)
Unqualified Opinion

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

Other Matter

19. Budgetary Control and Performance

The statement of comparative budget and actual amounts indicates that the project had a budgeted provision of Kshs.483,805,000 for loans from external development partners but only Kshs.205,275,000 was received resulting to unrealized receipts of Kshs.278,530,000 equivalent to a 58percent shortfall on the budgeted amount. Similarly, out of the budgeted expenditure of Kshs. 483,805,000, only Kshs. 228,985,757 was spent resulting to an under-expenditure of Kshs. 254,819,243 or 53percent of the budgeted sum. The under-expenditure was mainly attributed to a low spending on compensation of employees whereby out of a budget of Kshs.143,451,250, only Kshs.3,891,601 or 3percent was utilized leaving Kshs.139,559,649 or 97percent of the financial year's budget unspent.

Submission by Accounting Officer

The Accounting Officer submitted that the budgeted expenditure for Financial Year 2016/17 was **Ksh. 483,805,000.00**. The actual expenditure out of this budget was **Ksh. 228,985,757.00.** This resulted to an under expenditure of **Ksh. 254,819,243/=** (53percent of the budget). The lower than projected expenditure was largely attributable to low absorption within FSSP compensation of employees that had an estimated budget of **Kshs. 143,451,250/=** and only **Kshs. 3,891,601/=** (3percent) was utilized resulting into an under expenditure of **Kshs.139,559,649/=** (97) percent). This was due to:-

(i) Delay in the recruitment of the PIU staff that was expected to be in post by July 2016 but only went in post In March, 2017;

(ii) Delay in the recruitment of staff to Government Digital Payments that were expected by July, 2016 (EoI attached);
(iii)Delay in completion of procurement activities.

Committee Observations and Findings

(i) The financial statement of the Financial Sector Support Project (IDA Credit No. 5627 – KE) received an unqualified opinion in the Financial Year 2016/2017 which is commendable; and
(ii) Out of the project's budgeted expenditure of Kshs. 483,805,000, only Kshs. 228,985,757 was spent resulting to an under-expenditure of Kshs. 254,819,243 or 53percent of the budgeted sum mainly attributed to a low spending on compensation of employees whereby out of a budget of Kshs. 143,451,250, only Kshs. 3,891,601 or 3percent was utilized leaving Kshs. 139,559,649 or 97percent of the financial year's budget unspent.

Committee Recommendation

The Cabinet Secretary, National Treasury should within three (3) months of adoption of this report put in place framework to address challenges associated with low donor financed projects. Further, donor financed programmes and projects should only be included in the budget if the MDAs have the requisite capacity to meet the donor conditions.

GLOBAL FUND PROGRAM TO STEER THE COUNTRY TOWARDS ACHIEVEMENT OF THE TB MILLENNIUM DEVELOPMENT GOALS IN LINE WITH THE GLOBAL STOP TB STRATEGY (GRANT NO. KEN – S11 – G12-T) PROJECT

Unqualified Opinion

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

Emphasis of Matter

Budget Control and Performance

The Global Fund had budgeted to spend Kshs.1,428,948,258 on TB control but recorded an expenditure of Kshs.760,997,456 only, leaving a balance of Kshs.667,950,802 or 47percent as under absorption. This scenario has the implication that almost half of the budgeted development programmes were not implemented. In particular, the project had budgeted Kshs.1,551,503 for acquisition of non-financial assets such as computers, other Information Technology equipment and medical and dental equipment but no expenditure as incurred on the said components. Similarly, from the statement of receipts and payment it is noted that a receipts of Kshs.759,109,816 was received during the year against the budget of Kshs.2,330,462,642 indicating that Kshs.1,571,352,826 was not received.

Consequently, the project may not have fully implemented programmes and activities approved in the budget thus delaying provision of services to the citizens.

Submission by Accounting Officer

The Global Fund budgeted to spend Kshs. 1,428,948,258/= on TB control but recorded an expenditure of Kshs. 760,997456/= only, leaving a balance of Kshs.667,950,802/= or 47percent as under absorption. Further the statement of receipts and payment initially reflected receipt of Kshs. 759,109,816/= during the year against the budget of Kshs. 2,330,426,642/= indicating that Kshs. 1,571,352,826/= was not received.

The budgeted figure was erroneously indicated as Kshs. 2,330,426,642/= instead of the revised budget amount of Ksh. 1,428,948,257/=. The Financial Statement was later amended to reflect the revised budget amount and the same was submitted for audit review. After amendment the under-absorption figure Kshs. 669,838,441/=. The under expenditure was due to the following:-

(i) There was an allocation of Kshs.500 million for the construction of the KEMSA warehouse which was not spent because the land earmarked for the construction of the warehouse had ownership controversy as another party claimed title of the land that led to KEMSA purchasing an alternative land from Kenya Airways.
(ii) There was a delay in procuring of a consultant for the warehouse construction due to litigation by one of the suppliers who appealed to the Procurement Review Board thereby delaying the procurement.
(iii) There were also delays in delivery of non-financial assets such as computers and other IT equipment and medical and dental equipment which had a budget of Kshs.1,551,503/= but were delivered and paid for in the month of August 2017.

Committee Observations and Findings

(i) The financial statement of the Global Fund Program to Steer the Country towards Achievement of the TB Millennium Development Goals in line with the global stop TB Strategy (Grant No. KEN – S11 – G12-T) Project received an unqualified opinion in the Financial Year 2016/2017 which is commendable; and
(i) The Global Fund budgeted to spend Kshs. 1,428,948,258/= on TB control but recorded an expenditure of Kshs. 760,997456 only, leaving a balance of Kshs. 667,950,802 or 47percent as under absorption.

Committee Recommendation

The Cabinet Secretary, National Treasury should within three (3) months of adoption of this report put in place framework to address challenges associated with low donor financed projects. Further, donor financed programmes and projects should only be included in the budget if the MDAs have the requisite capacity to meet the donor conditions.

INFRASTRUCTURE FINANCE AND PUBLIC PRIVATE PARTNERSHIPS PROJECT (IDA CREDIT NO.5157 KE)

Unqualified Opinion

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

Committee Observations and Findings

The financial statement of the Infrastructure Finance and Public Private Partnerships Project (IDA CREDIT NO.5157 KE) received an unqualified opinion in the Financial Year 2016/2017 which is commendable; and

PUBLIC FINANCIAL MANAGEMENT REFORMS PROGRAM

Unqualified Opinion

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

Other Matter

20. Budget Control and Performance

The financial statements of the Public Financial Management Reforms (PFMR) Program reflect a budgeted receipt from Government Entities of Kshs.302,058,126, while the actual amount on comparable basis received from the National Treasury was Kshs.92,058,126 or 31percent of the budgeted receipts implying that there was an under- collection of Kshs.210,000,000 representing 69.5percent of the expected receipts. In addition, the financial statements of the PFMR Program indicate that the budgeted expenditure of the purchase of goods and services component was Kshs.318,385,000, while the actual on comparable basis expenditure was Kshs.144,348,802 (45percent) of the final budgeted expenditure. In view of the above, the resultant under-expenditure Kshs. 174,036,198 represents 55percent of the budgeted expenditure.

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

Submission by Accounting Officer

The Accounting Officer submitted that the budgeted receipts of the transfer from the government entities component was Kshs.302,058,126/= while the actual amount on comparable basis received from the National Treasury was Kshs.92,058,126/= (30.5percent of the budgeted receipts resulting to an under-collection of Kshs.210,000,000/= representing 69.5percentof the expected receipts. The under collection of Kshs. 210,000,000/= was GoK counterpart funding to support the Kenya Revenue Authority (KRA) Data Warehouse and Business Intelligence (DWBI) project. The under expenditure was due to the challenge that the supplier (Verve K.O Limited) had not finalized the supply and installation of phase one of the KRA project and therefore payment could not be made.

Further, the under-expenditure of Kshs.174,036,198/= which represents 54.7percent expenditure of purchase of goods and services was due to the same reason that payment to the supplier of KRA Data Warehouse and Business Intelligence (DWBI) project was not effected.

Committee Observations and Findings

The financial statement of the Public Financial Management Reforms Program received an unqualified opinion in the FINANCIAL YEAR 2016/2017 which is commendable.

Committee Recommendation

The Cabinet Secretary, National Treasury should ensure that the budget prepared by the National Treasury is realistic and adheres to credible budgeting process.

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

Unqualified Opinion

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

Other Matter

21. Budget Control and Performance

The Global Fund had a budget provision for HIV of Kshs. 11,347,547,428 voted for the financial year 2016/2017. However, the Project recorded an actual expenditure of Kshs. 6,961,787,438 thereby underspending by Kshs.4,385,759,989 or about 39percent.

The budget absorption and utilization rate stood at 61percent, implying that about 39percent of the budgeted development programmes were not implemented. The project management budgeted Kshs.119,841,179 for acquisition of non-financial assets but only Kshs.2,086,000 (or 2percent) was spent on purchase of computer and furniture leaving 98percent or Kshs.117,755,179 budgeted for purchase of motor vehicles and medical and dental equipment unspent.

Submission by Accounting Officer

The Global Fund had a budget provision for HIV of Kshs. 11,347,547,428/= voted for the financial year 2016/2017 and the Project recorded an actual expenditure of Kshs.6,961,787,438/= thereby underspending by Kshs.4,385,759,989/= or about 39percent. The under absorption was due to the following reasons:-

(i) NASCOP had planned for procurement of the first line drug Tenofovir/Lamivudine/Efavirenz (TLE) (which had a significant value in the budget) in 2016/2017. During the year, the Food and Drug Administration approved the use of another regimen, Tenofovir/Lamivudine/Dolutegravir (TLD), a drug with better efficacy for the management of HIV. The Clinical Technical Working Group at NASCOP recommended the adoption of TLD as a first line regimen to replace TLE. Further, the Network for People Living with HIV and AIDS in Kenya (NEPHAK) petitioned the Principal Secretary, Ministry of Health to adopt the use of TLD as a first line treatment for HIV in Kenya. The procurement of TLE was therefore put on hold pending discussions with the Global Fund to approve the procurement of TLD. This approval was granted in October 2017 leading to a significant delay in the procurement. The deliveries were done in 2017/2018 following which the payments were made.

(ii) Delays in delivery of other HIV commodities by the suppliers. Deliveries of the ARVs were expected in the last quarter of the financial year but were received at KEMSA in the first quarter of the 2017/2018 financial year.

(iii) Savings - In the financial year 2016/17, the program realized savings from lower costs under the procurement of ARVS, nutritional supplements, condoms and other commodities amounting to USD.15,488,329 (Kshs.1,548,832,900/=). This could have been attributed to reduced cost of HIV commodities in the market and the supplier summit that was held by the program and the procurement agents to negotiate for better prices for commodities. This led to a significant amount of unabsorbed budget.

The project management budgeted Kshs. 119,841,179/= for acquisition of non-financial assets but only Kshs. 2,086,000/= (or 2percent) was spent on purchase of computer and furniture leaving 98percent or Kshs.117,755,179/= budgeted for the purchase of motor vehicles and medical and dental equipment unspent. The reasons for the under expenditure are:- National AIDS and STI Control Program (NASCOP) had budgeted for procurement of Genetic Analyzer machine in the F/Y 2016-2017 at a cost of USD 1m approximately (Ksh.103M). NASCOP requested for authority to initiate the procurement of the Genetic Analyzer from the Global Fund.

Before giving the approval, the Global Fund requested the NASCOP team to share the specifications of the machine with the World Health Organization (WHO) HIV Drug Resistance team in Geneva, Switzerland. This was to ensure that the machine procured would have the latest, adequate WHO-recommended technology.

In addition, the Global Fund recommended that the HIV drug resistance protocols should be put in place before the approval of the procurement. This process of consultation with the WHO team and the finalization of the protocols took longer than was expected and therefore the procurement of the machine delayed leading to unabsorbed funds. This procurement happened in 2017/2018 and the payments for the same were made in the same year.

Committee Observations and Findings

(i) The financial statement of the Global Fund Program for Expanding HIV Prevention Care Treatment Services to reach Universal Access (80percent Coverage) to Reduce Both Incidence

and Associated Impact (Grant No KEN - H - TNT) received an unqualified opinion in the Financial Year 2016/2017 which is commendable; and

(ii) The Global Fund had a budget provision for HIV of Kshs.11,347,547,428/= voted for the financial year 2016/2017 and the Project recorded an actual expenditure of Kshs.6,961,787,438/= thereby underspending by Kshs.4,385,759,989/=

(iii)The committee marked the matter as resolved.

Committee Recommendation

The Cabinet Secretary, National Treasury should within three (3) months of adoption of this report put in place framework to address challenges associated with low donor financed projects. Further, donor financed programmes and projects should only be included in the budget if the MDAs have the requisite capacity to meet the donor conditions.

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

Unqualified Opinion

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

Emphasis of Matter: - Budgetary Control and Performance

The statement of comparative budget and actual amount reveals that the project had budgeted receipts of Kshs. 10,000,000 as proceeds from domestic and foreign grants but only received Kshs. 3,420,000 resulting to an unrealized receipt of Kshs. 6,580,000 or 66percent of the budgeted amounts. Similarly, out of the budgeted expenditure of Kshs. 10,000,000 actual expenditure amounted to Kshs. 3,420,000 resulting to an under expenditure of Kshs. 6,580,000 or under receipts of 66percent of the budget.

Consequently, the project may not have fully realized its potential from activities approved in the budget thus delaying provision of services to the citizens.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of comparative budget and actual amount reflected budget receipt of Kshs.10,000,000/= as proceeds from domestic and foreign grant but only received Kshs.3,420,000/=. Similarly, out of the budgeted expenditure of Kshs. 10,000,000/= actual expenditure amounted to Kshs. 3,420,000/= resulting to under expenditure of Kshs. 6,580,000/= or under receipt of 66percent of the budget. The under expenditure was due to delayed issue of “no objection” from AFD for training of officers and procurement of office equipment.

The no objection was issued on 13th March, 2017 hence there was limited time to procure office equipment and for officers to make logistical arrangement to participate in training

Committee Observations and Findings

(i) The financial statement of the Study and Capacity Building Fund Project (Credit No. CKE 6015 01 K) received an unqualified opinion in the Financial Year 2016/2017 which is commendable; and
(ii) The statement of comparative budget and actual amount reveals that the project had budgeted receipts of Kshs. 10,000,000 as proceeds from domestic and foreign grants but only received Kshs. 3,420,000 resulting to an unrealized receipt of Kshs. 6,580,000 or 66 of the budgeted amounts.
(iii)The committee marked the matter as resolved.

Committee Recommendation

The Cabinet Secretary, National Treasury should within three (3) months of adoption of this report put in place framework to address challenges associated with low donor financed projects. Further, donor financed programmes and projects should only be included in the budget if the MDAs have the requisite capacity to meet the donor conditions.

TECHNICAL SUPPORT PROGRAMMES PROJECT (KE/FED/2009/021421)

Unqualified Opinion

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

Committee Observations and Findings

The financial statement of the Technical Support Programmes Project (KE/FED/2009/021421) received an unqualified opinion in the Financial Year 2016/2017 which is commendable.

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

Unqualified Opinion

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

Emphasis of Matter

Budget Control and Performance Further, the statement of comparative budget and actual amounts reveals that the project had budgeted loan receipts of Kshs. 81,000,000 from external development partners but only realized Kshs. 50,501,410 resulting in an unrealized receipts of Kshs. 30,498,590 or 38percent. Similarly, out of the budgeted expenditure of Kshs. 81,000,000, actual expenditure amounted to Kshs. 48,349,905 resulting to an under expenditure of Kshs. 32,650,095 or under receipts of 40percent.
Consequently, the project may not implement all its activities approved in the budget thus delayed provision of services to the citizens.

Submission by Accounting Officer

The Accounting Officer submitted that the budgeted expenditure for Financial Year 2016/17 was **Ksh. 81,000,000/=**. The actual expenditure out of this budget was **Ksh. 48,349,905/=.** This resulted to a deficit of actual expenditure over the budget of **Ksh. 32,650,095/= (40percent of the budget).** The lower than projected expenditure was largely attributable to the delayed commencement of the consultancy services due to late submission of the Terms of Reference by the implementing Agency (KRA) KEPTAP hence only capacity building activities were implemented during the year.

Committee Observations and Findings

(i) The financial statement of the Kenya Petroleum Technical Assistance Project (IDA Credit No.5526KE) received an unqualified opinion in the Financial Year 2016/2017 which is commendable; and
(ii) The budgeted expenditure for the project in the Financial Year 2016/17 was Ksh. 81,000,000/=. The actual expenditure out of this budget was Ksh. 48,349,905/. This resulted to a deficit of actual expenditure over the budget of Ksh. 32,650,095 representing 40 percent of the budget.

Committee Recommendation

The Cabinet Secretary, National Treasury should within three (3) months of adoption of this report put in place framework to address challenges associated with low donor financed projects. Further, donor financed programmes and projects should only be included in the budget if the MDAs have the requisite capacity to meet the donor conditions.

MICRO FINANCE SECTOR SUPPORT CREDIT PROJECT

Unqualified Opinion

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

Emphasis of Matter

Going Concern/Sustainability of Services

Clause 10 of the financial agreement between the Government of Kenya and French Development Agency (AFD) states that the deadline of disbursement shall be 31 October 2010. Further, the financial statements of the Micro-Finance Sector Support Credit project under project information show that the project end date is 31 December 2014 as per amendment No.002.

Further, it was also noted that the Project Management Unit continued to prepare financial statements despite the project having ended on 31 December 2014 without submitting the accompanying project closure report. The Micro-Finance Sector Support credit project risks giving the misrepresented view that the project is still running yet there is evidence that it was scheduled to close on 31 December 2014.

Submission by Accounting Officer

The project Management Unit has continued to prepare financial Statements despite the project having ended on 31st December 2014 without submitting the accompanying project closure report. This is because the final audit report on the project has not been done. Procurement of audit consultancy service to facilitate closure of the report has been concluded the contract has been signed. The project is currently being audited.

Committee Observations and Findings

(i) The financial statement of Micro Finance Sector Support Credit Project received an unqualified opinion in the Financial Year 2016/2017 which is commendable; and
(ii) The Project Management Unit continued to prepare financial statements despite the project having ended on 31 December 2014 without submitting the accompanying project closure report. Procurement of audit consultancy service to facilitate closure of the report has been concluded the contract has been signed. The project is currently being audited.

Committee Recommendation

The Accounting Officer should within three (3) months of tabling and adoption of this report ensure that the audit of the project is completed, and the financial statements and audit is submitted to the Auditor-General for review.

GLOBAL FUND FOR SCALING UP MALARIA CONTROL INTERVENTIONS FOR IMPACT PROJECT (GRANT NO. KEN- M- TNT)
Unqualified Opinion
There were no material issues noted during the audit of the financial statements of this Project.

Emphasis of Matter

Budget Control and Performance

The Global Fund KEN-M-TNT had a budget of Kshs. 2,026,014,894 for the year under review but recorded an expenditure of Kshs. 980,173,582 leaving a balance of Kshs. 1,045,841,312 equivalent to 52percent budget under-absorption. This implies that more than half of the activities budgeted for development programmes were not implemented. Similarly, from the statement of receipts and payments, an amount of Kshs. 961,375,971 was received during the year against a budget of Kshs. 2,026,014,894 and thus Kshs. 1,064,638,923 of budgeted funds were not received. Similarly, in the previous year, funds amounting to Kshs. 1,568,213,904 were not received. It is however noted that the programme was closing on 31

December 2017, no explanation has been provided on how the project management intends to account for the undisbursed funds.
Consequently, the project may not have fully implemented its activities.

Submission by Accounting Officer

The Global Fund KEN-M-TNT had an expenditure of **Kshs. 980,173,582/=** against a budget of **Kshs. 2,026,014,894/=.** The reasons that led to the under absorption are:-

The Accounting Officer submitted that the main activities under the Malaria Grant are procurement of Long-Lasting Insecticide Treated Mosquito Nets and Rapid Diagnostic Test Kits (RDT's). Most of the deliveries for the mosquito nets were expected in May, 2017 following which payment was to be done. However, there were delays in deliveries by the suppliers which led to the payments being pushed to 2017/2018 which have since been paid. Similarly, from the statement of receipts and payment an amount of **Kshs. 961,375,971/=** was received during the year against a budget of **Kshs. 2,026,014,894/=** leading to an under collection of **Kshs. 1,064,635,923/=.**

The reason for the under receipts as stated above was due to the delayed delivery of Long-Lasting Insecticide Treated Mosquito Nets which was the main budget under Malaria grant. These were expected to be delivered and paid before the end of the financial year but this never materialized leading to significant under absorption. The nets were however delivered in the financial year 2017/2018 and the payments to the suppliers made during the same year.

The project implementation was extended to 30 June 2018, and the payment of delivered commodities was extended to 31st December, 2018 by which period all the deliveries were done and payments to the suppliers were made. Hence despite the delays, the program finally achieved the intended objectives in ensuring that the Mosquito nets and test kits reached the beneficiary and the fight against Malaria was scaled up.

Committee Observations and Findings

(i) The financial statement of the Global Fund for Scaling up Malaria Control Interventions for Impact Project (Grant No. KEN- M- TNT) received an unqualified opinion in the Financial Year 2016/2017 which is commendable; and
(ii) The Global Fund KEN-M-TNT had an expenditure of Kshs. 980,173,582/= against a budget of Kshs. 2,026,014,894. The under absorption was attributed to various reasons including procurement related challenges.

Committee Recommendation

The Cabinet Secretary, National Treasury should within three (3) months of adoption of this report put in place framework to address challenges associated with low donor financed projects including procurement issues. Further, donor financed programmes and projects should only be included in the budget if the MDAs have the requisite capacity to meet the donor conditions.

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

Basis for Qualified Opinion

22. Compliance with the Financing Agreement

During the year under review, Government of Kenya (GOK) counterpart funds were released at the close of the financial year. Consequently, programme activities earmarked for execution utilized the Donor's funds in anticipation that Government funds will be released in time to set off the expenditures before the close of the year. Available information however indicates that the GOK funds were released on 30 June 2017 and recorded in the Programme's books of account on 3 July 2017. This in effect meant that the money was not available to finance the Project's activities outlined in the annual work plan.

In addition, contrary to the provisions of the financing agreement, the management did not seek for authority in form of a letter of no objection before it committed donor funds to purchase a motor vehicle at a cost of Kshs. 4,797,600.

Submission by Accounting Officer

The Accounting Officer submitted that during the year under review (2016/2017), Government of Kenya (GoK) counterpart funds were released to the project on 30th June, 2017 and received on the project bank account on 3rd July, 2017. The projects allocation was budgeted for during the supplementary budget II hence the reason for late release. The funds were accounted for when preparing the project's financial statements for the financial year 2017/2018.

The purchase of the new vehicles at cost of Kshs. 4,797,600/= was 100percent charged under GoK counterpart financing and therefore only required Accounting Officer's approval. Letter of "no objection" was not required.

Committee Observations and Findings

(i) **The purchase of the new vehicles at cost of Kshs. 4,797,600/= was 100 percent charged under GoK counterpart financing and therefore only required Accounting Officer's approval. Letter of "no objection" was not required; and**
(ii) **The committee marked the matter as resolved.**

23. Management and Custody of Assets

During the year under review, a project vehicle- Registration Number GKB 226F- was involved in an accident on 28 November, 2015 along Makuyu - Thika - Muranga Road. However, no report was made on the accident by the driver as required in law. The vehicle was at the time of the accident carrying National Treasury officials, who had appropriately been authorized by the Principal Administrative Secretary to use the vehicle outside Nairobi Area and beyond government working hours in Western Kenya between 22-28 November, 2015.

It was not possible to confirm whether the authority for the journeys to Western Kenya had been granted as the vehicle's work tickets were not made available for audit review. In addition, the project's management appears not to have been privy to the arrangement as no request or notification was availed attesting to such request having been made to release the vehicle for the said use.

After the accident, the Project's management sought authority to purchase a new vehicle using GOK funds on the premise that the old project vehicle was not in serviceable condition. The request contradicted the Chief Mechanical and Transport Engineer (CMTE) certificate of Examination and Test (VTA No. 800948) which had indicated that the vehicle was serviceable upon assessment of the extent of the damage caused in the accident.

Submission by Accounting Officer

The Accounting Officer submitted that the project vehicle GK B226F was authorized by the Principal Administrative Secretary to carry the National Treasury officials to Western Kenya between 22-28th November, 2015. When the vehicle returned from the Western trip, on 28th November, 2015 the driver without authority drove the vehicle along Makuyu-Thika-Murang'a road and had an accident. This was gross-misconduct and he was dismissed from the service.

The project manager need to seek authority to purchase a new vehicle arose from additional staff within the programme coordinating unit. The staff increased from two (2No.) to nine (9No.). For effective delivery of service an additional vehicle was necessary.

Committee Observations and Findings

(i) The physical verification of the accident vehicle was done during the audit of the Financial Year 2017/2018 which has revealed that it was in serviceable condition. The vehicle is currently under repair and once this is done then the vehicle will be retained in the vehicle pool of the project.
(ii) The committee marked the matter as resolved.

CONSOLIDATED FUND SERVICES - SALARIES, ALLOWANCES AND MISCELLANEOUS SERVICES

Basis for Qualified Opinion

24. Cash and Cash Equivalent

The statement of assets and liabilities reflects cash and cash equivalent of Kshs. 62,189,652 as at 30 June 2017. Although the figure is correctly stated and supported by the bank reconciliation statement, the following anomalies were noted.

a) Payments in the Cashbook not in Bank Statement

The bank reconciliation statement includes payments in cashbook not in bank statement totalling Kshs.217,044,268 which includes Kshs.4,896,342 that have been outstanding since October 2014. It has not been explained why the payments have taken so long to be reflected in the bank.

Submission by Accounting Officer

The Accounting Officer submitted that the Bank Reconciliation statement as at 30th June 2017 included payments in cash book not in bank statement totaling Kshs.217,044,268/=, which includes an amount of Kshs.4,896,412/= that had been outstanding since October 2014. The entire outstanding amount has since been cleared.

b) Receipts in the Bank Statement not in the Cashbook

The bank reconciliation statement also reflects receipts in bank statement not recorded in the cashbook of Kshs. 637,637.65 as at 30 June 2017. Some of the receipts have not been recorded in the cashbook since 2014. No explanation has been given why the cashbook has not been updated.

Submission by Accounting Officer

The Accounting Officer submitted that the bank reconciliation statement also reflected receipt in bank not in cashbook amounting to Kshs.s.s.637,637.65/=. The amount constituted credits that had directly been made to the bank account, whose credit notes had not been received. However, the credit notes were later received, official receipt and FO 17 issued. The amount has since been posted in the cash book and cleared from the bank reconciliation statement.

Committee Observations and Findings

(i) The credit notes were later received and official receipt and FO 17 were issued. The amount has since been posted in the cash book and cleared from the bank reconciliation statement.
(ii) The committee marked the matter as resolved.

25. Account Balances not Recorded in Ledger

The financial statement reflects balances of individual items that were not reflected in the ledger of the fund for the financial year 2016/2017 as indicated below.

Exchequer releases	3,905,744,684
Transfers from other government entities	362,830,853
Other receipts	18,420,097

The management has not explained the source of the balance and therefore the figures in the financial statement in respect to the specific items cannot be authenticated.

Submission by Accounting Officer

The Accounting Officer submitted that the financial statement reflects balances of individual items indicated below that were not reflected in the ledger for the financial year 2016/2017.

Exchequer releases	3,905,744,684.00
Transfer from other Government Entities	362,830,853.00
Other Receipts	18,420,097.00

These amounts were not reflected in the ledger accounts at the time the accounts were submitted to the Auditor. This was occasioned by the fact that Consolidated Fund Services were not fully integrated into the Integrated Financial Management System (IFMIS). The IFMIS was used for the first time to capture expenditure in the financial year 2016/17 and encountered various teething problems. However, the amount of Kshs.3,905,744, 684/= which represented all exchequers issues for Independent Constitutional Offices Holders and other miscellaneous expenses CFS-R52 were later captured and posted in the Ledger. The records were availed for audit verification.

The amount of Kshs. 362,830,853/= represented funding for guaranteed loans under CFS R-52. However, the exchequer was erroneously issued under CFS Public Debt R-50. The amount was later correctly captured in the ledger in R50 and subsequently transferred to CFS–R52. Documentation supporting this transaction has since been shared with the Auditor.

The other receipts totaling Kshs.18,420,097/= were salary recoveries and transfers paid to CFS R52 erroneously from other Ministries and Departments which were captured in both the cashbook and the ledger. The receipts were later paid to the Exchequer Account.

Committee Observations and Findings

(i) The financial statements statement did not reflect balances in the ledger accounts at the time the accounts were submitted to the Auditor. This was occasioned by the fact that Consolidated Fund Services were not fully integrated into the IFMIS. The amounts were later captured and posted in the ledger and the records were availed for audit verification; and

(ii) The committee marked the matter as resolved.

26. Prior year Adjustment

The statement of assets and liabilities as at 30 June 2017 shows a prior-year adjustment of Kshs. 26,919,334 being part of the net financial position. The statement indicates that the prior-year adjustment is explained in Note 11 to the financial statements. However, Note 11 to the financial statements indicates a prior-year adjustment of Kshs. 31,142,627. The resultant discrepancy between the notes and the statement of assets and liabilities has not been explained.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of assets and liabilities as at 30th June 2017 shows a prior year adjustment of Kshs.26,919,334/= while Note 11 to the financial statements initially indicated a prior year adjustment of Kshs.31,142,627/=.

The prior year adjustment was erroneously reflected in the Note No.11 as Kshs. 31,142,627/= instead of Kshs. 26,919,334/=. The note has since been amended to reflect the correct figure, and submitted to the auditor for verification

Committee Observations and Findings

(i) The Accounting Officer submitted that the statement of assets and liabilities as at 30th June 2017 shows a prior year adjustment of Kshs.26,919,334/= while Note 11 to the financial statements initially indicated a prior year adjustment of Kshs.31,142,627;

(ii) The prior year adjustment was erroneously reflected in the Note No.11 as Kshs. 31,142,627/= instead of Kshs. 26,919,334/=. The note has since been amended to reflect the correct figure, and submitted to the auditor for verification; and

(iii)The committee marked the matter as resolved.

27. Suspense Balance

The statement of assets and liabilities reflects a balance of Kshs. 4,456,673 referred to as a difference. The management has not explained what these differences represent and therefore it is not possible to confirm the suspense account balance as presented in the statement of assets and liabilities.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of assets and liabilities reflects a balance of suspense/ difference of Kshs. 4,456,673/=. The amounts represented salary overpayment recoveries and salary advances. Salary payments were accounted for in the payroll execution and hence adjustment was necessary to ensure that amounts paid in payroll have not been accounted for twice.

Committee Observations and Findings

(i) The statement of assets and liabilities reflects a balance of suspense/ difference of Kshs. 4,456,673/=. The amounts represented salary overpayment recoveries and salary advances. Salary payments were accounted for in the payroll execution and hence adjustment was necessary to ensure that amounts paid in payroll have not been accounted for twice.

(ii) The error has since been corrected and therefore the Committee marked the matter as resolved.

28. Pending Issues for the Financial Year 2015/2016

In the audit report for 2015/2016, several issues were raised which they have not been responded to satisfactorily by the management.

i) Prior Year Adjustments

The statement of assets and liabilities as at 30 June 2016 reflected an amount of Kshs. 8,883,205,334, referred to as a prior year adjustment but has not been explained or analyzed. Further, the statement had reflected funds balance brought forward, compensation of employees and account receivables which had been re-stated to Kshs.8,566,405,035, Kshs.2,416,693,457 and nil balance, instead of Kshs.397,382,932, Kshs.2,418,352,317 and 8,663,621,032 respectively as reflected in the audited financial statements for 2014/2015. In addition, the statement of financial position also shows clearance of outstanding item of Kshs. 11,980,334. The National Treasury has not explained or provided details of the said adjustments. Consequently, the accuracy of the balances reflected in the financial statements cannot be ascertained.

Submission by Accounting Officer

The prior year adjustment of **Kshs. 8,883,205,334/=**
The statement of Assets and Liabilities as at 30th June, 2016 reflected an amount of **Kshs.8,883,205,334/=** in respect of prior year adjustments resulting from accumulated Exchequer under issues as analyzed below:-

	(Kshs.)
Exchequer Under issues b/fwd	8,848,051,762
Surplus for the year (2015/2016)	153,599,122
Cash book Balance (30.06.2016)	(118,445,551)
Cumulative Exchequer Under issues (30.06.2016)	8,883,205,333

The accumulated Exchequer under issues had been carried in the books and reported as receivables. The budget allocation expired at the end of the respective financial years and since the accounts were prepared on cash basis, the same had to be adjusted.

a) Restatement of expenditure on compensation of Employees for Financial Year 2014/2015 from Kshs. 2,418,352,317/= to Kshs. 2,416,693,457/=.

b) The expenditure was revised by Kshs.1,658,860/= to exclude re-credited salary overpayment recoveries and returned cheques (RTGS) which had been erroneously included in the financial statements

c) Restatement of Fund Balance brought forward from Kshs. 397,382,932.20 to Kshs..8,566,405,035. The Fund Balance was restated from Bank certificate balance of Kshs. 397,382,932.20 to Kshs. 8,566,405,035 to recognize the accumulated Exchequer under issues balance brought forward from financial year 2013/2014.

d) The accumulated Exchequer under issues was being reflected in the financial statements as receivables. The Budget allocation expired at the end of the respective financial years and since the accounts were prepared on cash basis, the reporting of Exchequer under issues has since been discontinued.

e) Account Receivables of Kshs. 8,663,621,032/=. The Account receivables of Kshs.8,663,621,032/= in respect of Exchequer under issues as at 30th June, 2015 comprised of the accounts receivable brought forward.

f) Outstanding item for Kshs. 11,980,334/= cleared from the statement of financial position. The amount related to overcast on Payment Authority (PA) No.101684 which had been reported in the payment voucher as Kshs. 12,101,354.40 instead of Kshs.121,020.90. The variation was due to application of a wrong exchange rate. The error has since been corrected.

Committee Observations and Findings

The committee abides by its recommendations in the adopted report of the financial year 2015/2016.

ii) Unspent Appropriation/Cash Balance

The statement of financial position as at 30th June 2016 reflected a bank balance of Kshs.397,382,932 under the comparative balances for the financial year 2014/2015 bid which had been re-stated Kshs.8,848,051,762 as balance carried forward in the statement of financial position as at 30 June 2016. No explanation has been provided to explain the reason for the restatement of the balance.

Submission by Accounting Officer

The restatement of the Bank balance in the statement of financial position as at 30th June 2016 from Kshs.397,382,932/= to Kshs.8,848,051,762 was necessary to recognize the accumulated exchequer under issues brought forward from prior periods and also to correct an overcaston PA no.101684. The accumulated Exchequer under issues had been carried in the books and reported as receivables. The Budget allocation expired at the end of the respective years and since the accounts were prepared on cash basis, the reporting of Exchequer under issues was discontinued in financial year 2015/2016.

Committee Observations and Findings

It was observed that the paragraph was a prior year matter and the Committee had made its determination on the matter in its report for Financial Year 2015/16.

THE STATEMENT OF OUTSTANDING OBLIGATIONS GUARANTEED BY THE KENYA GOVERNMENT

Basis for Qualified Opinion

29. Long Outstanding Balances

The statement of outstanding obligations guaranteed by the Kenya Government as at 30th June 2017 reflects long outstanding contingent liabilities totaling Kshs.164,132,746 made up of Kshs.11,814,920 and Kshs.152,317,825 relating to Kenya Railways Corporation and Cereals and Sugar Finance Corporation, respectively. Settlement of these liabilities appear to be uncertain because the National Treasury has indicated that their clearance is dependent on redemption of bonds issued by Kenya Railway Corporation and completion of winding up process of the Cereal and Sugar Finance Corporation.

Submission by Accounting Officer

Kenya Railways Corporation

The Accounting Officer submitted that the statement of Obligations Guaranteed by Government of Kenya reflects contingent liabilities amounting to **Kshs. 11,814,920/=** guaranteed to Bond Holders relating to Kenya Railways Corporation. The amount has remained outstanding pending redemption of the Bonds by the borrower or on the event of default; the guarantor would pay the Bond Holders.

Kenya Railways Corporation has informed us vide their letter referenced KRC/FIN/22 dated 9th April, 2018 that there are no documents to support the two Bonds thus the corporation is unable to provide information on the maturity dates or details of the Bond Holders. They have further confirmed that no claim or communication on the said Bonds has been received in the last ten years. Further, The National Treasury wrote vide letter referenced No.DMD4/46 dated 30th November 2018, seeking the corporation's concurrence to stop reporting these bonds in the financial statements forthwith. The corporation vide letter Ref: No. KF/FIN/NT/(13) dated 5th March, 2019 concurred with Treasury's proposal.

Cereals and Sugar Finance Corporation Kshs. 152,317,825.00

The Accounting Officer submitted that the obligation guaranteed by the Government in respect of borrowing by Cereals and Sugar Finance Corporation (CSFC) amounting to **Kshs.152,317,825/=** has remained outstanding pending conclusion of the winding up of the Corporation.

The taskforce on winding up of all dormant funds including Cereals and Sugar Finance Corporation prepared its financial statements and submitted them for audit. In addition, the Task force report was forwarded to the Attorney General for legal advice. The Attorney General's opinion is in the process of being implemented.

Committee Observations and Findings

(i) **The status of obligation guaranteed by the Kenya Government to bond holders of Kenya Railways Corporation Ksh. 11,814,920.20 in the absence of any indication that the obligation guaranteed has crystallized, it remains a contingent liability; and**
(ii) **It was observed that the Sub-paragraphs relate to paragraph 10 and the matter remains unresolved. A working paper had been completed awaiting Cabinet approval and onward transmission to parliament.**

Committee Recommendations

The explanation by the Accounting Officer was satisfactory and the matter shall await and abide the Cabinet approval.

KENYA LOCAL LOANS SUPPORT FUND

Basis for Disclaimer of Opinion

30. Un-supported Balances

The balances reflected in the statement of financial assets under cash balances, investment at cost Cereals and Sugar Finance Corporation (CSFC) and accrued interest of Kshs. 5,000,000, Kshs. 10,410,374, and Kshs. 71,595,406, respectively have not been supported by notes, analyses and other documentary evidence. The accuracy of the balances cannot therefore be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that the explanatory notes in support of the balances referred to are as shown below:-

(i) Bank Balance – Kshs.5,000,000/=

This is the initial amount used to establish the fund. It is held in the deposit account of The National Treasury. The amount had been erroneously omitted in the Cash flow statement. The statement was amended to include Bank balance at beginning of the year **Kshs. 5,000,000/=.**

(ii) Investment at cost – Kshs. 10,410,373.50

The amount was invested in Kenya Stocks of which **Kshs. 4,045,400/=** is held in the sundry creditors account in Central Bank of Kenya while the balance of **Kshs. 6,365,300/=** was redeemed and have nil balances in the bank. Records of redemption have however not yet been traced to facilitate updating of investment records. The National Treasury requested the Central Bank of Kenya vide letters referenced No. DMD 4/46'L' dated 3rd May 2018 and 14th August, 2018 to give the date of redemption which is yet to be received**.**

(iii)Accrued Interest Kshs.71,595,406.00

This amount of accrued interest has remained the same from 30th June, 2006 to-date and is awaiting the winding up of the fund. The task force recommended the winding up and sought legal opinion from the Attorney General. The National treasury is in the process of implementing the AGs recommendations

Committee Observations and Findings

(i) The Accounting Officer did not at the time of audit submit to the auditors supporting notes, analyses and other documentary evidence for the statement of financial assets under cash balances, investment at cost Cereals and Sugar Finance Corporation (CSFC) and accrued interest of Kshs. 5,000,000, Kshs. 10,410,374, and Kshs. 71,595,406;
(ii) The committee observed that a balance of Ksh. 6,365,300 relates to the old balances and awaits task force recommendations. The matter remains unresolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the National Assembly within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

31. Failure to Redeem Stocks

In the audit reports for previous years, reference had been made to stocks valued at Kshs. 10,430,700 which were past their redemption dates with the last redemption date for a sum of Kshs. 17,400 having been on 6 February 2010. The National Treasury had explained in the past that the stocks were redeemed some years ago but erroneously accounted for as revenue.

However, records to confirm the erroneous accounting for receipts and subsequent correction in the books of account have not been made available for audit review to date.

Submission by Accounting Officer

The Accounting Officer submitted that the Kenya stocks amounting to Kshs. 10,410,700/= appear to be outstanding in the investment account although they are past redemption period. The redemption proceeds in respect of 6 percent Kenya stocks 1997 and 6 percent Kenya Stock 2010 amounting to Kshs.4,045,400/= are still held in the sundry creditors account at Central Bank of Kenya assigned to the Permanent Secretary, National Treasury. Central Bank of Kenya requires that we submit original stock certificates to facilitate payment. It has been a challenge to trace the original stock certificates relating to these Stocks due to the old nature of manual records kept. The National Treasury wrote to the Central Bank of Kenya (Appendix 31) seeking payment of Kshs. 4,045,400/= based on records held in the Bank.

The Central Bank of Kenya confirmed that (1981) 10 ¾ percent Kenya Stock 2003, 10 ¾ percent Kenya Stock 2000, 8 ¼ percent Kenya Stock 1992, 8 ½ percent Kenya Stock 1991/92, 6 percent Kenya Stock "A" 1990 and 8percent Kenya Stock 1992 all amounting to Kshs.6,365,300/= were redeemed and have nil balances in their books.

However, the documents relating to the redemption of these stocks have not been availed to enable us to trace and account for the redemption proceeds.

Therefore, the investment account will be updated once the redemption proceeds amounting to Kshs. 4,045,400/= are received from Central Bank of Kenya and records relating to the redemption of Kshs. 6, 365,300 are traced.

Committee Observations and Findings

- **(i) The Committee observed that the documents relating to the redemption of the stocks have not been availed for audit review and accounting for redemption proceeds**.
- **(ii) The Commission by the Accounting Officer is an act of maladministration and leads to improper conduct.**
- **(iii)The Committee therefore marked the matter as unresolved.**

Committee Recommendations

The Accounting Officer should ensure that the documents relating to the redemption of the stocks are availed, and accounts for the redemption of proceeds are traced, reconciled and submitted to the Auditor-General within three (3) months of tabling and adoption of this report.

32. Winding Up of the Fund

According to information available, the Kenya Local Loans Support Fund is in the process of being wound up in line with recommendations of the Public Accounts Committee and instructions by the National Treasury that all dormant funds be wound up. However, the process had not been completed as at 30 June 2017.

Submission by Accounting Officer

The Kenya Local Loans Support Fund is dormant and earmarked for winding up in line with recommendations of Public Accounts Committee and instructions by Treasury that all dormant funds should be wound up. The task force recommended the winding up and sought legal opinion from the Attorney General vide letter Ref. No.AG/CONF/6/E/170 VOL.II (5) dated 17th May, 2019. The Attorney General made recommendations to be followed in winding up of each Fund. The National Treasury has embarked on the implementation of the recommendations.

Committee Observations and Findings

(i) The Kenya Local Loans Support Fund is dormant and earmarked for winding up in line with recommendations of PAC and instructions by the National Treasury that all dormant funds should be wound up; and
(ii) The task force recommended the winding up and sought legal opinion from the Attorney General vide letter Ref. No.AG/CONF/6/E/170 VOL.II (5) dated 17th May, 2019.

Committee Recommendation

The Cabinet Secretary, National Treasury ensure the process of winding up of the Fund is completed and final statement of accounts of the Fund are submitted to Parliament as stipulated in Section 24 (9) of the PFM Act, 2012.

CONSOLIDATED FUND SERVICES - PUBLIC DEBT

Basis for Qualified Opinion

33. Understated Treasury Bond Balance

The summary statement of outstanding public debt reflects outstanding treasury bonds balance of Kshs. 1,313,560,945,967 as at 30 June 2017. The schedule of outstanding treasury bonds provided, however, reflects a balance of Kshs. 1,338,719,195,967 as at the same date. Thus, the Treasury Bonds balance is understated by Kshs. 25,158,250,000. The balances in the statement of outstanding public debt of Kshs. 1,313,560,945,967 cannot therefore be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the summary statement of public debt reflected an amount of Kshs.1,313,560,945,967/= in respect of outstanding Treasury Bonds as at 30th June, 2017 against the schedule of outstanding Treasury bonds provided of Kshs.1,338,719,195,967/= as at the same date. The balance of Kshs. 1,313,560,945,967/= was based on actual Treasury bonds funded by the exchequer as at 30th June 2016.The resulting difference of Kshs. 25,158,250,000/= related to Treasury Bonds on call-up Nos.090/2015/2016 and 092/2015/2016 which had been settled through Bank overdraft on the respective due dates of 16/05/2016 and 23/05/2016 (Appendix 33). However, exchequer funding was provided in the subsequent year vide Recurrent Exchequer issue notification dated 19th July,2016 and subsequent transfer of the same to Treasury bond account 1000004053 vide PDS 001 dated 21st July 2016. Therefore, the reported difference of Kshs. 25,158,250,000/= was purely a matter of timing difference. The supporting documentation was availed to the auditor for verification.

Committee Observations and Findings

(i) **The total outstanding amount of public debt increased significantly to Kshs. 4,194,102,152,577 in the Financial Year 2016/2017 representing an increase of approximately 137% over a five-year period. Further, the outstanding treasury bonds balance was Kshs. 1,313,560,945,967 differed with a schedule balance of Kshs. 1,338,719,195,967 as at 30th June 2017. Thus, the treasury bonds balance was understated by Kshs. 25,158,250,000. The Cabinet Secretary, National Treasury should take administrative action on the responsible officer charged with management of treasury bonds and bills;**

(ii) **The reported difference of Kshs. 25,158,250,000/= was purely a matter of timing difference. The bonds have since been settled and the financial statement restated. Therefore, the Committee marked the matter as resolved.**

34. Cash and Cash Equivalent

(a) The statement of assets and liabilities reflects a bank balance of Kshs. 757,714,555 which however differs with the Cashbook balance of Kshs. 1,741,262,570 by Kshs. 989,548,015 as at 30th June 2017. The difference has not been explained.

Submission by Accounting Officer

The bank balance of **Kshs.757,714,555/=** reflected in the statement of assets and liabilities differs with the cash book balance of **Kshs.s.1,741,262,569.90** as at 30th June, 2017 by **Kshs.983,548,014.90**. The amount of **Kshs. 757,714,555/=** was based on the IFMIS generated Trial Balance which did not take into consideration various adjustments passed in the cashbook amounting to **Kshs. 983,548,014.90**. Adjustments were later done in the IFMIS and Financial statements amended to reflect the cashbook balance.

Committee Observations and Findings

The bank balance of Kshs.757,714,555/= reflected in the statement of assets and liabilities differs with the cash book balance of Kshs.s.1,741,262,569.90 as at 30th June, 2017 by Kshs.983,548,014.90. The amount of Kshs. 757,714,555/= was based on the IFMIS generated Trial Balance which did not take into consideration various adjustments passed in the cashbook amounting to Kshs. 983,548,014.90.

Committee Recommendation

The Cabinet Secretary, National Treasury ensure that the IFMIS provides an efficient financial management for both the national and county governments to ensure transparent financial management and standard financial reporting as contemplated by Article 226 of the Constitution. Further, Accounting Officers must desist from undertaking their financial operations including adjustments off the IFMIS system to ensure complete reporting.

(b) Bank Reconciliation Statement

i) Payments in Bank Statement Not in the Cashbook

Included in the bank reconciliation statement are payments of Kshs. 414,385,511 which have been outstanding since the financial year 2014/2015. It is not clear why the payments have not been recorded in the cashbook to date. The payments details are as indicated below:

Date	**Reference**	**Amount (Kshs)**
30/09/2014	1000136537	207,047,871.90
30/03/2015	FT15086JYFN9	2,188.25
19/05/2015	FT15139872WC	2,043.80
19/05/2015	FT15139FHKW9	2,452.55
19/05/2015	FT151393CXXX	4,743.75
19/05/2015	FT15139ZNJW4	5,313.90
19/05/2015	FT151397ZLI7S	5,313.90
19/05/2015	FT15139ZIJ7S	5,555.90
19/05/2015	FT15139NNZDP	16,187.75
19/05/2015	FT151395HX09	71,986.65
19/05/2015	FT15139JFMIL	224, 199.15
19//05/2015	FT1513970J8K	597, 673.35
19/05/2015	FT15140JJ0XR	4,096.80
19/05/2015	FT151403WYN2	5,325.85
19/05/2015	FT15140HFBMF	4,865.05
20/05/2015	FT15140MMVRW	12,290.50
19/05/2015	FT151401194X	30,726.25
19/05/2015	FT151451CC3L	206,566,875.00
	Total	**414,385,511.15**

Submission by Accounting Officer

(i) Payments in Bank Statement not in the Cash Book

The Accounting Officer submitted that the amount of Kshs.414,609,707.40 that were outstanding in the bank reconciliation statement relates to Direct debits on R 50 bank account in respect to Interest on Government Overdraft, commission on Japanese grants and Interest on Treasury Bonds. However, the payments were analysed and payment vouchers prepared, which have since been posted in the cash book.

Committee Observations and Findings

(i) The bank reconciliation statement included payments of Kshs. 414,385,511 which have been outstanding since the financial year 2014/2015; and
(ii) The committee marked the matter resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

35. Variances between the Financial Statements and IFMIS Supporting Schedules

The financial statements balances differ with the IFMIS supporting schedules for the same items as indicated below.

Item	Financial Statements Balance (Kshs.)	IFMIS Supporting Schedules (Kshs.)	Difference (Kshs.)
Exchequer Receipts	435,716,953,824.00	435,354,122,972.00	362,830,853.00
Transfers to Other Government Units	362,830,853.00	-	362,830,853.00
Repayment of Principal on Domestic and Foreign Borrowing	220,174,538,145.00	(148,316,523,950.30)	368,491,062,095.00
Accounts Payable	27,654,564,640.00	-	27,654,564,640.00
Balance Brought Forward	(26,896,689,533.00)		(26,896,689,533.00)

It's not clear why the financial statement balances and the related IFMIS schedules were at variance even though they were generated from the same transactions and source documents.

Submission by Accounting Officer

The Accounting Officer submitted that on scrutinizing of all documents that were submitted in support of the financial statements, including the ledger, there was no variance on exchequer receipts and transfer to other Government units.

Further, it is observed from the IFMIS trial balance attached in the audited financial statement that the actual payments under domestic and foreign in sub-items -5510202 and 5510601 were Kshs.184,245,531,047.50 and Kshs.35,929,007,097.20 respectively which adds up to a total of Kshs.220,174,538,144.70. This amount was reported in the financial statement and therefore there were no differences between IFMIS supporting schedules and figure reported in the financial statement.

The Financial statements also reflected an amount of Kshs. 27,654,564,640/= as Accounts payable which was not captured in IFMIS. The amounts relates to expenditure on Interest on Treasury Bills, Commission to CBK and balance on sinking fund which relates to prior years. The analysis was done and provided to the Auditor**.**

Committee Observations and Findings

(i) The noted differences were between financial statements and the IFMIS schedules and the answer does not address the issue. However, the schedules were adjusted and agreed with the financial statement; and
(ii) The accounts payables amount has not been recorded in the ledger. Therefore, The matter remains unresolved.

Committee Recommendations

(i) The Cabinet Secretary, National Treasury should ensure that the IFMIS provides an efficient financial management for both the national and county governments to ensure transparent financial management and standard financial reporting as contemplated by Article 226 of the Constitution; and
(ii) The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

Prior Year issues

36. Prior Year Adjustments

The Financial Statements for the year ended 30th June 2016 reflected comparative balances which were restated and therefore differed with those reflected in the audited financial statements for 2014/2015. The restated balances are analyzed below.

	Item Description	Audited Financial Statement Balances 2014/2015 Kshs	Balance as at 30.06.2016 Kshs.	Adjustment Difference Kshs.
1	Principal repayment	245,463,328,931.00	264,016,325,854	(18,552,996,923.00)
3	Receivables	0	91,565,685,447.00	(91,565,685,447.00)
5	Accounts Payable	0	27,654,564,640.00	(27,654,564,640.00)
6	Fund balance brought forward	(257,687,919.40)	86,445,236,805.00	(86,702,924,724.00)
8	Prior year adjustments	257,687,919.40	(22,177,044,458.00)	(22,434,732,377.00)
9	Difference	1,884,225,822.00	0	1,884,225,822.00

The management has however not provided any analysis and supporting documents to justiFinancial Year the adjustments. The accuracy of the balances could not therefore be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the financial statements for the year ended 30th June 2016 reflected comparative balances which were restated and therefore differed with those reflected in the audited financial statements of 2014/2015. By the time of audit, the analysis of the restated balances was not availed to the auditor, but has since been forwarded for verification. Although the financial statements for 2014/2015 were revised, the audit process had been concluded and therefore the comparative column in the financial statements of the year 2015/2016 did not reflect the amended figures.

Committee Observations and Findings

(i) The financial statements for the year ended 30th June 2016 reflected comparative balances which were restated and therefore differed with those reflected in the audited financial statements of Financial Year 2014/2015. By the time of audit, the analysis of the restated balances was not availed to the auditor, but has since been forwarded for verification; and

(ii) The Committee therefore marked the matter as unresolved until the Auditor-General undertake audit verification and reports in the subsequent audit.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

Emphasis of Matter

a. Growth in Public Debt

The statement of Public Debt as at 30th June 2017 reflects an outstanding public debt balance of Kshs.4,168,943,902,577 representing an increase of Kshs.783,033,452,751.00 (23.2 percent) over the outstanding debt balance of Kshs.3,385,910,449,826.00 as at 30 June 2016. The increase is mainly as a result of new loans of Kshs. 210,664,431,564 disbursed to the government by various development partners and borrowing of Kshs. 1,453,006,750,000 from the domestic market through treasury bills and bonds. The total cost of borrowing during the year is Kshs. 215,179,745,379 in respect of both internal and external loans. The outstanding loan balances of Kshs. 4,168,943,902,577 are net of redemption on loans of Kshs. 220,174,538,145 made during the year.

Submission by Accounting Officer

The Accounting Officer submitted that the growth in Public Debt as at 30th June, 2017 is attributed to disbursements of new loans acquired in the year under review and fluctuations in foreign currency exchange rates. The total outstanding amount of **Kshs. 4,168,943,902,577/=** constitutes the public debt obligation, i.e. the disbursed outstanding debt as at 30th June, 2017.

Committee Observations and Findings

The statement of Public Debt as at 30th June 2017 reflects an outstanding public debt balance of Kshs. 4,168,943,902,577 representing an increase of Kshs.783,033,452,751.00 (23.2 percent) compared to the outstanding debt balance of Kshs.3,385,910,449,826.00 as at 30th June 2016;

Committee Recommendation

The policy commitments by Cabinet Secretary, National Treasury which include among others restraining the rising deficit, stabilizing public debt by enhancing revenue, public debt restructuring and reducing the cost of debt by diversiFinancial Yearing funding sources should be accompanied by verifiable actions.

b. Ken-Ren Chemical and Fertilizer Company- Loan Repayment

As reported in the financial year 2015/2016 and earlier years, the Government of Kenya paid a total of Kshs. 6,326,435,832 to the Government of Australia and Belgium. The amount was in respect of

Government guaranteed debts incurred in 1970 on account of Ken Ren Chemical and Fertilizer Company. The project did not take off and no value for money was realized.

Submission by Accounting Officer

The Accounting Officer submitted that the Government paid a total of Kshs. 6,326,435,832/= to Governments of Austria and Belgium towards settlement of a loan previously guaranteed to Ken-Ren Chemical Fertilizer Company. The obligation arose from a case filed in the Court of Arbitration of the International Chamber of Commerce by a Belgian Bank, Ducroire. The Court found the Government of Kenya liable as a guarantor to pay Eur.21.2 million. The loan was paid in accordance with Paris Club Consolidation of Debts Agreement, under which the Government negotiated to repay the amount commencing on 30th June, 2004 and ending on 30th June, 2016. The loan has since been paid in full.

Committee Observations and Findings

(i) The government incurred a total of Kshs. 2,845,254.70 and Kshs. 347,023,821.50 incurred on interest and principal loan repayments respectively in the FINANCIAL YEAR 2014/2015, towards settlement of Government guaranteed debts incurred in 1970 on account of Ken-Ren Chemical and Fertilizer Company;
(ii) The Government of Kenya has paid a payment of Euro 21.2 million (approximately Ksh. 2.48 billion) towards settlement of Government guaranteed debts incurred in 1970 on account of Ken-Ren Chemical and Fertilizer Company. Even though, the full amount of the debt is now settled, the Committee is deeply concerned that government spent such colossal sums of money on a project which did not take off and against which no value for money was achieved; and
(iii)The Committee marked the matter resolved.

CONSOLIDATED FUND SERVICES – PENSION AND GRATUITIES

Basis for Qualified Opinion

37. Pension Payables

The statement of financial assets and liabilities reflects accounts payables of Kshs. 3,243,545,200. The balance was not supported by schedules showing details such as names of pensioners, the pension numbers, and amounts owed to each Pensioner. It was therefore, not possible to establish the validity of the outstanding balance of Kshs. 3,243,545,200.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of Assets and Liabilities reflects account payables of Kshs. 3,243,546,200 whose supporting schedule showing details such as of pensioner's name, pensioner's number and the amount were not provided by the time of audit. However, the supporting schedules have since been provided for audit review.

Committee Observations and Findings

The statement of Assets and Liabilities reflects account payables of Kshs. 3,243,546,200 whose supporting schedule showing details such as of pensioner's name, pensioner's number and the amount were not provided by the time of audit. The schedules which were later provided did not show the required details and were incomplete. The matter is therefore marked as unresolved.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

38. Cash and Cash Equivalent

a) Bank Balance

The statement of financial assets and liabilities reflects an overdraft of Kshs. 633,366,137 under cash and cash equivalent. The cashbook balance, bank reconciliation and board of survey report reflect a debit balance of Kshs. 11,437,908 as at 30th June 2017 resulting into unexplained difference of Kshs. 644,804,045 which has not been explained or reconciled. The closing balance reflected in the statement of assets and liabilities balance of Kshs. 633,366,137 could not be confirmed.

Submission by Accounting Officer

The statement of financial assets and liabilities reflected an overdraft of **Kshs.633,386,137/=** under cash and cash equivalent whereas the cash book balance, bank reconciliation and board of survey report reflect a debit balance of **Kshs.11,437,908.90** as at 30th June, 2017.The two figures had not been reconciled at the time of audit. This was an omission and the amounts have since been reconciled and submitted for audit review**.**

Committee Observations and Findings

(i) The statement of financial assets and liabilities reflected an overdraft of Kshs. 633,386,137 under cash and cash equivalent whereas the cash book balance, bank reconciliation and board of survey report reflect a debit balance of Kshs.11,437,908.90 as at 30th June, 2017.The two figures had not been reconciled at the time of audit;

(ii) The reconciliation provided later included items which should not be part of the reconciliation; and

(iii)The matter remains unresolved.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

b) Bank Reconciliation Statement

i) Payments in Cash Book not in the Bank Statement

The Accounting Officer submitted that the bank reconciliation statement reflects payments in the cashbook not in the bank statement amounting to Kshs. 633,058,933 which included payments dating as back as 2014. No valid reason has been provided as to why the payments have not cleared.

Submission by Accounting Officer

The Accounting Officer submitted that the bank reconciliation statement reflects payments in the cashbook not in the bank statement of Kshs. 633,058,933/=. Out of this amount a figure of Kshs. 618,065,639/= have since been cleared leaving a balance of Kshs. 14,993,294.60. The uncleared items are being analyzed with a view to clear the same.

Committee Observations and Findings

(i) The bank reconciliation statement reflects payments in the cashbook not in the bank statement amounting to Kshs. 633,058,933 which included payments dating as back as 2014. Out of this amount a figure of Kshs. 618,065,639/= have since been cleared leaving a balance of Kshs.14,993,294.60; and
(ii) The clearance of the remaining balance is in progress. The matter therefore remains unresolved pending the clearance of the balances

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

ii) Receipts in Bank not in Cash Book

Further, the bank reconciliation statement reflects receipts in bank statement not posted to the cashbook totaling Kshs. 450,762,273. Some of the receipts in the bank statement dated as far back as November

2011. No reason has been provided by management why the receipts in the bank have not been recorded in the cashbook.

Submission by Accounting Officer

The Accounting Officer submitted that the bank reconciliation statement as at 30 June, 2017 reflects receipts in the bank not posted in the cashbook totaling Kshs. 450,762,272.75. These are receipts made directly by Ministries, Departments and Agencies (MDAs) into Consolidated Fund Services (CFS) - Pension and Gratuities bank account and it takes time to identiFinancial Year the depositing MDAs. However, credit notes were later received, and these credits have since been posted in the cash book and items cleared from the bank reconciliation**.**

Committee Observations and Findings

(i) **The bank reconciliation statement reflects receipts in bank statement not posted to the cashbook totaling Kshs. 450,762,273. Some of the receipts in the bank statement dated as far back as November 2011; and**
(ii) **These are receipts made directly by MDAs into Consolidated Fund Services (CFS) - Pension and Gratuities bank account. Credit notes were later received, and these credits have since been posted in the cash book and items cleared from the bank reconciliation. The matter is therefore resolved.**

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.
iii) Receipts in Cashbook not in the Bank Statement

In addition, the bank reconciliation statement reflects receipts in the cashbook not recorded in the bank statement of Kshs. 103,104,394. Some of the receipts that have remained outstanding in the cashbook date as far back as August 2007. Management has not provided any explanation why the receipts that have remained outstanding in the cashbook have not been cleared. The accuracy of the cash and cash equivalent balance of Kshs. 633,366,137, reflected in the statement of assets and liabilities could not be confirmed due to un-reconciled balances and unexplained long outstanding bank reconciliation items.

Submission by Accounting Officer

The Accounting Officer submitted that the bank statement as at 30 June 2017 reflects receipts in the cashbook not recorded in the bank statement of Kshs.103,104,394/= Some of the receipts have remained outstanding in the cash book since 2007. Out of this figure an amount of Kshs. 14,583,157/= have since been cleared leaving a balance of Kshs. 88,521,237/=. Effort is being made to clear the remaining balance.

Committee Observations and Findings

(i) The bank reconciliation statement reflects receipts in the cashbook not recorded in the bank statement of Kshs. 103,104,394. Some of the receipts that have remained outstanding in the cashbook date as far back as August 2007. An amount of Kshs. 14,583,157 has since been cleared leaving a balance of Kshs. 88,521,237.

(ii) The committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

39. Irregular Payment of Pension

The statement of receipts and payments for the year ended 30th June 2017 reflects a payment of pension of Kshs. 59,757,695,779. Included in this expenditure is civil pension of Kshs. 22,901,547,520 as indicated in Note 8.2 to the financial statements. Examination of pension payments revealed that an amount of Kshs.1,306,966,518 was paid to retired teachers during the financial year 2016/2017 without being properly supported by documents such as the last pay slips as required by Pension Act 189, Section 10 (1) for proof that the payees were once teachers. The management has not explained the basis of calculating the pensions and why the payments were made without adherence to the laid down pension payment procedures. Therefore, the payment of civil pension of Kshs. 22,901,547,520 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of Assets and Liabilities reflects payment of ordinary pension of Kshs. 59,757,695,779/= that included the expenditure of civil pension of Kshs. 22,901,547,520/=. As indicated in note 8.2 to the financial statements is an amount of Kshs.1,306,966,518/= paid to teachers who retired between July 1997 to July 2001 who had filed a court case to be paid pension based on revised salary levels and the same was awarded by the court. Since those teachers had used their last pay slips to process their earlier pension, last pay slips could not apply. However, the revised pension payments were based on the calculation of their revised salary increment of 1997 Collective Bargained Agreement, revised circular and salary progression done by the employer -TSC that was tabled, adopted and awarded by the court.

Committee Observations and Findings

(i) **Examination of pension payments revealed that an amount of Kshs. 1,306,966,518 was paid to retired teachers during the Financial Year 2016/2017. The payment of pension was ordered by the court and the department had to abide; and**
(ii) **The revised pension payments were based on the calculation of their revised salary increment of 1997 Collective Bargained Agreement, revised circular and salary progression done by the employer -TSC that was tabled, adopted and awarded by the court. The matter is therefore resolved.**

40. Military Gratuity

Further, the statement of receipts and payment reflect payment of pension of Kshs. 59,757,695,779. Included in the payment is military gratuity of Kshs. 4,562,597,165 which is overstated by Kshs. 86,584,111. It has not been explained as to why the overstatement was made.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of receipts and payment reflects payment of military gratuity of **Kshs. 4,562,597,165/=** which is overstated by **Kshs. 86,584,111/=.** The figure of **Kshs. 86,584,111/=** is reflected in the ledger only and not actual cash payments. The Pension Management Information System (PMIS) used to double post in the ledger. The system is being re-engineered to address the weaknesses it currently has.

Committee Observations and Findings

(i) **The figure of Kshs. 86,584,111 was reflected in the ledger only and not actual cash payments due to double posting by the Pension Management Information System (PMIS) used to double post in the ledger; and**
(ii) **The therefore matter will remain pending until an audit review is undertaken to confirm that there was actual cash payment.**

Committee Recommendations

(i) **The Cabinet Secretary, National Treasury should ensure that the PMIS provides an efficient pension financial management to ensure transparent pension management and standard financial reporting as contemplated by Article 226 of the Constitution; and**
(ii) **The Auditor-General should review in the next audit cycle the matter to confirm there was no actual cash payment as submitted by the Accounting Officer.**

41. Unsupported Expenditure

In addition, the statement of receipts and payment reflects payment of ordinary pension of Kshs. 34,074,626,471 and as supported by Note 8.2 to the financial statements. Included in ordinary pension of

Kshs. 34,074,626,471 is pension Kshs. 58,656,973 paid to Asian and European Pensioners who retired due to Africanization of the public sector after independence in 1963. Their life certificates were not availed as required by the pension internal controls to confirm that the pensioners are still alive before payments were effected. The propriety of the expenditure could therefore not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that included in the ordinary pensions of Kshs.34,074,626,471/= as supported by note 8.2 is an amount of Kshs.58,656,973/= paid to Asian and European pensioners who retired due to Africanization of public sector after Independence in 1963. Currently the department does not use the provision of life certificates to support that the beneficiary is alive, but deletion from the payroll is always supported by death certificate presented after the death of a pensioner. The Pensions Department carried out a Pensioners and Dependents Head count between the months of February and May 2019 whereby those who did not turn up or were found to have died will be deleted from the payroll.

Committee Observations and Findings

- **(i) The ordinary pensions of Kshs.34,074,626,471 included Kshs.58,656,973 paid to Asian and European pensioners who retired due to Africanization of public sector after Independence in 1963;**
- **(ii) The marked the matter as resolved.**

42. Excess Expenditure

The statement of receipts and payments also reflects an over expenditure of Kshs. 1,270,093,379 for the year ended 30th June 2017. The excess expenditure over the receipts for the year was funded from returned pension. However, the returned pension should be receipted in a deposit account awaiting the payment of claims from the respective pensioners.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of receipts and payment reflects an over expenditure of Kshs. 1,270,093,379/= that was funded from returned pensions. The returned pension is received in the paying account of pensioners and the same is used to pay the other claims/pensioners and when a pensioner whose pension had been returned launches a claim, he/she is paid from the normal exchequer. This avoids keeping money idle to await the claimants.

Committee Observations and Findings

- **(i) The statement of receipts and payment reflects an over expenditure of Kshs. 1,270,093,379/= that was funded from returned pensions. The issue is pending reconciliation between Post Bank and Pensions Department;**
- **(ii) The matter remains unresolved.**

Committee Recommendations

The Accounting should within three (3) months of tabling and adoption of this report ensure that the records between Post Bank and Pensions Department are reconciled in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

43. Prior year's matters - Un-supported Clearance of Prior Year Adjustment

The statement of financial assets for the year 2015/2016 showed a prior year adjustment of Kshs. 297,889,272 under the comparative balances for the financial year 2014/2015. The amount was cleared during the period 2015/2016 but the transaction was not supported or explained. The financial statements may not therefore have presented fairly the financial position as at 30 June 2016.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of financial assets for financial year 2015/2016 shows prior year adjustments of **Kshs. 297,889,272/=** under the comparative balances for the Financial Year 2014/2015. The amount relates to old balances being addressed by old balances task force committee which was erroneously cleared during the period 2015/2016.

However, the figure was reinstated in the books of accounts in financial year 2017/2018 and availed for audit review.

Committee Observations and Findings

(i) The statement of financial assets for Financial Year 2015/2016 shows prior year adjustments of Kshs. 297,889,272 under the comparative balances for the Financial Year 2014/2015. The amount relates to old balances being addressed by old balances task force Committee which was erroneously cleared during the Financial Year 2015/2016; and
(ii) The figure was reinstated in the books of accounts in Financial Year 2017/2018 and availed for audit review.
(iii)The matter remains unresolved.

Committee Recommendation

The Auditor-General should review the position in the subsequent audit.

Other Matter

44. Failure to Submit Audited Parliamentary Pension Accounts

During the Period Under Review, Civil and Commuted Pension of Members of Parliament of Kshs. 182,438,610 And Kshs. 11,238,732 Respectively Were Paid to The Retiring/Retired Members of Parliament. The Audited Parliamentary Pensions Accounts Were Not Submitted Before Payments Were made as required by the Parliamentary Pension Act Cap 196, Section 21 (1) And (2). It Was Therefore Not Possible to Confirm the Validity and Accuracy Of The Expenditure Incurred.

Submission by Accounting Officer

The Accounting Officer submitted hat the parliamentary pensions contributions are received as revenue at the National Treasury, and they are accounted for every financial year and audited by the auditor general as part of the overall treasury's revenue account under social security contributions. further, pensions made to mps is included in financial statements. the files are also audited before payment by the auditor based in parliament. A copy of the audited revenue statement was availed to The Auditor General's staff for verification**.**

Committee Observations and Findings

(i) Civil and Commuted pension of Members of Parliament of Kshs. 182,438,610 and Kshs. 11,238,732 respectively were paid to the retiring/retired Members of Parliament. The audited Parliamentary Pensions Accounts were not submitted before payments were made as required by the Parliamentary Pension Act Cap 196, Section 21 (1) and (2); and

(ii) The committee observed that the matter has not been answered satisfactorily. Therefore, the matter as unresolved until the audited revenue statement is submitted to the Auditor-General.

Committee Recommendations

The Accounting submits to the Auditor-General the audited revenue statement for review and reporting in the subsequent audit report to the National Assembly.

45. Weak Payroll Internal Controls

Examination of the pension records revealed various control weaknesses;

i) Validity of the pension paid is not confirmed with the retiree data from other government agencies' databases such as registrar of persons for identification data, Kenya Revenue Authority for Personal Identification Number and Integrated Payroll and Personnel Database (IPPD) for employment details.

ii) Further, military personal files from the department of Defence are not submitted to the pension department to enable verification of the retirement claim details and basis of pension computation.

iii) In addition, life certificates for pensioners are not availed to confirm pension is not paid to deceased pensioners.
In absence of such controls, the department may be exposed to irregular payments of pension to non-existence pensioners.

Submission by Accounting Officer

(i) The Accounting Officer submitted that the validity of pension paid is confirmed with the retiree's data from the parent ministry which is used to determine the pension payable. The Pensions Department sends its officers to all Ministries who compute and veriFinancial Year the data before submitting the claim to pension's Department. For a claim to be processed it must have the under listed documents: -
   - A copy of the retiree's ID Card is submitted along with his/her Claim Form;
   - The Income Tax Certificate is submitted to the Department along with each claim indicating the retiree's PIN both of which are issued by KRA;
   - Employee details contained in the Claim Form are supported with the employment documents including letters of appointment, last pay-slips and deletion sheets (generated using the IPPD system) which are verified and certified by the pension sections at the parent Ministry/State Departments.

(ii) The Department has a functional Military Liaison Office manned by several military officers whose duty is to peruse military files and related claims on the forces form 129 (Assessment of Pension-officers/other ranks) before they are loaded for processing in our Pension Management Information System (PMIS). Usually the mother files for Military personnel are kept by the Ministry of Defense for security reasons but when the file is required can be availed at the military's desk based at Bima House.

(iii) The Department carried out a Pensioners and Dependents Headcount between the months of February and May 2019 whereby those who did not turn up or were found to have died will be deleted from the payroll.

The need for the certificate ceased being necessary upon implementing the system of paying benefits through bank accounts instead of District Commissioners. The Department relies on the Banking industry to monitor pensioners Accounts with instructions to close accounts that remain dormant for a period of three (3) months and return sums held in those accounts to the Department for further action. Further to the above the Department has initiated an exercise of cleansing both pensioners and dependents payrolls bi-annually and just completed the first such exercise in May 2019.

Committee Observations and Findings

(i) The submission by the Accounting Officer addressed only the three possible internal control weaknesses enumerated in the audit report. However, there still exists weakness that exposes public pension to funds to various risks that needs to be addressed;
(ii) The committee marked the matter as resolved.

Committee Recommendations

(i) The Accounting Officer should put in place adequate internal control and risk management systems to minimize chances of irregular payments of pension to non-existence pensioners; and
(ii) The Auditor-General to undertake a special audit of PMIS with a view to acertain the efficacy and controls.

THE RECEIVER OF REVENUE – PENSIONS DEPARTMENT

Basis for Qualified Opinion

46. Revenue Collected

The statement of receipts and transfer for the year ended 30 June 2017 reflects total revenue of Kshs. 356,715,202 which has been disclosed in Note 10.1 as 31percent contribution. The total revenue has not been analyzed to indicate what ages of the revenue related to batement, Cap Deductions and the 2 percent Contribution. Further, the management provided for audit, details of the contributors and which category they have made their contribution.

Submission by Accounting Officer

The Accounting Officer submitted that the total revenue collection for the year under review was Kshs. 356,715,202/=. This was posted as a block figure in the ledger, recorded in the Cash book and the figure in both sets of records agree (Appendix 46). The figure of Kshs.356,715,202/= is analyzed as follows:-

Sub-item	**(Amount Kshs.)**
31percent Contributions	239,974,194
2percent WCPS Contribution	65,265,348
Abatement	49,072,015
CAP Deduction	2,403,645
Total	**356,715,202**

Committee Observations and Findings

The statement of receipts and transfer for the year ended 30 June 2017 reflects total revenue of Kshs. 356,715,202 which was not analyzed at the time of audit. The analysis has been done and therefore the matter is resolved.

47. Un-resolved Issues for 2015/2016 Financial year

47.1 Un-supported Balances

As reported in the previous year 2015/2016, the statement of revenue, under the Notes reflects General Deposit-Pay Master General of Kshs. 1,051,602,039 which was not supported by trial balance figures and analyses during the 2014/2015 financial year audit.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of revenue under the Notes reflected General Deposit – Pay Master General (PMG) (Note 4) balance of Kshs. 1,051,602,039.19. This figure has since been analyzed, supported by a ledger and trial balance and the same has been availed for audit review.

Committee Observations and Findings

(i) The statement of revenue, under the Notes reflects General Deposit-Pay Master General of Kshs. 1,051,602,039 which was not supported by trial balance figures and analyses during the Financial Year 2014/2015 financial year audit;

(ii) The matter remains unresolved.

Committee Recommendations

The Accounting should within three (3) months of tabling and adoption of this report ensure that the records are reconciled in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

47.2 As reported in the year 2013/2014, the statement of revenue reflected revenue totaling Kshs.1,457,308,992 which includes contributions and recoveries amounting to Kshs.840,964,210 as at 30 June 2014 as analyzed below:

	Kshs.
2percent Contributions for Windows and Children	
Pension Scheme (W.C.PS)	246,409,365.80
31percent Contributions	486,221,192.50
Suspense Abatement - Recoveries	85,195,396.55
CAP Deductions - Recoveries	23,138,254.90
Total	**840,964,209.75**

However, no evidence has been provided for audit review to confirm that the above accumulated contributions and recoveries were surrendered to the Exchequer then or thereafter as required under the Public Financial Management Act, 2012. The ledger for 2016/2017 still shows the amounts are being held by the Pensions Department.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of revenue as at 30 June, 2014 reflected accumulated revenue totaling Kshs.1,457,308,991.55 as of this amount Kshs.840,964,205.75 related to contributions and recoveries as at 30 June, 2014 as analyzed here below:-

2 percent contribution for Widows and Children	(Kshs.)
Pension Scheme (W.C.P.S))	246,409,365.80
31percent Contributions	486,221,192.50
Suspense Abatement-Recoveries	85,195,396.55
CAP Deductions - Recoveries	23,138,154.90
Totals	**840,964,209.75**

By the time of audit, the documents to support the above accumulated contributions had not been availed. The amount transferred to Exchequer account of Kshs. 1,457,308,991.55 has since been posted to the ledger. Documentary evidence including cash book, payment voucher (FO 21), and bank statement to support the transfer and the Ledger has been submitted for audit review

Committee Observations and Findings

(i) The statement of revenue reflected revenue totaling Kshs. 1,457,308,992 which includes contributions and recoveries amounting to Kshs. 840,964,210 as at 30th June 2014. The supporting documents took inordinately long to be availed to the auditors;
(ii) The Committee observed that the supportive documents have since been availed and verified;
(iii)The Committee marked the matter as resolved.

Committee Recommendations

The Accounting should always ensure that the records are reconciled and necessary supporting documents are submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

47.3 Financial Position

The accumulated actual revenue balance of Kshs.2,125,593,875 disclosed under Note 4 in the statement of revenue (pensions) as at 30 June 2016 and nil balance carried forward has not been supported by related cashbook balances or bank records. In addition, no bank reconciliation statement or statement of financial position as at 30 June 2015 for the revenue has been prepared and submitted for audit.

Submission by Accounting Officer

The Accounting Officer submitted that the accumulated actual revenue of Kshs. 2,125,593,875.50 disclosed under Note 4 to the financial statement was erroneous since the whole amount had been surrendered to the Exchequer as at 30th June, 2015. The bank reconciliation statement as at 30th June 2015 for the revenue was presented for audit review.

Committee Observations and Findings

(i) The accumulated actual revenue of Kshs. 2,125,593,875.50 was erroneously included in the financial statement since the whole amount had been surrendered to the Exchequer as at 30th June, 2015. The bank reconciliation statement as at 30th June 2015 for the revenue was presented for audit review. The committee observed that the error has since been corrected; and

(ii) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting should always ensure that the records are reconciled and necessary supporting documents are submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

47.4 Comparative Figures for 2013/2014

Note 4 to the statement of revenue reflects other suspense balance of Kshs.1,971,533 relating to overpayments of pension made over the years. However, the balance has not been analyzed. In addition, no indication has been given regarding how Pensions Department intends to recover the amounts overpaid to the pensioners.

Submission by Accounting Officer

The Accounting Officer submitted that the statement under Note 4 also reflected other suspense balance of **Kshs. 1,971,533.15**. These are old balances from the ledger brought forward from previous years and the same are being addressed through the National Treasury Task Force on Old Balances. The task force made its recommendations and we wrote to Attorney General seeking for his legal opinion. Attorney General's recommendations are in the process of being implemented.

Committee Observations and Findings

(i) The statement reflected other suspense balance of Kshs.1,971,533.15 which are old balances from the ledger brought forward from previous years and the same are being addressed through the National Treasury Task Force on Old Balances; and

(ii) **The task force made its recommendations and we wrote to Attorney General seeking for his legal opinion. Attorney General's recommendations are in the process of being implemented; and**

(iii) **The committee observed that the issue is pending awaiting implementation of the recommendation. The therefore remains pending**

Committee Recommendations

The Accounting should always ensure that the records are reconciled and necessary supporting documents are submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

Emphasis of Matter

Budgeting of Revenue

I draw attention to significant accounting policy 2 which indicates that the revenue budget was approved as required by the Law and included in the government printed estimates. The accounting policy also indicates that a high- level assessment of the revenue's actual performance against the comparable budget for the financial year under review had been included. However, the statement of comparison of budget and actual amounts reflects budgeted amount as zero. The amount of revenue collected is significant and ought to have been included in the budget for the financial year 2016/2017. My opinion is not qualified in respect of this matter.

Submission by Accounting Officer

The Accounting Officer submitted that the Pension Revenue statement used to be incorporated in the main Revenue Statement for the National Treasury. For a number of years, no budget allocation was provided for the collection, the anomaly was noted and from the financial year 2018/2019 a budget has been provided. The total collection **Kshs.s.356,715,202/=** for the year under review was captured under head 1210303 Contribution from Government Employees to Social and Welfare Schemes within Government.

Committee Observations and Findings

(i) **The Pension Revenue statement used to be incorporated in the main revenue statement for the National Treasury. For a number of years, no budget allocation was provided for the collection, the anomaly was noted and from the Financial Year 2018/2019 a budget has been provided;**

(ii) **The total collection Kshs.s.356,715,202/= for the year under review was captured under head 1210303 Contribution from Government Employees to Social and Welfare Schemes within government. The response was satisfactory and therefore the matter is resolved.**

Committee Recommendations

The Accounting Officer ensure that the Pension Revenue estimates be included separately in the statements of estimates of revenues submitted to the National Assembly during annual budget approval.

PROVIDENT FUND

Basis for Qualified Opinion

48. Cash Deposit

The statement of financial assets and liabilities as at 30 June 2017 reflects other receivables balance of Kshs.3,796,226 representing a cash deposit held in the insolvent Cereals and Sugar finance Corporation. As reported previously, the Cabinet gave approval on 13 September 2007 for the winding-up of the Corporation and directed the National Treasury to take over its assets and liabilities. However, the winding up of the Corporation had not been finalized as at 30 June, 2017. In the circumstances, realization of the amount of Kshs. 3,796,226 is still doubtful.

Submission by Accounting Officer

The statement of financial assets and liabilities as at 30 June 2017 reflects other receivable balance of Kshs.3,796,226/= representing cash deposit held in the insolvent Cereals and Sugar Finance Corporation which is dormant and in the process of being wound-up. The Task Force prepared financial statement and forwarded to the auditor for verification. The Cereals and Sugar Finance Corporation is technically insolvent and therefore may not be able to refund any investment owing. Therefore, the Task force is recommending the winding up of the Provident Fund and the report has been forwarded to the Attorney General. Attorney General's recommendations on this fund are in the process of being implemented.

Committee Observations and Findings

(i) **The statement of financial assets and liabilities as at 30 June 2017 reflects other receivable balance of Kshs. 3,796,226 representing cash deposit held in the insolvent Cereals and Sugar Finance Corporation which is dormant and in the process of being wound-up; and**
(ii) **The committee observed that the task force has completed the report pending the opinion of the of the Attorney.**

49. Un-analyzed Balance

The statement of financial assets and liabilities also reflects other, pending payables balance of Kshs. 9,715,111 made up of Kshs. 9,622,726 and Kshs. 92,385 relating to surplus cash remitted by Departments and interest due to National Government entities respectively. The balances have repeatedly been brought forward from previous years without any supporting analyses. In absence of the analyses, it has not been possible to confirm the accuracy, validity and completeness of these balances.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of Assets and Liabilities also reflects pending payables balances of Kshs. 9,715,111/= made up of Kshs.9,622,726/= and Kshs.92,385/= relating to Surplus cash remitted by Departments and Interest due from the Government respectively.

These balances were brought forward from previous years and it has been a challenge to analyze them further since they are historical in nature. The National Treasury constituted a taskforce on winding up of Dormant funds to assist ministries/departments and agencies to clear the outstanding old balances in their books of accounts. The task force made its recommendations and the Ministry wrote to Attorney General seeking for his legal opinion. Attorney General's legal advice has been received and we are in the process of implementing it.

Committee Observations and Findings

(i) **The statement of financial assets and liabilities also reflects other, pending payables balance of Kshs. 9,715,111 made up of Kshs. 9,622,726 and Kshs. 92,385 relating to surplus cash remitted by Departments and interest due to National Government entities respectively. The balances have repeatedly been brought forward from previous years without any supporting analyses; and**

(ii) **The National Treasury constituted a taskforce on winding up of Dormant funds to assist ministries/departments and agencies to clear the outstanding old balances in their books of accounts. The task force made its recommendations and the Ministry wrote to Attorney General seeking for his legal opinion.**

Committee Recommendations

(i) **The Accounting should always ensure that the records are reconciled and analyzed with necessary supporting documents are submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012; and**

(ii) **The Cabinet Secretary fast-track the implementation of the recommendations of the taskforce on winding up of Dormant funds in line with the legal opinion of the Attorney General and report progress to the National Assembly within three (3) months after tabling and adoption of this report.**

EUROPEAN WIDOWS AND ORPHANS PENSION SCHEME FUND

Basis for Qualified Opinion

50. Understatement of Expenditures

The statement of receipts and payments for the year ended 30 June 2017 reflects expenditure of Kshs. 100,680 being annual pension payments to two widows. The expenditure was not recorded in both the European Widows and Ophans Pension Scheme Fund cashbook and the respective bank statement. The expenditure was however, said to have been erroneously charged to the Asian Officers Family Pension Fund bank account but there was no reimbursement made as at 30 June 2017. The bank balances and the cashbook balance is therefore over stated by Kshs. 100,680.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of Receipts and Payment for the year ended 30 June, 2017 reflects expenditure of **Kshs. 100,680/=** being annual pension payment to two pensioners. The pension payment was wrongly paid out of Asian Officers Family Pension Fund Account instead of from European Windows and orphans Scheme Fund. We have since instructed the bank to transfer the amount from European widows and Orphans pension Scheme account to Asian Officer Family Pension Fund and the amount has been reimbursed and the necessary adjustments have been made in the Cashbook, vide Non Post Voucher - F.O 21 No.0001 and F.O 17 No. 0002 both dated 1st February, 2018.

Committee Observation and Findings

(i) **The statement of Receipts and Payment for the year ended 30 June, 2017 reflects expenditure of Kshs. 100,680 being annual pension payment to two pensioners. The pension payment was wrongly paid out of Asian Officers Family Pension Fund Account instead of from European Windows and orphans Scheme Fund; and**

(ii) **The bank was instructed to transfer the amount from European widows and Orphans pension Scheme account to Asian Officer Family Pension Fund and the amount has been reimbursed and the necessary adjustments have been made in the Cashbook, vide Non Post Voucher - F.O 21 No.0001 and F.O 17 No. 0002 both dated 1st February, 2018. Therefore, the committee marked the mater as resolved**

Committee Recommendations

The Accounting Officer should always ensure that the records are reconciled and analyzed with necessary supporting documents are submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

51. Understatement of Income and Surplus

The statement of receipts and payments for the year ended 30 June 2017 reflects income of Kshs.1,728,686 while the receipts recorded in the bank statement for the year is Kshs.6,029,462. The difference of Ksh. 4,300,776 has not been explained. The surplus for the year has consequently been understated by Kshs. 4,300,776. No explanation has been given for failing to record all the revenue receipts.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of receipts and payments reflects income of Kshs. 1,728,686 as at 30th June, 2017, whilst the receipts recorded in the bank statement for the year is Kshs. 6,029,461.80. The difference of Kshs. 4,300,775.80 is an erroneous banking into the account by the Laikipia County Government which was meant to be paid to Widows and Children Pension Fund Account. The bank was instructed to transfer the money to the correct account (WCPS) and it has since been done.

Committee Observations and Findings

(i) The statement of receipts and payments reflects income of Kshs. 1,728,686 as at 30th June, 2017; whilst the receipts recorded in the bank statement for the year is Kshs. 6,029,461.80. The difference of Kshs.4,300,775.80 is an erroneous banking into the account by the Laikipia County Government which was meant to be paid to Widows and Children Pension Fund Account; and

(ii) The bank was instructed to transfer the money to the correct account (WCPS) and it has since been done. The matter is therefore resolved.

Committee Recommendations

The Accounting Officer should always ensure that the records are reconciled and analyzed with necessary supporting documents are submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

52. Investment in the Insolvent Cereal and Sugar Finance Corporation

As reported in the previous years, the statement of assets and liabilities reflects receivables balance of Kshs. 16,900,000 relating to a cash investment held in Cereals and Sugar Finance Corporation. The Corporation is technically insolvent, and Government has approved its winding up, with a further requirement that National Treasury takes over its assets and liabilities. The recoverability of the amount of Kshs. 16,900,000 is therefore in doubt.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of assets and liabilities reflects a receivable balance of **Kshs.16,900,000/=** relating to cash investments held in the Cereals and Sugar Finance Corporation (CSFC), which is technically insolvent. Draft financial statements for Cereals and Sugar Finance Corporation (under liquidation) have been prepared and submitted for audit review. The liquidation and winding up process of the corporation is on-going, and the recoverability of the amount will be determined once the process is over. The task force made its recommendations and we wrote to Attorney General seeking for his legal opinion. We are in the process of implementing Attorney General's recommendations on the same.

Committee Observations and Findings

(i) The statement of assets and liabilities reflects a receivable balance of Kshs. 16,900,000 relating to cash investments held in the Cereals and Sugar Finance Corporation (CSFC), which is technically insolvent;

(ii) Draft financial statements for Cereals and Sugar Finance Corporation (under liquidation) have been prepared and submitted for audit review; and

(iii) The liquidation and winding up process of the corporation is on-going, and the recoverability of the amount will be determined once the process is over. The task force made its recommendations and we wrote to Attorney General seeking for his legal opinion; and

(iv) The matter is pending until audit review is undertaken and the taskforce recommendations implemented.

Committee Recommendations

(i) The Accounting Officer should always ensure that the records are reconciled and analyzed with necessary supporting documents are submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012; and

(ii) The Cabinet Secretary fast-track the implementation of the recommendations of the taskforce on winding up of Dormant funds in line with the legal opinion of the Attorney General and report progress to the National Assembly within three (3) months upon tabling and adoption of this report.

53. Understatement of Investment

As reported in the previous year, the financial statements reflect investment balance of Kshs. 25,516.933 as at 30 June 2017. The share certificate provided for audit revealed that 8,643,429 shares with a book value of Kshs. 8,415,420 were held at the same date. The resulting difference of Kshs. 12,898,307 has not been reconciled.

Submission by Accounting Officer

The Accounting Officer submitted that the value of investment in our books was erroneously recorded as Kshs. 25,516,933/= but has been revised to Kshs. 21,608,572.50 as supported by various share certificates which were availed to the auditor for verification.

Committee Observations and Findings

(i) **The financial statements reflect investment balance of Kshs. 25,516.933 as at 30 June 2017. The share certificate provided at the time of audit revealed that 8,643,429 shares with a book value of Kshs. 8,415,420 were held at the same date; and**
(ii) **The value of investment in the books was erroneously recorded as Kshs. 25,516,933 but has been revised to Kshs. 21,608,572.50 as supported by various share certificates which were availed to the auditor for verification. The matter is therefore resolved.**

Committee Recommendations

The Accounting Officer should always ensure that the records are reconciled and analyzed with necessary supporting documents are submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

54. Failure to Invest Funds

As highlighted in the report for 2015/2016 and earlier years, The National Treasury holds cash proceeds from the redemption of 11 percent Kenya Stock 2000 of Kshs.9,000,000. The Stocks were redeemed in July 2001 and the proceeds were expected to be re-invested immediately but are still being held in Deposit Account to date. Failure to re-invest the funds for the last sixteen years has denied the Fund income that would finance the payment of pensions due to its beneficiaries.

Submission by Accounting Officer

The Accounting Officer submitted that the National Treasury holds cash proceeds from the redemption of 11percent Kenya Stock 2000 totaling **Kshs.9,000,000/=.** The proceeds are held in the funds deposit account of National Treasury. The National Treasury wrote to central Bank of Keya seeking advice on how to invest vide letter Ref.no.EPN/167/025 Vol.XI/34 dated 14th March 2016 and the Central Bank advised vide letter Ref.no.EPN/167/025 Vol.XI/34 dated 13th January, 2017 the requirements and conditions to be met before investing. Two of the conditions were that the Fund should have Fund Manager and Board of Trustees. The Fund has only two remaining beneficiaries and it would not be viable to engage a Fund manager and Board of trustees.

Committee Observations and Findings

(i) The National Treasury holds cash proceeds from the redemption of 11 percent Kenya Stock 2000 totaling Kshs. 9,000,000. The National Treasury wrote to central Bank of Keya seeking advice on how to invest the funds, the requirements and conditions to be met before investing;

(ii) Two of the conditions were that the Fund should have Fund Manager and Board of Trustees. The Fund has only two remaining beneficiaries and it would not be viable to engage a Fund manager and Board of trustee; and

(iii) The explanation given by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

ASIAN OFFICERS FAMILY PENSION FUND

Basis for Qualified Opinion

55. Un-Supported Balances

The statement of financial assets and liabilities and Note 9.4, reflects receivables balance of Kshs. 15,300,680 out of which Kshs. 15,200,000 relates to cash owed by the defunct Cereals and Sugar Finance Corporation (CSFC) that is undergoing a winding up process. The balance is however not supported by deposit certificates or other documentary evidence.

Further, the sundry debtors receivables reported in the previous years of Kshs.248,021,691 is an amount due from the Joint Consolidated Fund (JCF) which was not supported but which has since been cleared from the books of the fund without providing adequate documentation on how the balance was subsequent written off. Consequently, the receivable of Kshs. 15,200,000 reflected in the statement of financial assets and liabilities cannot be confirmed correct.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of financial assets and liabilities under receivables reflected a balance of Kshs.15,200,000/= relating to cash owed by the defunct Cereals & Sugar Finance Corporation which is in the process of being wound up and the recoverability will be determined when the process is finalized. Attached please is a copy of certificate of balance for the amount queried. The receivables reported in the previous years also included Kshs. 248,021,691.45 an amount due from Joint Consolidated Fund (JCF). The Fund represented investments by the former employees of East African Community, which were taken over by the Crown Agent bank upon collapse of the community and subsequently surrendered to the Central bank of Kenya.

The amount was swept by the exchequer However; the National Treasury has since refunded the entire amount to the Fund.

Committee Observation and Findings

(i) The statement of financial assets and liabilities under receivables reflected a balance of Kshs.15,200,000 relating to cash owed by the defunct Cereals & Sugar Finance Corporation which is in the process of being wound up and the recoverability will be determined when the process is finalized;

(ii) The receivables reported in the previous years also included Kshs. 248,021,691.45 an amount due from Joint Consolidated Fund (JCF). The amount was swept by the exchequer However; the National Treasury has since refunded the entire amount to the Fund.

(iii)The committee marked the matter as resolved.

Committee Recommendations

(i) The Accounting Officer should always ensure that the records are reconciled and analyzed with necessary supporting documents are submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012; and

(ii) The Cabinet Secretary fast-track the implementation of the recommendations of the taskforce on winding up of Cereals & Sugar Finance Corporation in line with the legal opinion of the Attorney General and report progress to the National Assembly within three (3) months after tabling and adoption of this report.

56. Failure to Provide Records for Verification

As previously reported, the statement of receipts and payment for the 2015/2016 financial year reflected an expenditure of Kshs. 1,328,196 being pension payments made during the year. The amount included Kshs. 144,000 paid to four beneficiaries whose files were not provided for verification. Further in the current year under review, the statement of receipts and payments reflects an expenditure of Kshs. 1,635,696 which includes payments of Kshs. 107,800 to two beneficiary files of No.BPN/PB 589 and BPN/PB 1688 that the Department failed to avail for audit verification. Therefore, it is not possible to confirm the validity of the pension paid.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of receipts and payment for the year 2015/2016 reflected the expenditure of Kshs.1,635,696/= which includes payments of Kshs107,800/= to two beneficiaries of files No. BPN/PB 589 and BPN/PB 1688 which the department had not availed for audit verification. The two files have since been availed to the auditor for verification.

Committee Observations and Findings

(i) The statement of receipts and payment for the year 2015/2016 reflected the expenditure of Kshs. 1,635,696 which includes payments of Kshs107,800/= to two beneficiaries of files No. BPN/PB 589 and BPN/PB 1688 which the department had not availed for audit verification; and

(ii) The two files have since been availed to the auditor for verification and verified. Therefore, the matter is resolved.

Committee Recommendations

The Accounting Officer should always ensure that the records are reconciled and analyzed with necessary supporting documents are submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;

57. Irregular Pension Payment

The previous year's audit revealed that pension payment of Kshs. 519,800 was made to two deceased beneficiaries between the year 2007 and 2015. A further Kshs. 42,000 was paid between July 2015 and Jan 2016. The families of the two beneficiaries notified the department of the demise of the pensioners in September 2007 and February 2008 respectively. The Department, however, continued to make payments until January 2016. The total payment made to the deceased pensioners was Kshs. 519,800. The Department has so far recovered Kshs. 418,710 which had been disbursed to the bank but not withdrawn. The balance of Kshs. 143,090 has not been recovered. Further, the recovered amount was received in the Pension Department's main bank account and has not been transferred to the Fund Account.

Submission by Accounting Officer

The Accounting Officer submitted that the two deceased beneficiaries remained in the Agency payroll up to January, 2016 and had been paid Kshs. 519,800/=. Out of the amount paid to the two beneficiaries, an amount of Kshs. 418,710/= has been returned by the bank leaving a balance of Kshs. 143,090/=. The National Treasury has written and held various consultations with the National Bank of Kenya to ensure the balance is returned/refunded.

The Department has already paid back the returned amount to the Asian Officer Family Pension Fund from the returned CFS pension account.

Committee Observations and Findings

(i) Pension payment of Kshs. 519,800 was made to two deceased beneficiaries between the year 2007 and 2015. A further Kshs. 42,000 was paid between July 2015 and Jan 2016. The families of the two beneficiaries notified the department of the demise of the pensioners in September 2007 and

February 2008 respectively. The Department, however, continued to make payments until January 2016;

(ii) The total payment made to the deceased pensioners was Kshs. 519,800. The Department has so far recovered Kshs. 418,710 which had been disbursed to the bank but not withdrawn. The balance of Kshs. 143,090. The National Treasury has written and held various consultations with the National Bank of Kenya to ensure the balance is returned.

Committee Recommendations

The Accounting Officer should ensure that the outstanding balance of Kshs. 101,090 is fully recovered and evidence submitted for audit review within three (3) months as was recommended and adopted in the PAC report for the Financial Year 2015/2016.

ASIATIC WIDOWS AND ORPHANS PENSION FUND

Unqualified Opinion

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

Emphasis of Matter

As similarly reported in the previous years, the Fund has been dormant since June 2002 when the only surviving beneficiary died. Further, the Cabinet through a memorandum dated 26 June 2012 authorized the Attorney General, Minister of State for Public Service and the Minister for Finance to initiate the process of winding up of the Fund. According to the task force appointed by the National Treasury on winding up of the dormant Funds, report dated August 2015, a draft legal Notice has been prepared in conjunction with the State Law Office for de-gazzettement of the Fund. However, the Legal Notice has not been made available for audit to confirm the final action taken. My opinion is not qualified in respect of this matter.

Committee Observations

The financial statement of the Asiatic Widows and Orphans Pension Fund received an unqualified opinion in the FINANCIAL YEAR 2016/2017 which is commendable.

SUBSCRIPTION BY KENYA GOVERNMENT TO INTERNATIONAL ORGANIZATIONS

Basis for Adverse Opinion

58. Unsupported Balances

The statement of subscription of Kenya Government to international organization for the year ended 30 June 2017 reflects nil operations. However, and as reported during the previous year, the statements of details of Kenya Government share subscription and capital contribution to international organizations under note 5 to the financial statements reflected local value of subscriptions totaling Kshs.51,403,651,783 against various amounts in foreign currencies as at 30 June 2016. However, independent confirmation of balances as at 30 June 2016, shows that subscriptions were received from only four out of the twelve organizations.

Further, the amount confirmed by two out of those four organizations differs with the balances reflected in the statement submitted by the National Treasury as follows.

Organization	Balance as per the Statement (Foreign currency)	Balance as per the Statement (Local value) Kshs.	Balance as per the Confirmation (Foreign currency)
P.T.A. Bank Harare	USD24,208,356.00	2,447,518,049.98	USD25,967,315.00
Macro-Economic Financial Management Institute	USD 355,255.00	35,917,026.06	USD384,162.00
TOTAL		**2,483,435,076.04**	

No explanation has been provided for the above differences. In addition, independent confirmations of Government of Kenya share subscriptions and capital contribution balances as at 30 June 2016 were not received from eight organizations listed below:

Organization	Balance as per the Statement (Foreign currency)	Balance as per the Statement (Local Value) Kshs
International Monetary Fund	SDR258,124,458.00	36,444,592,225.02
International Bank for Reconstruction and Development	US15,899,693.01	1,607,493,942.64
Development Association Washington	D.C USD.2,361,413.00	238,744,049.41
African Dev. Bank Abidjan	U.A48,010,000.00	6,882,262,306.00
Multilateral Investment Guarantee Agency	USD622,383.00	62,924,290.54
Shelter Afrique	USD7,007,546.00	708,478,317.20
East Africa Development Bank Kampala	USD22,500,000.00	2,274,799,500.00
Africa Export-Import Bank	USD2,391,807.00	241,816,949.68
TOTAL		**48,461,111,580.49**

The subscriptions for 2014/2015 totalling Kshs.116,813,106,919 in respect of ten organizations, were restated to Kshs.49,750,957,607 by converting balances in foreign currencies obtained from the Organizations as tabulated in the following table.

Organization	Statement Balance-2014/15 (Foreign currency)	Statement Balance-2014/15 (Local Value) Kshs.	Statement Balance-2014/15Restated (Foreign currency)	Statement Balance-2014/15Restated (Local Value) Kshs.
International Monetary Fund	SDR261,156,794.00	36,397,422,379.78	SDR254,797,122.40	35,974,805,711.45
International Bank for Reconstruction and Development	US296,882,735.02	29,284,334,852.73	US15,512,384.29	1,568,336,178.70
African Dev. Bank Abidjan	U.A260,960,000.00	35,481,165,440.00	U.A45,536,130.58	6,527,631,640.00
Multilateral Investment Guarantee Agency	USD3,278,460.00	323,385,327.32	USD607,222.05	61,391,485.70
Shelter Afrique	USD2,000,000.00	197,278,800.00	USD6,836,845.62	691,220,132.90
East Africa Development Bank Kampala	USD80,000,000.00	10,877,120,000.00	USD21,951,911.04	2,219,386,500.00
P.T.A. Bank Harare	USD26,680,000.00	3,627,519,520.00	USD23,618,652.32	2,387,897,710.85
African Capacity Building Initiative	USD250,000.00	24,659,850.00	USD487,820.25	49,319,700.00
Africa Export Import Bank	USD5,960,000.00	587,890,824.00	USD2,333,543.75	235,926,407.40
Macro-Economic Financial Management Institute	USD125,000.00	12,329,925.00	USD346,601.16	35,042,140.05
	Total	**116,813,106,919.00**		**49,750,957,607**

However, notes explaining the restated balances were not presented for audit. Consequently, it has not been possible to confirm the validity and accuracy of the comparative balances as at 30 June 2016.

Submission by Accounting Officer

The Accounting Officer submitted that at the time of audit of Financial Statements for the year ended 30th June, 2016, four organizations namely African Capacity Building Foundation, P.T.A. Bank, International Finance Corporation and Macro Economic and Financial Management Institute (MEFMI) had confirmed the status of Kenya`s subscriptions. However, the confirmed figures for PTA and MEFMI differ with reported figures but have since been updated as indicated in the confirmation letters and revised financial statements**.**

Further, the other remaining eight institutions confirmed the status of Kenya's subscriptions.
The institutions are:-

Organization	**Date**
International Bank for Reconstruction and Development	23.02.2017
Multilateral Investment Guarantee Agency	16.02.2017
East Africa Development Bank	10.02.2017
International Development Association	15.07.2017
African Export-Import Bank	24.02.2017
African Development Bank	08.12.2016
Shelter-Afrique	21.03.2018
International Monetary Fund	30.06.2017

It was noted that the amounts confirmed by African Capacity Building Foundation and Macro-Economic and Financial Management Institute relate to Kenya`s contributions budgeted under the Recurrent Vote-1071 The National Treasury but not share capital. The two organizations will be excluded from the schedule of investments in international organizations in future.

The subscriptions for 2014/2015 totaling **Kshs. 116,813,106,919/=** in respect of ten organizations were provisional and based on balances for 2013/14. Subscriptions in respect of eight organizations were re-stated to reflect the paid up capital as at 30th June, 2015 as confirmed by various organizations. Balances for Africa Capacity Building Initiative and Macro-Economic and Financial Management Institute are in respect of contributions but not share capital.

Committee Observations and Findings

(i) At the time of audit of Financial Statements for four organizations namely African Capacity Building Foundation, P.T.A. Bank, International Finance Corporation and Macro Economic and Financial Management Institute (MEFMI) had confirmed the status of Kenya`s subscriptions. However, the confirmed figures for PTA and MEFMI differed with reported figures but have since been updated;

(ii) The amounts confirmed by African Capacity Building Foundation and Macro-Economic and Financial Management Institute related to Kenya`s contributions budgeted under the Recurrent

Vote-1071 The National Treasury but not share capital. The two organizations will be excluded from the schedule of investments in international organizations in future;

(iii) The subscriptions for 2014/2015 totaling Kshs. 116,813,106,919 in respect of ten organizations were provisional and based on balances for 2013/14. Subscriptions in respect of eight organizations were re-stated to reflect the paid-up capital as at 30th June, 2015 as confirmed by various organizations. Balances for Africa Capacity Building Initiative and Macro-Economic and Financial Management Institute are in respect of contributions but not share capital.

Committee Recommendations

The Accounting Officer should always ensure that reconciled records are analyzed and the necessary supporting documents are submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and Article 229 of the Constitution of Kenya.

4.0 THE PRESIDENCY

FINANCIAL STATEMENTS FOR VOTE 1011.

Mr. Kinuthia Mbugua, the Accounting Officer for the the Presidency (Vote 1011) appeared before the committee on 1st October 2019 to adduce evidence on the Audited Financiaql Statements for the the Presidency (Vote 1011) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Samuel Thiongo - Assistant Accountant General**
2. **Mr. Paul Kamau - Senior Principal Finance Officer**
3. **Mr. Joel K. Langatt - Senior Principal Finance Officer**

and stated as follows:

That the Office was awarded unqualified Opinion for Financial Year 2016/17.

1. He attributed the opinion on the following factors
    a) Working in unison with the National Treasury and the Office of the Auditor General
    b) Doing daily reconciliations on the IFMIS platform; and
    c) The department working in unison as a team
2. He also pointed out that working on the IFMIS platform had been a challenge, however the availability of officers trained on the workings of the system had been a huge advantage.
3. He further stated that there were challenges. However, working together with the National Treasury had helped alleviate some of the issues.

Committee Observations and Findings

The Committee observed that the Presidency had indeed obtained unqualified opinion for Financial Year 2016/17. The Committee congratulated the Presidency and urged other State Department to emulate the same.

5.0 STATE DEPARTMENT FOR INTERIOR

FINANCIAL STATEMENTS FOR VOTE 1021

Dr. Eng. Karanja Kibicho, the Accounting Officer for the State Department of Interior (Vote 1021) appeared before the Committee on 1st July 2019 to adduce evidence on the Audited Financial Statements for the State Department of Interior (Vote 1021) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. James K. Karori - Senior Assistant Accountant General**
2. **Mr. Noun M. Gabow - Director General MS**
3. **Mr. Njoroge Mbugua - Director General KPS**
4. **Ms. Elizabeth W. Kiano - Ag. Director Internal Audit**
5. **Mr. David M. Mutia - Principal Finance Officer**
6. **Mr. Stephen G. Wamae - Deputy Director SCMS**
7. **Mr. Dub Abudho - Personal Assistant**
8. **Mr. Reuben Otundo - F.G DCI**
9. **Mr. Charles Kimoito - Immigration**
10. **Mr. Kangethe - Principal Accountant**
11. **Ms. Alice W. Gichio - Senior Chief Finance Officer**

Basis for Qualified Opinion

59. Contract Number COMMS/NPS/001/2013-2014 for National Secure Communication Network and Surveillance System for National Police Service

The State Department for Interior and Coordination of Government, acting on behalf of National Police Service (NPS) entered into a direct procurement contract on 25 November 2014 with M/s Safaricom Limited for the Provision of National Secure Communication Network and Surveillance System in Mombasa, Nairobi and its Environs at a negotiated contract Price of Kshs.12,031,251,844 in cash and payment in kind through allocation of frequency (2x20Mhz in the 800Mhz band) valued at Kshs.6,750,000,000 by the Communication Authority of Kenya(CAK). The scope of the five-year (5) contract included;

(i) Command and Control System
(ii) Communication System
(iii) National Surveillance System

The State Department of Interior through letter Ref No. AC 50/21/2016/2017/15 dated 6 March 2018 explains that CAK withdrew from allocating Safaricom spectrum and further explains that, in the event that CAK and Safaricom fails to agree on the license terms, then the contract price shall be adjusted by Kshs.6,750,000,000 to Kshs.18,781,251,844. Consequently, the contract reverted to Kshs.18,781,251,844 stopping, if any, negotiations which should have been held before hand with CAK. At the time of audit, Kshs.9,800,642,336 had been paid under the contract.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the initial cost of the project was Kshs.18,781,251,844 which was to be paid to Safaricom Ltd. However, the cost was to be adjusted downwards by Kshs.6,750,000,000 to be Kshs.12,031,251,844 if the Communication Authority agreed. This however never happened since CAK withdrew from allocating Safaricom spectrum hence adjustment would have not been done as per Section 2.3.1 of the extract of the Contract document of Kenya which indicate that in the event the Communication Authority and Contractor fails to agree on the license terms, then the contract price shall be adjusted by Kshs.6, 750,000,000 to Kshs.18, 781,251,844.

A letter dated 15th December 2016 from Communication Authority of Kenya indicates that after gathering stakeholders' view, the Authority requested the Ministry of Interior to de-link the NPS project with the issuance of the 800 MHz Spectrum license since the two issues were not directly related.

Committee Observations and Findings

(i) The Committee observed that correspondences between the Ministry, National Treasury and Communication Authority of Kenya were availed, examined and verified.
(ii) The explanation was satisfactory.
(iii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

60. Irregular Use of District Suspense Account

Examination of payment voucher number 034 dated 08 April 2016 show that Kshs.2,255,171,342 was paid to a company for the Supply of a new twin turbine troop carrier helicopter. However, the expenditure was charged to District Suspense Account which is not a voted provision, therefore, cannot be used as an expenditure item. Further, the statement of assets reflects a balance of Kshs.157,397,821 in respect of District Suspense Account whose analysis has not been provided for audit review.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that payment voucher number 034 dated 8th April 2016 with an amount of Kshs.2,255,171,341.70 was paid to a company for the supply of new twin turbo carrier helicopter. This being a foreign payment a journal voucher was prepared to capture the expenditure whereby purchase of Police security equipment account 3111108 was debited but the credit entry charged to general suspense account 6780101 instead of development bank account. We have since rectified the general suspense and credited the development bank account.

It was also true that the statements of assets as at 30 June 2017 reflected a District Suspense account balance of Kshs.157,397,821.00 which represented unaccounted for AIE's issued to various districts. The balance has been analyzed respectively and attached are copies of the District suspense analysis.

Committee Observations and Findings

(i) The Committee observed that documents and records were subsequently availed and reviewed.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

61. Construction Works at National Police Service (NPS) Training Schools

61.1 Introduction

Due to shortages of barracks; classrooms; toilets; bathrooms and staff houses, the National Police Service awarded **five (5) contracts during the financial year, 2014/2015.**

61.2 Award and Scope of Work

The contracts were planned as follows; (i) A contractor was identified to supply materials (iron and plain sheets; doors; windows; nails and other minor materials) in all the four (4) training institutions at a cost of Kshs.261,000,000 which had been paid at the time of audit.

(i) Four (4) contractors were awarded contracts to undertake civil, mechanical and electrical works in the four (4) listed training institutions and paid as follows;

Institution	Contract Number	Contract sum Kshs.	Payment to date of Audit
KPC – Kiganjo	CQS/D102/010/2014-2015	157,000,000.00	192,449,080.00
APTC-Embakasi	CQS/D102/022/2014-2015	169,087,303.72	193,581,827.00
GSU-Embakasi	CQS/D102/012/2014-2015	51,356,366.80	67,260,767.00
GSU-FTC Magadi	CQS/D102/013/2014-2015	45,116,344.00	45,108,455.00
	TOTAL	**422,560,014.52**	**498,400,129.00**

Submission by Accounting Officer

The Accounting Officer submitted that the Ministerial Tender Committee meeting No.8/2014-2015 (Min. No. 7) held on18th September 2014; the Ministerial Tender Committee discussed tender No. CQS/D102/05/2014-2015 for the proposed works at the Kenya Police Training College Nyeri County for the National Police Service and confirmed that the evaluation committee report contained the anomalies which were highlighted by the MTC.

The Ministerial Tender Committee therefore deferred the application and directed the evaluation committee to re-evaluate the tender in order to rectiFinancial Year the anomalies as noted by the MTC. This was in accordance with section 11 of the Public Procurement and Disposal Regulation 2006.

However, in the Ministerial Tender Committee meeting No 9/2014-2015 (Min. No. 11) held on 22nd to 23rd September 2014 there was a resubmission of the re-evaluated tender report No. CQS/D102/05/2014-2015 for the proposed works at the Kenya Police Training College, Nyeri County whereby the Ministerial Tender Committee noted that the anomalies highlighted in the first submission had been addressed by the evaluation committee which recommended M/s Njuca Consolidated Co. Ltd in their tender sum of Kshs.157,000,000.00 which was the lowest evaluated bidder. 5 In view of the above, the tendering process was regulated and complied with Article 227(1) of the Constitution.

The Accounting Officer tabled the following documents:

1. First MTC minutes 8/2014-2015 whereby the evaluation committee report contained anomalies which were highlighted by the MTC hence the application was deferred for the evaluation committee to re-look at the anomalies.
2. Second MTC minutes 9/2014-2015 whereby the evaluation committee had rectified the anomalies which were highlighted by the MTC and resubmitted the application.
3. Extract of section 11 of the Public Procurement and Disposal Regulation 2006.
4. Letter of request for submission of the re-evaluation report from NPS Ref No. NPS/IG/SEC/1/1/25/2/VOL.II/26 dated 24th September 2014.
5. Letter of request for MTC meeting from NPS Ref No. NPS/IG/SEC/1/1/7/VOL.III/76 dated 21st August 2014.

Letter of approval of the re-evaluated report from the Secretary – MTC Ref. No. MICNG/MTC/NPS/9/2014-2015 (8) dated 25th September 2014.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the validity, accuracy, compliance and adherence to the law of the procurement were availed and verified.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

61.3 Contract Period

The contract period is recorded as six (6) weeks from the date of site possession recorded as 01 December 2014.

61.4 Audit Inspections (i) Award of Contract

Examination of records show that bids for the contractors at Kiganjo Police Training College and GSU Training School, Embakasi were rejected at preliminary stage, therefore, their award of contract is not only irregular but illegal and does not comply with Article 227 (1) of the Constitution.
In addition, prices of materials purportedly supplied and eventually paid as Kshs.261,000,000 were not informed by a market survey contrary to Section 8(3)(z) of the Public Procurement and Disposal Regulation (2006).

(iii)Excess Payments to Contractors

Examination of records show that bids were supposed to be based on surface area. However, in unclear circumstances the rates for the surface areas submitted for barracks, classrooms, staff houses, toilets and bathrooms differed for the same materials resulting in excess payment of Kshs.16,647,679. In addition, audit has revealed that three (3) contractors working at KPC, Kiganjo; APTC and GSU Training Colleges were overpaid by Kshs.74,534,379.

Submission by Accounting Officer

The Accounting Officer approved for a variation of contract of 24.85% being additional works at the Kenya Police College – Kiganjo. The additional works arose due to challenges at the site and were addressed through the County Works Officer, Nairobi.

The matter was raised with the Ministry of Interior and the Accounting Officer appointed an Evaluation Committee to evaluate and make recommendations against their observations. The Evaluation Committee in its findings concluded that the issues raised were justified.

It is also important to note that this was a measurement contract. The Public Procurement and Disposal Act (2006) were replaced by the Public Procurement and Asset Disposal Act (2015) on 24th December, 2015. Section 139 (4) of the Public Procurement and Asset Disposal Act (2015) states that: *For the purposes of this section, any variation of a contract shall only be considered after twelve months from the date of signing the contract and shall only be considered if the following are satisfied- 6 (e) The cumulative value of all contract variations do not result in an increment of the total value of the contract by more than twenty five per cent (25) of the original contract price.*

Also note that Public Procurement and Disposal Regulation (2006) section 31 (c) was amended by Legal Notice 106 titled The Public Procurement And Disposal (Amendment) Regulation (2013) which inserted section (e) that states "the cumulative value of all contract variations do not result in an increment of the total contract price by more than twenty-five per cent of the original contract sum". The variation of contract was requested through the County Works Officer, Nairobi. The additional works arose because during the documentation for these works, it had not been determined where the structures were to be erected on the site.

Challenges arose due to the nature of the soils and levels at KPC - Kiganjo. This necessitated extra excavation and filling in order to achieve the desired levels.

The spread of the structures necessitated the inclusion of a sewer line and upgrading of the power supply which was not in the initial documentation. The variations sought by the contractor were evaluated and found to be justifiable. The variation of 24.85% is within the limit allowed by the Act.

Committee Observation and Findings

(i) The Committee observed that there was a variation of 24.85% in the scope of work prompting the additional payments.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

(iii) Payment for Undelivered Materials

Although, Kshs.4,786,274 was paid to the supplier of materials in respect of material purportedly supplied as KPC, Kiganjo, verification of delivery notes, invoices and inspection of construction site reveals that these materials were not delivered.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that various delivery notes at KPC – Kiganjo show materials against various invoices amounting to Kshs.4,786,274.22. We wish to state that Project manager in the meeting held on 3rd December, 2015 indicated that the materials had been supplied. M/s Mabati Rolling Mills had completed the supply of the super structures and payments processed.

The County Works Officer has since then confirmed that all materials were supplied and cited cases where some materials were over supplied to different sites, these were however sorted out.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the validity, accuracy, compliance and adherence to the law of the payment process of Kshs.4,786,274.22 were submitted for aufit review and verified.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

(iii) Unspent Balance of Kshs.41,000,000

Examination of AIE No. A832045 dated 03 October 2016 show that Kshs.41,000,000 for the construction of Bio Gas and rehabilitation of parade ground at Kiganjo has not been undertaken and the balance is kept in the account for which no explanation has been given.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that AIE No. A832045 dated 03 October 2016 of Kshs.41,000,000 was issued for the construction of Bio gas and rehabilitation of parade ground at Kiganjo Police Training College. Kshs.35,000,000 was allocated the proposed carpeting of the parade ground and Kshs.6,000,000 was for the proposed construction of the biogas plant. The funds were not utilized because of the following reasons:-

a. The works for the construction of the parade ground were tendered and evaluated in Nyeri County but the award was rejected by the Accounting Officer.

b. The proposed Construction of a biogas plant was not approved by the Ministry of Energy. In light of the above, the funds were returned to the exchequer.

Committee Observation and Findings

(i) The Committee observed that the EFT funds transfer of unspent AIE of Kshs.41,000,000.00 availed, examined and verified that payment was made at Central Bank of Kenya – State Department of Interior Account.
(ii) The Committee marked the matter as resolved.

(iv) Unvouched Expenditure

Payment vouchers for payments totaling Kshs.391,243,037, have not been availed for audit contrary to Section 9(1) (e) of the Public Audit Act 2015 in spite of several requests made.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that payment vouchers totaling to Kshs.391,243,037 had not been availed for audit verification, however these payments have since been availed to the Auditor for verification.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the validity, accuracy, and proper payment of Kshs.391,243,037.00, were satisfactory.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times avail in time documents required for audit verification.

(v) Theft of Iron Sheets at Kiganjo

Although there is clear evidence that the contractor's employee was arrested for theft of 42 Iron Sheets, there is no evidence that the culprit was arraigned and charged in court for the offence.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the above Iron Sheets were stolen and later recovered. Three suspects were arrested and arraigned in court at Nyeri law courts. The case was later withdrawn under section 87(a) of the penal Code and the 42 Iron Sheets handed over to the College.

However, in the agreement upon the signing of the contract the site was handed over to the contractor. The security and custody of the materials at the site were henceforth the responsibility of the contractor until the completion and eventual handing over of the project. The said materials were since recovered hence there was no loss incurred.

Committee Observation and Findings

(i) The Committee observed that the matter was satisfactorily dealt with.

(ii) The Committee marked the matter as resolved.

(vi) Delay in Execution of Contract

The contract was to commence 01 December 2014 for a period of six (6) weeks. An evaluation undertaken during the month of May 2017 show that contractors working at KPC and APTC were still on site as their contracts were still incomplete.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the commencement date of the contract is recorded as 1st December 2014 for a period of six (6) weeks. The evaluation undertaken during the month of May 2017 show that contractors working at KPC and APTC were still on site as their contracts were still incomplete.

The projects were initiated in 2014 but slowed down for lack of timely release of exchequer. This was further occasioned by the time lag between the request for variation and the actual approvals for the variations. The Accounting Officer approved the contract variations in May, 2017 and the Contractors resumed work in June 2017. All the required works have been completed satisfactorily and the documentation to that effect done.

Committee Observation and Findings

- **(i) The Committee observed that the Accounting Officer approved the contract variations in May, 2017 and the contractors resumed work in June 2017.**
- **(ii) The Committee also observed that the all the required works had been completed satisfactorily and the documentation to that effect done.**
- **(iii)The Committee marked the matter as resolved.**

(vii) Poor Workmanship

Audit inspection undertaken at KPC, Kiganjo and APTC, Embakasi revelead that the quality of workmanship was poor as follows;

a) Cracks are observed on pavements along outside walls of classrooms both at KPC and APTC;

b) Concrete sinks did not have taps at KPC, Kiganjo and APTC, Embakasi;

c) Clothe lines stand bending because they are not well supported at KPC Kiganjo;

d) Incomplete electrical installation works-switches and sockets at KPC Kiganjo;

e) Concrete slab made instead of precast pavement slab as provided for in the Bill of Quantities at KPC Kiganjo;

f) One of the installed 20,000 litres tank ripped off at the top due to poor quality at KPC Kiganjo; g) Cracks on other floor in classroom and barracks were observed at APT Embakasi;

h) Wire mesh put underneath the slab are exposed due to chipping and wearing out of the pavement at APTC Embakasi;

i) Black polythene paper laid underneath the slab are exposed out of the slab at APTC at Embakasi;

j) Black chalk board in classroom does not show clear writing at APTC Embakasi;

k) Peeling off of paint on metallic washroom door was observed at APTC Embakasi; l) Reaping off of ridge caps was also observed at APTC Embakasi;

Submission by Accounting Officer

The Accounting Officer submitted that it was true that during the Audit inspection undertaken at KPC, Kiganjo and APTC Embakasi in the month of May 2017 revealed the following: -

a) Cracks on the pavements along outside walls of classrooms both at KPC and APTC;
b) Concrete sinks did not have taps at KPC Kiganjo and APTC Embakasi;
c) Clothe lines stands were bending because they were not well supported at KPC Kiganjo;
d) Incomplete electrical installation works – switches and sockets at KPC Kiganjo; 10

e) Concrete slab made instead of precast pavement slab as provided for in the bill of quantities at KPC Kiganjo;
f) One of the installed 20,000 litres tanks ripped off at the top due to poor quality at KPC Kiganjo
g) Failure of floor in classrooms and barracks at APTC Embakasi;
h) Wire mesh punt underneath the slab was exposed due to chipping and wearing out of the pavements at APTC Embakasi;
i) Black Polythene paper laid underneath the slab are exposed out of the slab at APTC Embakasi;
j) Black board in classroom did not show clear writing at APTC Embakasi;
k) Peeling off of paint on metallic washroom doors was observed at APTC Embakasi;
l) Ripping off of ridge caps at APTC Embakasi;

The Audit Inspection was undertaken prior to the approvals for variations. The concerns raised in (viii) part a-1 as indicated by the extract from the Audit inspection carried out at KPC - Kiganjo and in APTC Embakasi in the month of May 2017 have all been addressed. All the defects, repairs and required replacements have been done satisfactorily and the documentation to that effect done. The repairs and replacements were done at the contractor's cost.

Committee Observation and Findings

(i) The Committee observed that the audit inspection carried out at Kenya Police College-Kiganjo on Monday 8 July, 2019 and at the APTC-Embakasi on Tuesday 9 July, 2019 confirm that the defects, repairs and required replacements were re-done.
(ii) The Committee marked the matter as resolved.

(x) Outstanding Works

Although trainees are using these incomplete facilities, outstanding works are listed as follows;
a) Incomplete electrical works at both KPC, Kiganjo and APTC, Embaksi;
b) Unfinished roof ceilings in barracks and classrooms at APTC Embakasi;
c) Unfinished electrical installation-socket and switches at APTC Embakasi;
d) Unfinished pavement work between the classroom blocks at APTC Embakasi;

Submission by Accounting Officer

The Accounting Officer submitted that in the Ministerial Tender Committee meeting No.8/2014-2015 (Min. No. 7) held on18th September 2014; the Ministerial Tender Committee discussed tender No. CQS/D102/05/2014-2015 for the proposed works at the Kenya Police Training College Nyeri County for the National Police Service and confirmed that the evaluation committee report contained the anomalies which were highlighted by the MTC.

The Ministerial Tender Committee therefore deferred the application and directed the evaluation committee to re-evaluate the tender in order to rectiFinancial Year the anomalies as noted by the MTC. This was in accordance with section 11 of the Public Procurement and Disposal Regulation 2006. However, in the

Ministerial Tender Committee meeting No 9/2014-2015 (Min. No. 11) held on 22nd to 23rd September 2014 there was a resubmission of the re-evaluated tender report No. CQS/D102/05/2014-2015 for the proposed works at the Kenya Police Training College, Nyeri County whereby the Ministerial Tender Committee noted that the anomalies highlighted in the first submission had been addressed by the evaluation committee which recommended M/s Njuca Consolidated Co. Ltd in their tender sum of Kshs.157,000,000.00 which was the lowest evaluated bidder.

In view of the above, the tendering process was regulated and complied with Article 227(1) of the Constitution.

Committee Observation and Findings

(i) The Committee observed that subsequent work progress at KPC-Kiganjo and at the APTC-Embakasi had not been verified by the Office of the Auditor General.
(ii) The Committee directed the Office of the Auditor General to conclude verification of the same and report back in the subsequent financial year audit report.
(iii)The matter remained unresolved

Committee Recommendations

(i) The Ministry of Public Works should inspect the buildings and table their report to the National Assembly within a period of six months upon the adoption of this report.

62. Cash Transfer to Regional Commissioner – North Eastern

In my Prior year report, unsatisfactory matter was reported in relations to transfer of Kshs.150,000,000 Regional Commissioner – North Eastern which was not accounted. Similarly, Kshs.350,000,000 was transferred to Regional Commissioner – North Eastern during the year under review, which again has not been accounted. No reason has been given for huge transfers that are not being supported with expenditure returns required in accordance with Section 9 (1) (e) of Public Audit Act (2015). Although the Department explains that the money was used as confidential expenditure, it is not correct as the transfer was charged to District Suspense Account which is not a voted provision and cannot be used as an expenditure item.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry transferred the Kshs.350,000,000.00 was transferred to Regional Commissioner – North Eastern during the year under review.

The Ministry has a budgetary allocation under Head 1021-001-303 Regional Security Coordination North Eastern to cater specifically for security operations in North Eastern. The amount in aggregation with other related allocations was expended as evidenced by the expenditure return and status report for the month ending 30th June 2016 from Garissa district Treasury.

Committee Observation and Findings

(i) The Committee observed that additional supporting documents that had not been submitted during the audit have since been submitted, examined and verified.
(ii) The Committee marked the matter as resolved

63. Irregular and Illegal Deductions on Recruits Police Constables Allowances

Examination of records show that Kshs.313,848,000 was irregularly deducted from recruits allowances training at Kenya Police College (KPC), Kiganjo and General service Unit (GSU) Training School, Embakasi as follows: -

Training Institute	Amount (Kshs)
Kenya Police College (KPC), Kiganjo	197,257,500.00
GSU Training School	116,590,500.00
Total	**313,848,000.00**

Although it has been explained through letters reference SEC.POL.1/1/26/27/47 dated 15th January, 2018 and GSU.SEC.POL.1/1/26/VOL.II/13 dated 8th February 2018, that deductions were for barrack maintenance, haircut and medical fund among others, audit has revealed that recruits were directed to sign that they received the entire amount of their allowance.

In addition, audit had revealed massive irregularities as follows: -

These deductions contravened Section 43 (1)(c) of the Public Finance Management Act (2012) which prohibits re-allocation of funds from wages to non-wages expenditure.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Recruit Constables were entitled to a stipend allowance while undertaking their training allowances training at Kenya Police College (KPC), Kiganjo and General Service Unit (GSU) Training School, Embakasi.

That further investigations have revealed that from the available records, the recruits received their allowances as stipulated without any deductions whatsoever. However, investigations have been launched to ascertain the allegations with a view of taking appropriate remedial action. The records are open and available for inspection and verification.

i) The Department has not justified failure to provide funds for maintenance of Barracks and medical funds in their annual budget. The budgets for maintenance of buildings are normally allocated annually under the relevant vote heads.
ii) Audit has further revealed that deductions from recruits' allowances amounting to Kshs.14, 525,910.00 at GSU were deposited at Account Number 01240000008512 maintained at Cooperative Bank Tom Mboya Branch.

The General Service unit has explained verbally during a meeting held on 1st March 2018 at the Auditor General boardroom that the account is for distribution of recruits' allowances. However, the promise to produce the bank statement and authority to open the account has not been acted upon contrary to Section 9(1) (e) (i) of the Public Audit Act 2015.

On this issue we wish to state that the Account in question belongs to the Cooperative Bank of Kenya. Further scrutiny has revealed that the funds that were channeled to the bank were voluntary contributions for savings made by the Recruit Constables who in their entire period of training are not allowed to leave the college compound to bank the money. The various records i.e. letter of instruction, Schedule of names and list of individual accounts and the remittances therein are available for audit and inspection.

(i) These deductions border on criminal act on the part of those officers who sanctioned forceful recovery from helpless recruits.

There were no deductions; however, investigations are ongoing to establish the allegations. Any officer found culpable shall be dealt with in accordance with the Service Standing Orders and any other applicable law.

Committee Observation and Findings

(i) The Committee observed that the explanations received from both the DIG-KPS and KPC-Commandant on the allowances as well as the response by the State Department for Interior were satisfactory.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all time avail in time documents necessary for audit purposes.

64. Other Matters

64.1 Bank Reconciliation Statements

The Bank Reconciliation Statement reflects Receipts in the Bank Statements not recorded in the Cash Books totaling Kshs.8,101,558,241.80 which comprises of Kshs.7,967,603,859.45, Kshs.44,710,334.15 and Kshs.89,244,048.20 for Recurrent Cash Book, Development Cash Book and Deposits Cash Book respectively. No reason has been given for failure to debit back these balances in the Cash Books.

The Bank Reconciliation statements as at 30 June 2017 also reflects payments in the cash books not recorded in the Bank Statement totaling Kshs.16,469,223,550.45 which comprises of Kshs.12,282,871,167.40, Kshs.4,162,169,531.90 and Kshs.24,082,851.15 for recurrent Cash Book, Development Cash Book and Deposits Cash Book respectively. No reason has been given for failure to debit these balances in the cash books.

Further, the Bank Reconciliation Statements also reflects receipts of Kshs.3,233,476,340.90 in the Cash Books not recorded in the Bank Statements. This comprises of Kshs.2,772,837,746.35, Kshs.431,696,929.25 and Kshs.28,941,665.30 for Recurrent Cash Book, Development Cash Book and Deposits Cash Book respectively. As in the previous instances, no explanation has been given for failure to correct these anomalies through relevant journal entries in the Cash Book.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Bank Reconciliation statement reflects receipts in bank statement not recorded in the cash book totaling to Kshs.8,101,558,241.80 which comprises of Kshs. 7,967,603,859.45, Kshs.44,710,334.15 and Kshs.89,244,048.20 for Recurrent, Development and Deposit cash books respectively. However, an amount of Kshs.7,804,891,269.05 and Kshs. 61,087,789.35 for recurrent and deposit cash books respectively have since been reconciled and anomalies corrected accordingly.

He further stated that out of the Kshs.16,469,223,550.45 of payments in cash book not in the bank statement, Kshs.11,783,433,192.10, Kshs.4,023,353,995.75, and Kshs.15,294,340.00 for Recurrent, Development and Deposit cash books respectively has been analyzed, reconciled and adjusted in the cash book accordingly.

Kshs.3,233,476,340.90 reflects receipts in Recurrent, Development, and Deposit cash books not recorded in the bank statement. Kshs.2,761,312,715.25, Kshs.35,499,999.90 and Kshs. 24,035,595.00 for Recurrent, Development, and Deposit cash books respectively has since been reconciled and the necessary adjustments effected in the cash books.

Committee Observation and Findings

(i) The Committee observed that the un-reconciling balances in the Bank reconciliations statement have been reconciled and relevant journal entries made in the cashbooks.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

64.2 Irregular Bank Payments – Kshs.11,424,466,750.95

Examination of Bank Reconciliation Statements show that payments totaling **Kshs.11,424,466,750.95** as shown below was paid from the bank accounts maintained by the State Department for Interior but were not posted to the Cash Books.

Bank Account	Payments (Kshs.)
Recurrent	8,642,543,374.85
Development	2,767,520,679.95
Deposits	14,402,696.15
TOTAL	**11,424,466,750.95**

The payments were made without support documents contrary to Section 85 (4)(B) and (c) of the Public Finance Management (National Government) regulations, 2015 which requires all signatories in respect of Payments to thoroughly scrutinize supporting documents.'

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Bank Reconciliation Statements reflected payments in the bank statement not in the cash book which were later reconciled and adjusted and includes the following:

(a) Recurrent Kshs.8,642,543,374.85

Analyses of the Payments are as follows:

(i)	Salary & Deductions	8,230,752,008.40
(ii)	General Supplies	51,640,421.15
(iii)	A.I.E's	360,150,945.00

Out of **Kshs.8,642,543,374.85** an amount of **Kshs.5,985,557,191.70** has since been reconciled and adjusted in the recurrent cash book.

(b) Development Kshs.2,767,520,679.95
(c)

Analysis of payments appearing in the bank statement and not in cash book is indicated below:

Payment Advices (PA's)		2,763,619,408.40
General Suppliers/Contractors	3,901,271.55	
Total		**Kshs.2, 767,520,679.95**

Out of the **Ksh.2,767,520,679.95** a total of **Kshs.765,651,229.60** has been analyzed and reconciled as shown below:

		DEVELOPMENT ACCOUNT	
CBK DATE	**REF**	**PARTICULARS**	**AMOUNT**
28-Dec-16	PA109144	Payment Authority	450.00
28-Dec-16	PA109145	Payment Authority	450.00
28-Dec-16	PA109146	Payment Authority	450.00
28-Dec-16	PA109146	Payment Authority	13,260,000.00
28-Dec-16	PA109145	Payment Authority	22,360,000.00
28-Dec-16	PA109144	Payment Authority	155,916,417.80
3-Jan-17	PA109147	Payment Authority	450.00
3-Jan-17	PA109147	Payment Authority	269,940,824.50
31-Mar-17	PA115051	Payment Authority	450.00
31-Mar-17	FT17090PVSZ5	Payment Authority	2,444,876.05
5-Apr-17	PA115053	Payment Authority	450.00
5-Apr-17	PA115053	Payment Authority	206,657,150.85
18-Apr-17	PA115057	Payment Authority	450.00
18-Apr-17	PA115072	Payment Authority	450.00
18-Apr-17	PA115071	Payment Authority	450.00
18-Apr-17	PA115073	Payment Authority	450.00
18-Apr-17	PA115062	Payment Authority	450.00
18-Apr-17	PA115057	Payment Authority	3,339,871.05
18-Apr-17	PA115073	Payment Authority	103,000,888.80
18-Apr-17	PA115072	Payment Authority	117,900,817.55
18-Apr-17	PA115062	Payment Authority	196,075,349.90
18-Apr-17	PA115071	Payment Authority	314,000,052.45
20-Apr-17	PA115074	Payment Authority	450.00
8-May-17	10004657	KENYA COMMERCIAL BANK LIMITED	862,165,412.75
6-Jun-17	PA115076	Payment Authority	450.00
6-Jun-17	PA115077	Payment Authority	450.00
6-Jun-17	PA115078	Payment Authority	450.00
6-Jun-17	PA115078	Payment Authority	24,528,235.80
6-Jun-17	PA115076	Payment Authority	60,816,541.50
6-Jun-17	PA115077	Payment Authority	62,165,079.90
13-Jun-17	PA115079	Payment Authority	450.00
13-Jun-17	PA115079	Payment Authority	349,040,689.50
22-May-17	10004604	WIDEVIEW TRADERS	2,031,821.20
	TOTALS		**2,765,651,229.60**

(d) Deposit Kshs.14,402,696.15

Out of the **Kshs.14,402,969.95** a total of **Kshs.10, 585,496.15** has been analyzed and reconciled as shown below:

DEPOSIT		
CBK DATE	**PARTICULARS**	**AMOUNT**
28-Dec-15	Outward RTGS Payment MT 102	511,459.90
23-11-2016	STATE DEPARTMENT FOR INTERIOR	1,666,346.30
23-11-2016	STATE DEPARTMENT FOR INTERIOR	3,012,281.95
23-11-2016	STATE DEPARTMENT FOR INTERIOR	5,347,000.00
	VERONICAH MUTHONI	48,408.00
	TOTAL	**10,585,496.15**

The payments were properly approved and processed with all the relevant support documents attached and are available for verification.

Committee Observation and Findings

(i) The Committee observed that the necessary adjustments have been made in the cashbook.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

64.3 Acquisition of Assets

The statement of Receipts and payments reflects an amount of **Kshs.24,398,063,674.00** in respect of expenditure on Acquisition of Assets. However, a fixed assets register was not availed to confirm the existence of the acquired assets.

No explanation has been provided for failure to maintain the fixed register as required under section 143 of the public finance management (National Government) regulations, 2015.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Financial Statements did not include an updated summary of fixed assets as an annex contrary to section 143 of the public finance management (National Government) regulations 2015. The State Department is in the process of coming up with a comprehensive asset register which covers both assets at the head office and at the counties.

Committee Observation and Findings

(i) The Committee observed that indeed the State Department did not have a Fixed Assets Register in place.
(ii) The Committee observed that the preparation of assets register was in progress.

(iii)The matter remains unresolved.

Committee Recommendations

The Accounting Officer should prepare the asset register within three (3) months upon the adoption of this report and share the same with the the National Assembly.

64.4 Deposits

The Statements of Assets reflects a balance of **Kshs.474,232,315.00** in respect of deposits whose analysis has not been provided for audit review.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of assets as at 30 June 2017 reflected a district suspense account balance of **Kshs.157,397,821.00** which represented unaccounted for AIE's issued to various districts. The balance comprises of unspent AIE's which has been surrendered to the consolidated account and analysis is ongoing to establish the amount surrender and undertake the necessary course of action.

It was also true that the statement of assets as at 30 June 2017 reflects a deposits balance account of **Kshs.474, 232,315.00** which had not been analyzed. The balance has since been analyzed under the various activities as shown below: -

UPDATED SUMMARY OF DEPOSITS ANALYSIS AS AT 30TH JUNE 2017		
ITEM NO.	**TYPE OF DEPOSIT**	**AMOUNT HELD (KSHS.)**
1.	RETENTION HELD	378,119,342.45
2.	GES SUMMIT	6,415,800.00
3.	NACADA	16,424,266.10
4.	CASH BAIL	31,177,000.00
5.	KESAL FUNDS	38,331.40
6.	MSA OFFICE FUNDS	41,883,000.00
7.	AP JOINT OPERATIONS	174,575.00
	TOTAL	**474,232,314.95**
	C/B BALANCE	474,232,314.95

Committee Observations and Findings

(i) The Committee observed that the deposit analysis was availed, examined and verified.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

(i) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
(ii) **Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**

64.5 Pending Bills

Examination of the Financial statements show that bills totaling **Kshs.1,164,848.50** were not settled during the year under review but were instead carried forward to the Financial year 2017/2018. Had the bills been paid and the expenditure charged to the account for 2016/2018, the statement of receipts and payments for the year under review would have reflected a surplus of **Kshs.608,162,414.50** instead of a surplus of **Kshs.1,773,010,883.00** now reflected.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that records maintained by the State Department for Interior indicated that bills totaling to **Kshs.1,164,848,468.50** were not settled during the year 2016/2017 but were instead carried forward to 2017/2018. This was due to system challenges where by some of the payments failed to complete the payment process as a result of deactivation of IFMIS responsibilities and late loading of supplementary budget which was effected in the last week of June.

Committee Observations and Findings

(i) **The Committee observed that the pending bills have since been paid during 2017/2018 financial year.**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendation

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills are available, they should form a first charge in the subsequent year's budget thereby impending smooth implementation of the subsequent budget.

64.6. National Humanitarian Fund

Examination of the Financial Statements of the National Humanitarian Fund and those of State Department for Interior has revealed the following discrepancies; -

ITEM	NHF F/S (Kshs.)	SDIF/S (Kshs.)	Discrepancy (Kshs.)
Budget of NHF	1,987,703,859.00	2,000,000,000.00	12,296,141.00
Grants from SDI	1,933,899,805.00	1,977,951,815.00	44,052,010.00
		TOTAL	**56,348,151.00**

These discrepancies have not been explained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the financial statement of the National Humanitarian Fund and the State Department revealed the following discrepancies;

Item	NHF F/S (Kshs.)	SDI F/S (Kshs.)	Discrepancies
Budget of NHF	1,987,703,859.00	2,000,000,000.00	12,296,141.00
Grants from SDI	1,933,899,805.00	1,977,951,815.00	44,052,010.00
TOTAL			**56,348,151.00**

The discrepancy of **Kshs,56,348,151.00** comprises of **Kshs.12,296,141.00** which was a re-allocation/transfer in the system but was later. An amount of **Kshs.44,054,010.00** was expenditure incurred by the Ministry of Interior on behalf of NHF during the closure of the account under the State Department of Devolution and subsequent opening of a new account under State Department for Interior.

Below is a list of the payments that were paid amounting to **Kshs.44,054,010.00** by State Department for Interior. The balance of **Kshs.1,933,899,805.00** was subsequently transferred to the fund account in CBK when it became operational resulting to a total of **Kshs.1,977,951,815.00** as shown on the table as grant to SDI.

Payee	Voucher No.	Amount
1. Philip Abongo	1334	39,500.00
2. Martin Kimani	1635	52,000.00
3. M/s Nanortunga	3614	9,317,620.25
4. Hanamal Const.	3615	14,105,199.90
5. Kabira Ventures	3613	10,645,090.40
6. Allowances IDP leaders	3480	1,568,000.00
7. Mileage IDP leaders	3410	1,083,600.00
8. Allowances Committee/Secretariat	3479	4,575,000.00
9. Imprest Presidential function Kisii	3448	2,666,800.00
	Total	**44,052,810.55**

Committee Observations and Findings

(i) The Committee observed that the balance of Kshs.56,348,151.00 has been reconciled.

(ii) The Committee marked the matter as resolved.

Committee Recommendation

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

REVENUE STATEMENT – STATE DEPARTMENT FOR INTERIOR

Basis for Qualified Opinion

65. Inaccuracy of the Revenue Statement

The statement of receipts and transfers reflects total non-tax receipts of Kshs.10,752,953,005 which differs with the amount of Kshs.10,562,478,476 shown in the trial balance. The resulting difference of Kshs.190,474,529 has not been explained or reconciled.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the Statement of Receipts and Transfers reflect total Non-Tax receipts of Kshs.10,752,953,005.00 which differs with the amount of Kshs. 10,562,478,476.00 shown in the Trial Balance resulting in a difference of Kshs.190,474,528.95

We have established that receipts totalling to Kshs.190,474,529.10 were erroneously omitted in the IFMIS system. The amounts omitted are analysed below:-

1. Registration of births	-	6,187,482.00
2. Visa fees	-	6,707,991.10
3. Passport fees	-	116,328,284.50
4. Work permits	-	36,488,629.50
5. ID fees	-	283,000.00
6. Other Immigration fees	-	329,860.00
7. Good Conduct fees	-	2,046,150.00
8. Hire of security	-	22,102,969.00
Total.		**190,474,529.10**

The omitted amounts have been adjusted by capturing the receipts under the relevant revenue items, hence the Revenue statement and Trial balance are in agreement reflecting total revenue collection of Kshs. 10,752,953,005.00.

Committee Observations and Findings

(i) The Committee observed that the reconciliation of the difference has been made.
(ii) The Committee marked the matter as resolved

Committee Recommendation

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

66. Revenue from Hire of Security Services

66.1. Although, Security of Government Buildings (SGB) unit offers security services to Kenya Revenue Authority (KRA), records show that KRA did not pay for the services during the period starting January 2016 to June 2017 contrary to Regulation 64(1)(a) and (b) of the Public Finance Management (National Government) Regulations, 2015. In addition, the State Department does not maintain record of staff deployed to provide security services to KRA offices and field stations.

Further, the hire of security services was not paid for in advance during the year under review contrary to Section 57(6) (1) of the National Police Service (NPS) standing orders.

Submission by Accounting Officer

a) A Second demand letter has been presented to KRA dated 25th march 2019, for further actions since the presentation of the first letter on 1st August 2016 ref SGB/EI/16/VOL.V, Discussion was held by the commandant of SGB unit with KRA management and a commitment letter by KRA was presented promising to clear the total balance due**.**

b) Although, the auditor went to the offices of Security of Government Buildings (SGB), the list of deployment was not presented or returns from the field was not available at the time for verification, we would like to state that now the schedules are available for your verifications.

c) It was not a requirement that revenue from an institution like KRA to be collected or paid for in advance. The auditor relied on the provisions of NPS standing order chapter 57 sec5 (1). The bone of contention here is the interpretation of the said provision, the provision makes reference to private premises and public place where entry is temporarily regulated by the charging of a fee, such as race, meetings and football matches, in this regard for KRA deployment of security is not temporary because a signed contract agreement between the KRA management and the security Agent was signed.

66.2. Although the Regional Commander for Administration Police Service, Nairobi, appears to have collected revenue totalling Kshs.11,241,747 during the year under review, the accuracy and completeness of this figure cannot be confirmed in the absence of:

(i) Deployment registers and books of account as required under Regulation 64(6) of the Public Finance Management (National Government) Regulations, 2015 and Section 57 (4) of the NPS Standing Orders; and

(ii) Documentary evidence relating to revenue collected from Standard Chartered Bank - Harambee Avenue, Standard Chartered Bank - Kenyatta Avenue and Safaricom Offices at Sarit Centre, where armed Administration Police Officers have been guarding.

Submission by Accounting Officer

The books of accounts are available for examination and review, the deployment register has been availed for review and examination as well**.** *The* NPS standing orders is also made available**.** There were no AP officers stationed at the offices above as at that time but after the west gate attack the Regional commandant felt that there was need to enhance security patrols within the mall and its environs to deter such future attacks, Documentary evidence has been availed in the form of a letter by standard chartered bank to OCPD central police division confirming armed guarding services by the Kenya Police Services dated 12th Jan 2017.

Committee Observations and Findings

(i) The Committee observed that the documents and records were made available and verified.
(ii) The Committee marked the matter as resolved.

66.3. Examination of records maintained at the Rapid Deployment Unit (RDU), shows that revenue totalling Kshs.6,178,050 was irregularly spent at source contrary to Regulation 64(4) of Public Finance Management (National Government) Regulations, 2015 as follows:

Station	**Irregular Deductions (Kshs.)**
RDU	726,450
Sub county AP commander- Ndhiwa	561,000
Sub county AP commander- Mbita	1,799,000
Sub county AP commander- Homabay	1,178,000
Sub county AP commander- Siaya	1,544,300
Sub county AP commander- Rachuonyo South	369,300
Total	**6,178,050**

In addition, Kenya Gazette Notice No. 955 dated 09 February 2007 requires that charges for hire of security for police officers ranked as constable is Kshs.100 per hour. However, the officer in charge of Rapid Deployment Unit (RDU) charged a firm at the rate of Kshs.50 per hour, resulting in a loss of Kshs.876,000.

Submission by Accounting Officer

After this observation was made last year (2018), the firm was contacted and arrangements to provide lunches to the officers were agreed to be from their end and not from the revenue generated.

So as to recover the previous deductions that had already been made amounting to Kshs.**726, 450.00**, the firm was approached and they agreed to clear the amount through bankers cheques to the Principal Secretary, Ministry of Interior and Coordination of National Government:

S/NO	CHEQUE NO	DATED	AMOUNT
1	005248	04-04-2019	282,600.00
2	005249	04-04-2019	252,000.00
3	059213	04-04-2019	17,500.00
4	059210	04-04-2019	17,900.00
5	059211	04-04-2019	17,500.00
6	059212	04-04-2019	17,000.00
7	005549	09-04-2019	18,525.00
8	005550	09-04-2019	18,575.00
9	005547	09-04-2019	25,425.00
10	005548	09-04-2019	17,575.00
11	005551	09-04-2019	41,850.00
		TOTAL	**726,450.00**

UNDERCHARGE OF REVENUE AT RDU – KSHS.876,000.00

Observation: Examination of records held with us also pinpointed that there was an undercharge of hourly rate from Kshs.100 to 50/= for security services offered to Brinks Security Services (K) Limited between July 2016 and June 2017 which amounted to Kshs. 876,000.00.

Submission by Accounting Officer

The Accounting Officer submitted that after communication was made to the firm, they agreed to settle the underpayment that was indeed honored through cheques (copies attached) as shown in the data below;

S/No.	Cheque No.	Amount	Date forwarded to APHQS	Date Banked (KCB)	Balance
1.	009376	216,000.00	10.05.2018		660,000.00
2.	000295	124,000.00	26.08.2018	27.09.2018	536,000.00
3.	004617	124,000.00	26.08.2018	27.09.2018	412,000.00
4.	009588	120,000.00	24.10.2018	31.10.2018	292,000.00
5.	004811	124,000.00	30.11.2018	03.12.2018	168,000.00
6.	009751	120,000.00	03.01.2019	10.01.2019	48,000.00
7.	501817	48,000.00	14.02.2019	15.02.2019	**NIL**
TOTAL		**876,000.00**			

All cheques were deposited and credited to **Principal Secretary, Ministry of Interior and Co-ordination of National Government A/C 1119759730.**
Sub county irregular deductions:

Observations: on examination of records showed that revenue was irregularly spent at source contrary to public finance management in the following subcounties Ndhiwa Kshs 561,000, Mbita Kshs 1,799,000, Homabay Kshs 1,178,000, siaya kshs 1,544,000, Rachuonyo south kshs 369,300.

Submission by Accounting Officer

The Accounting Officer submitted that it was true to record that with respect to security services was spent at source contrary to section 64(4) of the Public Finance Management, in regard to this, Homabay county has availed minutes with the relevant institutions and a list of the officers stationed at the institutions during the period, the amount was paid to the officers as their daily subsistence allowance.

Committee Observations and Findings

(i) The Committee observed that the explanation provided, and the documents availed were satisfactory.
(ii) The Committee marked the matter as resolved.

67. Revenue from Issuance of Police Clearance Certificates

According to Note 1 to the revenue statements, the State Department collected an amount of Kshs.373,272,300.00 against certificate of good conduct (certificates of police clearance) in the financial year 2016/2017. The amount includes Kshs. 55,130,292.00 and Kshs.318,142,008.00 surrendered by DCI headquarters and DCI county offices respectively.

However, audit inspection undertaken at the Directorate of Criminal Investigations (DCI) headquarters indicate that 639,546 police clearance certificates were issued at an application fee of Kshs.1,000 each during the year under review bringing the total amount due from issue of police clearance certificates to Kshs.639,546,000.00.

The difference of Kshs.266,273,700.00 between the amount collectable of Kshs.639,546,000.00 and amount recorded of Kshs.373,272,300.00 has not been explained or reconciled.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that according to Note 1 of the Revenue statements, the state Department collected an amount of Kshs.373,272,300.00 against Certificate of Good Conduct in the Financial year 2016/2017. The amount includes Kshs.55,130,292.00 and Kshs.318,142,008.00 surrendered by DCI Headquarters and DCI County offices respectively.

It was also true that Kshs.639,546.00 Police clearance certificates were issued at an application fee of Kshs.1,000.00 each during the year under review, bringing the total amount to Kshs.639,546,000.00 hence a difference of 266,273,700.00 between the amount collectable of Kshs 639,546,000.00 and amount recorded of Kshs 373,272,300.00

The difference of Kshs.266,273,700.00 which is not recorded is as a result of non-remittance of revenue collected by Postal Corporation of Kenya at the Huduma Centres. The matter has since been handed to the DCI to conduct investigation on the accumulated debt and institute legal action if necessary. Copies of correspondence between the investigation team and PCK are attached for reference.

Committee Observations and Findings

(i) The Committee observed that the difference in revenue collection was as a result of non-remittance of revenues collected in Huduma Centers by Postal Cooperation of Kenya.
(ii) The Committee observed that the above non-remittance by Postal Cooperation cuts across many State Departments and require a holistic approach by the Cabinet.
(iii)The Committee marked the unresolved.

Committee Recommendations

(i) The Postal cooperation of Kenya should be discontinued from collecting revenue.
(ii) National Treasury follow up with the Postal Cooperation with a view of recovering the money and report to the National Assembly.

68. Undisclosed Revenue Collected from Issue of Work Permits

Note 1 to the revenue statements discloses that an amount of Kshs.4,038,858,777 was collected from work permit fees. In the 2016/2017 financial year, records maintained at work permit section show that 2,964 work permits valued at Kshs.521,660,000 were issued without miscellaneous receipts. In the circumstances, it is not possible to confirm that the amount of Kshs.521,660,000 was received, accounted for and deposited into the revenue account.

In addition, records show that various blank work permit books were issued to the work permit section. However, 965 blank work permits have not been accounted for.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that section 64(1) of the public finance management (National Government) regulations, 2015 states that an Accounting Officer and a receiver of revenue are personally responsible for ensuring that:

a. Adequate safeguards exist and are applied for the prompt collection and proper accounting for all National Government revenue and other public monies relating to their ministries, departments and agencies.

b. Adequate measures, including legal action where appropriate, are taken to obtain payment;

c. Official receipts are issued for all monies paid to the government of Kenya;

d. Section 64(6) of the public finance management (National Government) regulations, 2015 states that an Accounting Officer or receiver of revenue or collector of revenue shall ensure that adequate books of accounts are kept relating to revenue collection and management.

e. Section 20(1) of the Kenya citizenship and immigration regulations, 2012 states that an application for a residence or work permit shall be made to the director in form 25 set out in the first schedule.

f. Section 20(2) of the Kenya citizenship and immigration regulations, 2012 states that the director shall, after considering an application made under paragraph (1) issue a residence or work permit, in any of the classes specified in the seventh schedule, in form 26 set out in the first schedule, upon payment of the applicable fees prescribed in the ninth schedule

After considering the audit report in light of the above financial regulations, we wish to confirm that as far as the revenue earned from issuance of work permits during the 2016/2017 financial year is concerned, there were no irregularities. Collection, accounting and reporting was done as per the laid down financial regulations. To confirm this the following clarifications on the issues raised in the query are hereby presented for review:

Unpaid for work permits. Records maintained by immigration department through the Foreign Nationals Management System which was availed to the team for analysis and verification indicate that during the year under review the position of permits issued can be summarized as below;

No. of total permits issued	**19,908**
No. of permits paid for	**16,944**
No. of permits issued and not paid for	**2,964**

The 2,964 cases are those whose applicants qualified for exemptions from payment of prescribed fees as required under regulations 20 (2) and 56 respectively, of the Kenya citizenship and immigration regulations, 2012. Appendix A which was extracted from the report availed by the Immigration Department during the time of audit indicates the 2,964 cases which were exempted from payment of the work permit fees. 2,583 work permits were issued to Tanzanians, Ugandans, Rwandese, Congolese and the Chinese who are legally exempted as per the attached gazette notices. The remaining 381 permits were issued to individuals of other nationalities who are not covered in the blanket waiver of their nationalities but qualiFinancial Year individually due to reasons contained in their exemption letters. In respect of each of the 381 cases, a copy of an exemption letter which gave the authority is attached for reference.

Hence from the foregoing, the 2,964 applicants did not pay any revenue to the government and the Kshs.521,660,000.00 which was assumed by the audit team as having been received by the department should be dismissed. This is why in the *foreign nationals management system* report, the serial numbers of the miscellaneous receipt and the date of payment are not indicated. The attached exemption letters and gazette notices confirm that no monies were collected from these applicants and the government did not incur any loss of revenue as indicated in the query.

On the other hand, all the 16,964 applicants who did not qualiFinancial Year for exemption paid the required fee and an official receipt issued confirming receipt of revenue by the government. This confirms adherence by the department of immigration services to the requirement that an official receipt must be issued on any payment of revenue to the government.

Unaccounted 965 work permits. On this issue, we wish to clariFinancial Year that during the year under review the department of immigration services was issued with four hundred (400) work permit booklets. Since each booklet contains fifty (50) leaves, this translates to a total of 20,000 work permits. In the report the auditor has implied that 965 work permits whose serial numbers are reflected in an appendix attached to the query, were not accounted. The reason, according to the report being that, they are not reflected among the work permits issued as contained in the *foreign nationals management system* report for the year under reference.

It has however been established that some of the serial numbers which are said not to have been accounted are in the report**.**

It has also further been established that, the other bulk contains cancelled work permit leaves. Since they were not issued to any individual and the report contains only the issued work permits, this confirms the reason for their exclusion for work permits issued during the year under reference**.** As required by the government regulations, any cancelled receipt or document should be left intact in the book for verification and audit purposes.

Committee Observations and Findings

(i) The documents tabled by the Accounting Officer explaining the validity, accuracy and correctness of 2,964 work permits valued at Kshs.521,660,000.00 reported in the Revenue Statement for the year ended 30 June 2017 were reviewed and found satisfactory.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

69. Unaccounted Revenue Collected through e-Citizen

Although indications are that e-Citizen has enhanced delivery of services to the citizens and public, no documentary evidence has been provided to confirm that revenue collected through e-Citizen during the year under review was transferred to the Principal Secretary who is the receiver of revenue for the State Department.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that The State Department of Interior collects some of its revenue through the E- Citizen service portal. The revenue collected through this portal incudes the issuance of certificate of good conduct, birth and death certificates, passport fees and work permits. During the 2016/2017 financial year the following amounts were reported in the statement of revenue in respect revenues mentioned herein:

TYPE OF REVENUE	AMOUNT
Certificate of Good Conduct	**373,272,300.00**
Registration of Births and Deaths	**134,076,281.00**
Passport Fees	**1,047,089,020.00**
Work Permits	**4,038,858,777.05**

He stated that the above amounts reported are verifiable and can be confirmed from the following records.

1. **Summary of monthly collections**.

This is a schedule indicating monthly collections in respect of all categories of revenue collected by the State Department of Interior. This is extracted from individual monthly bank statements and the horizontal grand totals agree with the total amounts reflected at the end of each month's bank statement. The vertical grand totals are equivalent to the amounts captured in the revenue statement in respect of each class of revenue.

2. **Central Bank Revenue Account Statements**

The statements have been analyzed to indicate the class of revenue to which each credit entry relates. The statements also provide the following details where the credit entries relate to the E-Citizen revenue:

The *class of revenue,* e.g. 1420224 for birth certificates, 1420225 for visa fees, 1420226 for passports and temporary permits, 1420229 for work permits and alien registrations and 1420234 for the good conduct certificates. It is this information which assists in ascertaining the class of revenue which each credit entry relates.

The batch number. Each individual accessing the portal for a service is given a unique identity and grouped into a particular batch. The batch consists a number of applicants and the total funds paid by the applicants in a batch are transferred in whole. Hence the batch number and the total amount of the batch are used to reconcile the credits in the bank state and the individual batches of all the revenues collected by the pesa flow through the E-Citizen portal.

3. **The Pesa flow schedule**.

This indicates the batch number, number of applicants, service provided, net amount paid by the applicants etc. These batch numbers are the ones reflected in the bank statement as stated above. It is worth noting that all the batches available in the E-Citizen portal are reflected in the bank statements which is a clear indication that all the funds paid by applicants for a service are remitted to the government as required**.**

4. **Batch analysis**.

This shows the details of individuals in each batch. This include the unique reference number, names of the payee, the payees' national Id number, amount paid and mode of payment. Due to the bulkiness only form is attached information however all other schedules of analysis in respect of each batch is available in soft copy

Further to the above it should be noted that all the revenue received in the ministry's bank account is transferred/ surrendered to the exchequer on a daily basis. Each day commences with a nil balance. This can be confirmed from the bank statements. Also, currently transfers from the E-citizen pesa flow account are done every Mondays, Wednesdays and Fridays and hence no delays in in delivering the collected revenue to the receiver as stipulated in section 76 (2) of the Public Finance Management Act 2012.

Committee Observations and Findings

(i) The submission by the Accounting Officer and accompanying documents of transfer of revenue to the Principal Secretary were satisfactory.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

NATIONAL COHESION AND INTEGRATION COMMISSION

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this Commission.

THE GOVERNMENT PRESS FUND

Unqualified Opinion

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

NATIONAL HUMANITARIAN FUND

Basis for Qualified Opinion

70. Unaccounted for Imprests and Advances

The statement of financial assets and liabilities as at 30 June 2017 reflects a balance of Kshs.71,960,000 against imprests and advances. Available records indicate that advances totalling Kshs.129,893,050 were previously issued to five County Commissioners in which an amount of Kshs.45,120,477 was refunded to the Fund`s bank account at Central Bank of Kenya while Kshs.12,812,573 in respect of two counties was accounted for through payment vouchers leaving a balance of Kshs.71,960,000.

No satisfactory explanation has been provided for failure by Mandera, Nakuru and Bomet County Commissioners to account for the remaining balance of Kshs.71,960,000 as required under Section 71 of the Public Finance Management Act,2012.

Committee Observations and Findings

- **(i) The Committee observed that advances totalling Kshs.129,893,050 were previously issued to five County Commissioners of which an amount of Kshs.45,120,477 was refunded to the Fund`s bank account at Central Bank of Kenya;**
- **(ii) The Committee observed that while Kshs.12,812,573 in respect of two counties was accounted for through payment vouchers, a balance of Kshs.71,960,000 remains unaccounted for by the County Commissioners dof Mandera, Bomet and Nakuru Counties.**

Committee Recommendations

Within three months of the adoption of this report, the Accounting Officer must take action to recover the full amount of Kshs.71,960,000.00 from the salary of the defaulting County Commissioners with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.

KENYA CITIZENS AND FOREIGN NATIONALS MANAGEMENT

SERVICE Unqualified Opinion

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

Other Matter

71.Human Resource Management

During the year under review and as similarly reported in the past financial years, the Service continued to be managed by an acting Director General/Chief Executive. No justification has been made for failure of the Board to recruit a substantive Director General /Chief Executive competitively 33 in accordance with Section 13(1) and (2) of the Kenya Citizens and Foreign Nationals Management Act, 2011.

It has further been observed that the Board has not designed to date a proposed organization and pay structure for the Service for consideration and advice by the Salaries and Remuneration Commission. In addition, failure by the State Corporations Advisory Committee (SCAC) to categorize the Service has hampered delivery of services in accordance with Section 4(2) of the Kenya Citizens and Foreign Nationals Management Service Act. Ministry's Response The Kenya Citizens and Foreign Nationals Management Service was not operationalized and this is why it never had a substantive chief executive.

The Board has since had its term ended without a replacement.

Current Status: The matter has been left for Public Accounts Committee determination.

72. Lack of Budgetary Approval

The statement of comparison of budget and actual amounts reflects a final budget of Kshs.91,215,000 for the year 2016/2017.

However, the budget was not approved by the Cabinet Secretary contrary to Section 19(3) of the Kenya Citizens and Foreign Nationals Management Act, 2011. In addition, the omission contravened Section 68 (1) of the Public Finance Management Act, 2012. Ministry's Response I would like to confirm that we received the National Treasury's recommendations for approval of the budgets for the service for both 2016/2017 and 2017/2018 financial years vide letter Ref. No. DGIPE/A/1/10 dated 12 April, 2017 (copy attached).

Committee Observations and Findings

(i) The submission by the Accounting Officer and accompanying documents of budget approval were satisfactory. The Committee marked the matter as resolved.
(ii) The Committee observed that the budget approval has been availed for audit review. The Committee marked the matter as resolved.

6.0. THE STATE DEPARTMENT FOR CORRECTIONAL SERVICES

FINANCIAL STATEMENTS FOR VOTE 1023

Ms. Zainabu Hussein, the Accounting Officer for State Department of Correctional Services (Vote 1023) appeared before the committee on 23rd July 2019 and 1st August 2019 to adduce evidence on the Audited Financial Statements for State Department of Correctional Services (Vote 1023) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). She was accompanied by the following officials:

1. **Mr. Wycliffe O. Ogallo - Commissioner General**
2. **Mr. Joseph Kirubi - Director Administration**
3. **Mr. Philip M. Gathuya - Chief Finance Office**
4. **Mr. Evans Achimba - PSCNTO**
5. **Mr. Mwangi Daniel - Accountant**
6. **Mr. Richard O. Ombima - Deputy Commissioner of Police**
7. **Mr. Silas Mutwiri - Chief Inspector**

Basis for Adverse Opinion

73. Pending bills

Disclosed at Note 13.1 and detailed in Annex 1 to the financial statements are bills totalling Kshs.6,519,486,805 that were pending as at 30 June 2017. Failure to settle the bills in the year to which they relate adversely affects the following year's provision to which they have to be charged. Had the pending bills been paid and the expenditure charged to the accounts for financial year 2016/2017, the statement of receipts and payments would have reflected a deficit of Kshs.6,264,037,418 instead of the net surplus of Kshs.255,449,387 now shown.

Further, audit verification of the bills undertaken during the months of March and April 2018 at the Prisons Headquarters and in a sample of thirty-two (32) prisons across the country revealed the following irregularities:

Submission by Accounting Officer

The Accounting Officer admitted that records maintained at the State Department for Correctional Services indicated bills totaling to Kshs. 6,519,486, 805 relating to financial year 2016/17 and earlier years which were not settled during the financial year but were instead carried forward to financial year 2017/18. She further admitted that the state Department had net surplus of Kshs. 255,449,387 in the statement of receipts and payments. The surpluses did not relate to items that had pending bills and therefore these balances could not be applied to reduce pending bills.

73.1. Invalid Pending Bills at the Headquarters

Bills totalling Kshs.288,612,468 reflected in the headquarters records could not be traced to the records of the prisons where food ration was claimed to have been delivered. In addition, bills totalling Kshs.18,613,290 which related to the suppliers of food ration who had already been paid for the same at the headquarters but were still listed as pending.

Submission by Accounting Officer

The Accounting Officer admitted that audit verification of pending bills totaling to Kshs. 288,612,486 reflected in headquarters records could not be traced to the records in the Prisons where food ration was claimed to have been delivered.

She further admitted that the pending bills cleared during the Financial Year 2016/17 at headquarters totaling to Kshs. 18,613,290 had not been updated from the pending bills list that was given to the auditors.

Committee Observations and Findings

(i) The committee observed that the pending bills cleared during the Financial Year 2016/17 at headquarters totaling to Kshs. 18,613,290 had not been updated from the pending bills list that was given to the auditors.
(ii) The committee marked the matter as resolved.

73.2. Irregular Payments of Pending Bills

According to signal Ref. NO. PRIS 8/12 VOL. II (149) dated 30 September 2016 sent to Regional Commanders, the headquarters paid pending totalling Kshs.1,564,276,638 on behalf of various prisons. However, the following anomalies were noted:

i) Receipt of food ration for bills totalling Kshs.304,406,454 paid at the headquarters could not be traced to the records maintained at various prisons across the country.
ii) Although bills totalling Kshs.2,367,000 were paid at the headquarters on behalf of Kibos Medium Prison, a verification at the prison revealed that the two of the suppliers paid did not deliver the purported food ration.
iii) Although, an amount of Kshs.12,391,302 was paid at the headquarters in relation to pending bills for Kisumu Main Prison, records show that the suppliers did not receive the purported amount paid. Indications are that the payments were irregularly made to recipients who did not supply food to the prison.
iv) Cases of double payments totalling Kshs.22,579,752 in respect of Naivasha, Eldoret, Kakamega Prisons and Shikusa Borstal.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that records maintained at the State Department for Correctional Services indicated bills totaling to Kshs. 6,519,486, 805 relating to financial year 2016/17 and earlier years which were not settled during the financial year but were instead carried forward to financial year 2017/18. It was true that the state Department had net surplus of Kshs. 255,449,387 in the statement of receipts and payments. The surpluses did not relate to items that had pending bills and therefore these balances could not be applied to reduce pending bills.

Committee Observations and Findings

- **(i) The Committee observed that the State Department for Correctional Services had pending bills totaling to Kshs. 6,519,486, 805 relating to financial year 2016/17 and earlier years which were not settled during the financial year but were instead carried forward to financial year 2017/18**
- **(ii) The Committee observed that the surpluses of Kshs. 255,449,387 did not relate to items that had pending bills and therefore the balances could not be applied to reduce pending bills.**
- **(iii)The Committee marked the matter as resolved.**

Committee Recommendations

The Accounting Officer should ensure that verified and supported pending bills form a fisrt charge in the subsequent financial yerars budget.

73.3. Other Invalid Pending Bills

Further, records maintained at the headquarters show that bills amounting to Kshs.7,454,000, Kshs.10,777,500 and Kshs.10,022,500 were pending at Meru Women, Nyeri Medium and Naivasha Medium Prisons respectively. However, a verification at the prisons revealed massive irregularities as the purported suppliers had never been contracted to supply food and there were no deliveries or receipts at the three prisons.

Submission by Accounting Officer

The Accounting Officer admitted that records maintained at the headquarters show that bills amounting to Kshs. 7,454,000, Kshs. 10,777,500 and Kshs. 10,022,500 were pending at Meru Women, Nyeri Medium and Naivasha Medium prisons respectively.

On the above three sub paragraphs, the following has been undertaken:

i. The stated pending bills claims dating back from 2009 to date, the majority relate to food ration and firewood incurred at various prison stations.

ii. The State Department has undertaken the following steps towards resolving the pending bills claims:

- Initiated teams with the aim of resolving the pending claims by engaging special audit teams whose report was submitted to the state department on 20th March 2019 and the multi-agency task force's report received on 6th May 2019.
- Both the special audit and multi-agency task force reports revealed that laws and regulation on Public Procurement and Asset Disposal and Public Financial Management Acts were not fully adhered to as stipulated.
- All pending bills claims have been forwarded for consideration to the pending bills closing committee of the National Treasury.

Committee Observations and Findings

(i) The Committee observed that the stated pending bills claims date back from 2009 to date, and majority relate to food ration and firewood incurred at various prison stations.

(ii) The Committee observed that the pending bills claims have been forwarded for consideration to the pending bills closing committee of the National Treasury.

(iii)The matter remained unresolved.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

74. Procurement of Firewood

Audit verification undertaken in ten prisons revealed that firewood valued at Kshs.128,615,530 was claimed to have been received in the stores and issued out of the stores. However, documentary evidence of inspection of deliveries was not provided for audit review. In addition, the prisons did not have weighing scales for the firewood and consequently, it is not clear how the actual tonnage of firewood delivered was determined.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that firewood valued Kshs. 128,615,530 was received in stores and issued for use in the ten (10) Prisons.

The State Department wishes to clariFinancial Year that the Stations receive wood fuel from suppliers and ascertain the tonnage by measuring the cubic volume of the vehicles that made the deliveries and therein converting the volume into tonnage to ascertain the quantity delivered.

Stations also utilize flat weighing machines on daily issues of firewood to the prisons kitchens. The prisons utilize three ways of measuring /weighing their ration items on receipts and issues.

i. Weigh toll stations where available.

ii. Volume calculation and conversion thereon {1 cubic meter (1m3) = 0.769 tonne}

iii. Flat weighing machines on issue.

Committee Observations and Findings

(i) The Committee observed that the State Department calculated tonnage by measuring the cubic volume of the vehicle and therein converting the volume into tonnage.

(ii) The Committee observed that documentary evidence of inspection of deliveries was not provided for audit review.

(iii)The matter remains unresolved.

Committee Recommendations

The Accounting Officer should put in place a water tight system of verifying delivery of firewood within three months after the adoption of this report.

75. Funding of Food Ration and Firewood

Section 74 (1) (g) of the Prisons Act, 2016, gives provision of suitable diet and the Prisons Service through Internal Memo dated 26 April, 2018 states that a prisoner should consume an equivalent of Kshs.217.5 per day for meals and firewood. However, the audit revealed that some prisons were overfunded while others were underfunded as follows:

Over Funded Prisons

2014/2015	Avg. Lock Up	Rate/Prisoner	Days per Year	Expected AIE AllocationKshs.	Actual AIE Allocation-Kshs.	OverFundingKshs.
KERICHO MEDIUM	258	217.5	365	20,481,975	25,500,000	(5,018,025)
KERICHO WOMEN	90	217.5	365	7,144,875	8,000,000	(855,125)
KAMITI YCTC	54	217.5	365	4,286,925	7,336,500	(3,049,575)
						(8,922,725)

Under Funded Prisons (29 Prisons)

Year	Expected AIE Allocation – Kshs.	Actual AIE Allocation- Kshs.	Under FundingKshs.
2014/2015	2,519,918,025	1,346,466,500	1,173,451,525
2015/2016	2,554,689,750	695,347,000	1,859,342,750
2016/2017	2,421,318,750	969,000,216	1,452,318,534
TOTAL	**7,495,926,525**	**3,010,813,716**	**4,485,112,809**

No satisfactory explanation has been provided for the over and under-funding.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that three (3) prisons were overfunded by a total of Kshs. 8,922,725. Additional funds were provided to the stations to cater for expenses of feeding additional inmates brought in for labour, unexpected inmates population fluctuation, provide special diet to sick inmates and young children aged below four years accompanying their mothers to prison.

It was true that Twenty-nine (29) prisons were underfunded by a total of Kshs. 4,485,112, 809 between financial years 2014/2015 and 2016/2017. Whereas the lockup as per the stations number of inmates required funds as computed by the auditors, the state department is subject to budget ceilings issued by the National Treasury and Parliament. The budget provided were way below the total requirement for the penal institutions based on the lockup numbers.

Committee Observations and Findings

- **(i) The Committee observed that three (3) prisons were overfunded by a total of Kshs. 8,922,725.**
- **(ii) The Committee observed that additional funds were provided to the stations to cater for expenses of feeding additional inmates brought in for labour, unexpected inmates population fluctuation, provide special diet to sick inmates and young children aged below four years accompanying their mothers to prison. This explanation was satisfactory.**
- **(iii)The Committee marked the matter as resolved.**

Committee Recommendations

The Accounting Officer responsible for prisons matters should, at all times, enure that all prisons are funded equitably to ensure all inmates are safe, adequately fed and provided for other services especially for the young children aged below four years accompanying their mothers to prison.

76. Proposed Erection and Completion of Staff Housing at Nakuru and Eldoret G.K Prisons.

Audit inspections undertaken at Kenya Prison Services Eldoret and Nakuru stations on 11 and 14 December 2017, respectively revealed that the then Office of the Vice President and Ministry of Home Affairs awarded the above contract No. WP. ITEM NO.RV/NKR 501 JOB NO. 0138F & 0304F, to a contractor at a tender amount of Kshs.102,285,587 and works commenced on 18 August 2006. Records also show that the contract amount was later revised to Kshs.198,159,364, while the completion date of the contract initially recorded as 52 weeks and estimated to end on12 September 2007 was later revised to 31 August 2012.

Records made available for audit indicates that the contractor has so far been paid Kshs.182,665,540 or 92% of contract sum and works completed stands at 98% while more than ten (10) years have elapsed.

The contract records also indicate that the contractor entered into another contract with another contractor on unclear date to execute awarded works on their behalf. However, the contractor abandoned works due to outstanding payments of executed works. It is not clear under what circumstances the electrical sub-contract with the initial contractor terminated on 12 October 2011 and another arrangement made with another contractor to undertake electrical sub-contract since December 2011.

A physical status report submitted by a Senior Superintending Architect (SSA) on 8 August 2013 disclosed progress as follows:

(i). Eldoret Prison

1. Six (6) bungalows with incomplete electrical works. Due to poor condition in which prison officers live, these houses are occupied in their incomplete state.
2. First block of the flats with eight (8) houses is 90% complete. Second and third block of flats with sixteen (16) houses are incomplete
3. Plumbing and drainage works is 40% complete

(ii). Nakuru Prison

1. Builder's Works in all twenty (20) units is complete
2. Electrical Works is at 65% complete
3. Plumbing and drainage works is at 40% complete

The following was observed during the audit

(i). The contract has taken more than ten years or 520 weeks to be completed as opposed to initially planned 52 weeks.

(ii). Main Builder's poor performance on site resulted in use of domestic sub-contractors to undertake his works.

(iii). There is a claim on escalation in costs which has not been approved. It was explained that the contractor's delay to deliver the project on schedule is the main reasons for escalation in costs.

(iv). There are no site meetings or consultative meetings going on as the prison staff continue to live in horrible shelters.

The Architect has recommended a handing over of site "as it is" to the client (State Department of Correctional Services) so that outstanding works can be completed in phases under County Works Officers.

In an effort to complete the project in phases, the State Department for Correctional Services allocated Kshs.12,000,000 and Kshs.32,000,000 for Nakuru and Eldoret Main Prisons respectively, during the 2016/2017 financial year.

AIEs were subsequently issued to Officers-in-Charge of the two Prisons. However, the Commissioner General has proposed that the existing contract should be terminated first before undertaking the remaining works.

Although the proposed way forward is reasonable, a thorough evaluation and documentation of outstanding works is yet to be done by a team composed of an Architect, a Quantity Surveyor; Electrical, Structural and Mechanical (BS) Engineers. However, the proposed way forward is silent on legal consequences/implications of handing over this site to the client "as it is".

The State Department is reported to have written to the Attorney General seeking legal opinion on this matter. The Chief Architect (Project Manager) and technical team serving at State Department of Public Works should have provided the necessary advice on this matter.

Through their incomplete letter Ref: B.D05/0138F & 0304E/103 dated 31 July 2015, the Directorate of Public Works claims that it does not have institutional memory and, therefore, can't sort out what was paid for specific items on the two sites since the project was run as one contract and can't advise on the issue of omitting part of works. It is not clear how the project manager would certiFinancial Year payments totalling Kshs.182,665,540 or 92% of contract sum without institutional memory, therefore, can't sort out payments in terms of the items.

Major outstanding works relate to two specialist sub-contractors (electrical and plumbing) both of whom have abandoned the site. They are documented as follows:

i) Electricity connection and meters
ii) Water supply connection and meters
iii) Incomplete electrical works (electrical fittings and connections to mains)
iv) Incomplete plumbing (water storage tanks) and drainage works
v) Stolen manhole covers posing risk to residents
vi) Fixing ridge tiles at flats in Eldoret
vii) Visible deterioration in terms of shrub growth on concrete surface, leakages, peeling off of putty and paints.
viii) The contract site is bushy, dark at night posing threat of attack from wild animals like leopards to residents as has been experienced before when the Prison lost 41 flock of sheep.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the above houses in Nakuru and Eldoret GK Prisons were contracted to M/S Burrell International as the main contractor at a tender sum of Kshs.102, 285,589.00 and works commenced on 18/8/2006.

The contract sum was later revised to Ksh 198,159,360.39 out of which Kshs.182, 665,539.79 has since been paid.

This presents 92% of the contract sum and the works completed stands at 98%. The remaining works has taken more than 10 years to complete. The main contractor sub-contracted M/S Spion Construction Company as Domestic Sub-contractor to proceed with the awarded works under the direction of the Project Manager and the following services sub-contractors were identified.

1) M/S Liteline Ltd for electrical works whose services were terminated and replaced by M/S Advance Refrigeration and Electrical Sales Limited with effect from December, 2011.
2) M/S Aqua Plumbers for plumbing and mechanical.

The contract was not fully executed and up to now there are a number of outstanding works which are critical for habitation. The shortage of staff houses was so critical such that some officers occupied the incomplete houses.

In this regard, a letter had been written to the Attorney General to seek legal advice on termination of the contract to pave way for engaging internal labour. Equally, a letter had been written to the State Department of Public Works for assessment and approximation cost of the outstanding works.

The State Department of Public Works did their evaluation and replied vide their letter Ref.QD05/0138F & 0304E TY/ (154) of 20/2/2018 which gives a way forward and a budget provision of Kshs. Thirty-Three Million Nine Hundred Thousand (Kshs 33,900,000) has been factored in the 2019/2020 budget in order to complete the remaining works in Nakuru and Eldoret. The AIEs allocated to the stations earlier were not utilized to complete the project in FINANCIAL YEAR 2016/2017.

These houses were 98% done and 92% paid for while the remaining part was approximately 2% to completion. The remaining part needed more provisions in the years following the year of initiation. Twenty units (20) of two bedrooms were handed over to the Department on 2nd July, 2018 in Nakuru GK Prison.

Committee Observations and Findings

(i) The Committee observed that Kshs.182, 665,539.79 has since been paid representing 92% of the contract sum and the works stand at 98% complete.
(ii) The Committee observed that Kshs 33,900,000 has been factored in the 2019/2020 budget in order to complete the remaining works in Nakuru and Eldoret.
(iii)The matter remains unresolved.

Committee Recommendations

The Accounting Officer should within three months after the adoption of this report ensure that the remaining works have been completed and should seek Attorney General's legal opinion and have it implemented.

77. Stalled and Incomplete Projects

Examination of accounting records revealed that amounts of Kshs.200,407,159 and Kshs.675,842,255 were incurred on stalled and ongoing projects respectively, in 2016/2017. An audit inspection undertaken during the month of May, 2017 in a selected sample of prisons revealed that these projects continue to stall and on-going projects were incomplete at a time when there was evidence of critical accommodation needs for prison staff.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the State Department had stalled and ongoing projects at various prisons across the country. In the Financial Year 2016/2017 the State Department for Correctional Services' development budget was Kshs. 525,000,000 and not Ksh.876, 249,414.00 as stated **(**Stalled projects amounted to Kshs 200,407,159 and ongoing projects amounted to Kshs 675,843,255.00). The State Department spent Kshs. 511,274,784 out of the allocated Kshs. 525,000,000 for the year to implement various projects.

Committee Observations and Findings

(i) The Committee observed that the State Department for Correctional Services' development budget was Kshs. 525,000,000.
(ii) The Committee observed that the State Department spent Kshs. 511,274,784 out of the allocated Kshs. 525,000,000 for the year to implement various projects.
(iii)The matter remains unresolved.

Committee Recommendations

The Accounting Officer was directed to conduct an inspection of the stalled projects and thereafter formulate strategies for their completion. The status report of the same should be availed to the Auditor General within six months, upon adoption of this report.

78. Undelivered ballistic plates for bullet proof jackets

Procurement records also show that the State Department procured three hundred bullet proof jackets and three hundred bullet proof vests at a cost of Kshs.22,275,000 and Kshs.20,998,500 respectively.

Records further show that goods were received into the store and later distributed to various Prison Stations across the country.

However, an audit inspection carried out revealed that the body armours received do not have ballistic panels and cannot be used to protect staff against rifle fire, ammunition, knife stab and sharp or pointed instrument. In the circumstances, the State Department has not obtained the value for money in respect of the expenditure totalling Kshs.43,273,500 as required under Section 68(1)(b) of Public Finance Management Act,2012.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the bullet proof jackets costing Kshs 22,275,000 and vests at Kshs 20,998,500 were purchased and distributed. These items did not include the ballistic panels to protect against rifle fire and pointed instruments.

In this regard, purchases were for use on a pilot basis and training and not for combat purpose in Prisons Staff Training College and a few selected Maximum-Security Prisons. This is also to bring to your attention that the local purchase order raised only requested for bullet proof jackets as stated in the specifications. The ballistic plate is an additional item in the specifications which was not included in the order. All the items stated in the order were received and tested. The items supplied were subjected to ballistic tests at PSTC shooting range and short-range caliber weapons were used. During the practical exercise of shooting at the vests and jackets using Ceska pistol, Taurus pistol, Smith and Wesson pistol at 10 meters and MP5 at 15 meters. It was established that they could withstand bullet penetration for short range caliber weapons.

Committee Observations and Findings

(i) The Committee could not ascertain value for money in the procurement of the bullet-proof jackets.
(ii) The matter remains unresolved.

Committee Recommendations

The EACC are directed to carry out an investigation into the expenditure totaling Kshs.43,273,500 on the procurement of the bullet-proof jackets with a view to establishing whether there was a loss of public money and initiating prosecution against persons found culpable, within three months upon adoption of this report.

79. Construction of Perimeter Wall at Eldoret Prison Contract No. CQS/D102/23/2016-2017

The above contract was awarded to a contractor at a tender sum of Kshs.24,882,843.00 on 20 April, 2017 for construction of a perimeter wall (650 meters long) following a restricted tendering procurement method. The contract period was indicated as twelve weeks from the date of site possession.

However, in unexplained circumstances, the Prisons Department issued additional funds amounting to Kshs.7,500,000 which was utilized in constructing the perimeter wall measuring 234 meters through use of prisoners and staff. Payments of Kshs.11,805,699 and Kshs.13,077,144 through payment vouchers number 33 and 36 both dated 30 June 2017, respectively were made to the contractor in 2016/2017 financial year.

Audit inspection undertaken during the months of May 2017 and November 2017 revealed the following:

i) The State Department for Correctional Services has explained through a letter Ref: SDC/SEC/FIN/3/12 VOL. V (23) dated 4 January 2018 that the original works awarded at Kshs.24,882,843 did not include razor wire, paint, decoration, plaster of walls, beams and columns. However, audit has revealed that the Bills of Quantities were prepared by Chief Quantity Surveyor, an expert in contracting who has not disowned the purported contracted works.
ii) In addition, the State Department purports that the savings on already constructed wall by Prisons Department will be used to complete omitted works without providing a technical evaluation on the savings, the basis upon which the savings could have been accounted before award of the contract.
iii) Although it has been explained that a transformer on construction site has not been re-located hampering progress, works remain incomplete.
iv) Indications are that the contract was awarded, and the contractor paid Kshs.24,882,843 after which prisoners were used to construct the same wall at additional cost of Kshs.7,500,000.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the contract No. CQS/D102/23/16-17 of Kshs.24, 882,843.32 was awarded to M/S Highpoint Agencies for the construction of a perimeter wall in Eldoret prison.

The original works quoted were for the construction of a 650 meters perimeter wall at Engineers estimate of Kshs. 26,467,603. The lowest bidder quoted Kshs. 28,647,414.52 against a budget provision of Kshs. 25,000,000. Due to insufficient budgetary allocation the client and project managers negotiated for variation of works to omit razor wire, plastering to walls, beams, columns and plastering to external walls, painting and decoration which revised the contract sum to Ksh.24,882,843.32.

However, the station had used prisoners' labor to construct 248 meters of the wall and hence the works were re-evaluated, and advice sought from the State Department of Public Works on the way forward.

It was agreed that the saving on the wall already constructed be used to complete the other omitted works as outlined in the professional opinion.

With the advice from State Department of Public Works, it was agreed in a site meeting held on 30/5/2017 that the contractor re-measure part of the wall plus the omitted works.

It was true that by the time of audit, part of the wall had not been completed due to a transformer being on the ground where the wall was to be constructed. Kenya Power and Lighting Company (KPLC) was to be paid by the department to relocate the transformer to pave way for the completion of the part of the wall. KPLC brought a quotation and the payment for the work was done on 30/10/2017. A letter was written to KPLC informing them about the payment done and requesting them to relocate the transformer for the contractor to complete the wall construction. The transformer was relocated, and part of wall completed and handed over.

The AIE of Kshs. 7,500,000.00 was issued to the station for buying building materials used in the construction of the 234 meters of the fence done using prisoners' labour. This was done way before the contractor was handed over the site.

The contractor did not use prisoners' labour to undertake the works after award of the contract.

Committee Observations and Findings

- **(i) The Committee observed that the contract No. CQS/D102/23/16-17 of Kshs.24, 882,843.32 was awarded to M/S Highpoint Agencies for the construction of a perimeter wall in Eldoret prison.**
- **(ii) The Committee also observed that the original works quoted were for the construction of a 650 meters perimeter wall at Engineers estimate of Kshs. 26,467,603. The lowest bidder quoted Kshs. 28,647,414.52 against a budget provision of Kshs. 25,000,000.**
- **(iii) In addition, the Committee observed that due to insufficient budgetary allocation the client and project managers negotiated for variation of works to omit razor wire, plastering to walls, beams, columns and plastering to external walls, painting and decoration which revised the contract sum to Ksh.24,882,843.32.**
- **(iv) Further, the Committee observed that the station had used prisoners' labor to construct 248 meters of the wall and hence the works were re-evaluated, and advice sought from the State Department of Public Works on the way forward. This led to savings which were used to complete the other omitted works.**

Committee Recommendations

The Accounting Officer must at all times ensure that any works done on a project is inspected and certified to inform any other decision made in cases of unfinished or incomplete works/projects requiring re-awarding.

80. Proposed Supply, Delivery, Installation, Testing and Commissioning of IP Based CCTV Surveillance System at Naivasha G.K. Prison

The above contract No. CWO/NRB/D102/18/2016-2017 was awarded to a contractor at Kshs.43,184,480 on 10 January, 2017 for supply, delivery, installation, testing and commissioning of IP Based CCTV Surveillance System at Naivasha G.K. Prison. The contract period was indicated as twelve (12) weeks from the date of site possession. Payment vouchers numbers 6329, 4957, and 4948 all totalling Kshs.43,184,480 were processed in respect of the contractor in 2016/2017 financial year.

Audit inspection undertaken on 13 December, 2017 revealed a loss of Kshs.8,645,000 detailed as follows:

i) Although the contractor was paid Kshs.12,028,000 for the purported supply of one hundred and ninety (190) cameras, verification confirmed existence of one hundred and fifty-eight (158) cameras resulting in a loss of thirty-two (32) 5 Megapixel Cameras costing Kshs.1,728,000.

ii) Audit further established that fifty-two (52) cameras costing Kshs.4,576,000 installed at reception and hospital block are defective and, therefore, not functioning.

iii) Further, audit revealed that the contractor supplied eight (8) Power Distribution Boards instead of thirty (30) resulting in a loss of twenty-two (22) contracted costing Kshs.550,000.

iv) In addition, the contractor was required to supply and install 64 Channel 400 Mbps Network Video Recorder (NVR) with minimum 48TB 12 Hot swap HDDs Internal Video Storage (RAID 6). However, five 3.63 TB totaling 18.15 TB and 5 Hot swap HDDs were installed instead of 48 TB and 12 Hot swap HDDs required, resulting in a loss of Kshs.1,791,000. Consequently, the storage capacity is low resulting in fluctuations in the required CCTV services.

v) It was also observed that the required training on use of the CCTV services has not been undertaken by the contractor.

vi) The State Department did not provide for audit review certificate of completion together with minutes of handing over of the project.

Submission by Accounting Officer

The Accounting Officer submitted that it was true a contract of Kshs. 43,184, 484 was signed for proposed supply, delivery, installation; testing and commissioning of IP based CCTV surveillance system at Naivasha G.K. Prison.

Uninstalled 5 Megapixel Cameras- Thirty-Two (32)

The Accounting Officer submitted that it was true that out of 190 cameras supplied only 158 cameras could be verified by the auditors as fixed on 13/12/2017.

The site inspection report on 10/5/2017 reflected 160 cameras to have been installed. As per the site inspection conducted on 9th May 2017 it was noted that a total 160 cameras out of 190 cameras had been fixed. All the 32 cameras have since been installed.

Uninstalled Power Distribution Boards

The Accounting Officer submitted that it was true that eight (8) power distribution boards were supplied instead of thirty (30) resulting to a deficit of 22 number distribution boards. Due to limited space available against the optimal results of surveillance, consultations with the CCTV Engineer and the Architect were held and gave their professional opinion which took time. Specifications were developed and applied without compromising the intended outcome**.**

Storage Capacity

The Accounting Officer submitted that the need to enhance storage capacity was identified and hence the need to enhance viewing by four (4) trained Security Officers. A decision was made to install four (4) NVR for 32 channels and one (1) NVR for 64 channels so that it can produce bigger and clear images for viewing instead of using the 400 MBPS, 300 MBPS for each NVR.
If 64 channels were used with 400 Mbps it can be viewed by only two (2) officers as per the 12 Hot Swap HDDs internal storage video (RAID 6).

Failure to Train Users of the System

The Accounting Officer submitted that it was true that the users were not trained by the contractor at the time of audit.

Committee Observations and Findings

(i) The Committee observed that the remaining 32 cameras have since been installed.
(ii) Eight (8) power distribution boards were supplied instead of thirty (30) resulting to a deficit of 22 number distribution boards. However, through consultations with the CCTV Engineer and the Architect, Specifications were developed and applied without compromising the intended outcome.
(iii) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer must at all times ensure that before any project is undertaken, proper survey and analysis is done to ascertain the magnitude and actual specifications in order to avoid oversupply leading to wastage of public funds.

81. Construction of Staff Houses at Naivasha Maximum Security Prison

During the year under review, Development AIEs No A853002 and A836813 of Kshs.2,000,000 each were issued to the officer-in-charge of Naivasha Maximum Prison for construction of staff houses. The funds were to be used for purchase of building materials while prisoners were to provide free labour and technical staff serving in the prison were to assist with the required technical and supervision skills.

Audit inspection undertaken at the prison on 13 December 2017 revealed gross anomalies as follows:

i) There was evidence of double payments of suppliers for construction materials which were all purportedly issued to buildings/construction site with nil balances of materials in the store at the time of audit.
ii) Quality of workmanship was poor with the houses lacking proper ventilation for occupants. There was also no evidence that technical standards relating to plumb line; maintenance of levels; and requirement of square (90 degrees) at corners had been achieved.
iii) There were no material test results to confirm that quality of construction materials used met technical specifications.
iv) There was evidence of apparent excess payments or loss of Kshs.888,900 as shown in the table below:

Item	**Qty Procured**	**Approx. Qty used**	**Excess Qty**	**Excess Payments (Kshs)**
Iron sheets 2.5m	200pcs	60 Pcs	140 pcs	218,400
Iron sheets 3.0m	200pcs	60 Pcs	140 pcs	252,000
Building stones 9”	3900 ft	3000 ft	900 ft	58,500
Building stones 6”	9000 ft	3000 ft	6000 ft	360,000
			Total	**888,900**

Submission by Accounting Officer

The Accounting Officer submitted that it was true that two AIES worth Kshs 4,000,000.00 were issued to Naivasha Maximum Security Prison to acquire building materials for construction of staff houses using prisoners' labour. At the time of the audit, the final touches to the staff houses had not been completed.

The orders were supplied in the site as and when needed. The technical department of Ministry of Transport, Infrastructure, Housing and Urban Development Supervised and issued completion certificate. The omission observed by the auditors were considered and addressed before issuing the certificate.

The houses have since been completed and occupied. The houses are 14 rooms of 15ft x 10ft (15'x10') with separate toilets and bathrooms. The quantity of quoted materials that is 200pcs of 2.5m and 200pcs of 3.0m of iron sheet was not in excess. Building stones, size 9" 3,900 ft. and 6" 9,000 ft. were not in excess as stated. To complete a single room it would cost as follows:-

Item	Quantity received	Approximate quantity used	Excess quantity	No. of units (14)
Iron sheet 2.5 m	14	14	NIL	196
Iron sheet 3.0 M	14	14	4	196
Building stones 9"	279	279	NIL	3900
Building Stones 6"	643	643	NIL	9000

NB: For building stones size 9" there is additional 5-10 % for breakages and adjustment to foundation walling.

Committee Observations and Findings

- **(i) The Committee was satisfied with the explanation provided by the Accounting Officer.**
- **(ii) The matter was marked as resolved.**

Committee Recommendations

- **(i) The Accounting Officer should at all times avail all documents necessary for audit review.**

82.0 Unsupported District Suspense

The statement of assets and liabilities reflects a balance of Kshs.673,392,624 against District Suspense Account which differs with the amount of Kshs.3,320,903,324 reflected in the State Department`s records by unexplained and unreconciled figure of Kshs.2,647,510,670.

In addition, the District Suspense Accounts balance has not been supported by authentic and verifiable source documents. Consequently, it has not been possible to confirm the validity, completeness and accuracy of the balance.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of assets and liabilities reflect a balance of Kshs.673, 392,624 against the District Suspense account which differs with the amount of Kshs. 3,320,903,324 reflected in the State Department records by unexplained and unreconciled figure of Kshs. 2,647,510,670.

AIEs issued through District sub-county Treasuries		
AIEs issued	AIEs Accounted	Balance
822,640,565.50	149,247,942.00	673,392,623.5

As at the time of audit an amount of AIEs totaling Kshs 822,640,565.50 was reflected in the IFMIS records out of which Kshs 149,247,942.00 had been accounted for through the data from the stations to which the AIEs had been issued. The balance of Kshs 673,392,623.50 was outstanding as unaccounted for since data had not been received for uploading in IFMIS system by then. The data outstanding from the stations has since been received and updated.

Committee Observations and Findings

(i) The Committee observed that the data outstanding from the stations has since been received and updated.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

83.0 Prior Year Adjustments

The statement of assets and liabilities further reflects a negative prior year adjustment of Kshs. (2,520,670,050) and as disclosed in Note 11 to the financial statements. However, analyses and supporting documents in respect of this negative balance has not been provided. Consequently, it has not been possible to confirm the validity, completeness and accuracy of the balance.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of assets and liabilities further reflects a negative prior year adjustment of Kshs (2,520,670,050) and as disclosed in the financial statements and that the analysis and supporting documents in respect of this negative balance has not been provided.

Prior year adjustment included in the Financial Year 2016/2017 include the credit balance of Kshs 2,520,670,050. This constitutes an amount processed through the IFMIS system in respect of district data relating to Financial Year 2015/2016 AIEs issued to the districts. At the time of preparing the financial statements for 2015/2016 the district data returns had not been processed through the IFMIS system thus forming a prior year adjustment in the Financial Year 2016/2017 financial statements as at 30th June 2017.

Committee Observations and Findings

- **(i) The Committee observed that the breakdown of Assets and Liabilities amounting to Kshs 2,520,670,050 was not provided and the auditor general reported the same.**
- **(ii) The matter remains unresolved.**

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

PRISON INDUSTRIES REVOLVING FUND

84. Fixed Assets

The statement of financial position reflects a fixed assets balance of Kshs.83,110,514 as at 30 June 2017 which, as similarly reported in the previous year, include scrap machinery valued at Kshs.2,926,440 that has since become obsolete.
The fixed assets have been lumped up based on their nature or function instead of being properly identified and recorded. In addition, a detailed schedule to support the balance of

Kshs.83,110,514 has not been provided for audit review. The Fund did not also maintain fixed assets register during the year under review as reported in the previous year. Consequently, the existence, completeness and correct values of the fixed assets reflected in the financial statements cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the financial position reflected fixed asset balance of Kshs. 83,110,514.18 which included scrap machinery of Kshs. 2,926,440.00 which could not be depreciated further. The scrap machineries are awaiting bonding. Asset register was updated then and is continuously updated to reflect current status. As at 30th June 2018 the value of the assets was Kshs. 91,774,309.39.

It was true that the fund is in custody of old machinery worth Kshs 2,926,440.00 at various stations under fixed assets representing scrap machinery. The machines were evaluated by valuers and the State Department is in the process of disposal as per Government Disposal procedures.

Committee Observations and Findings

(i) **The Accounting Officer did not avail to the committee a Fixed Asset Register verification.**
(ii) **The matter remains unresolved.**

Committee Recommendations

The Accounting Officer should ensure that a complete fixed asset register is maintained within (3) months after the adoption of this report pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General for review.

85. Accounts Receivables (Debtors)

The statement of financial position reflects a fixed assets balance of Kshs.83,110,514 as at 30 June 2017 which, as similarly reported in the previous year, include scrap machinery valued at Kshs.2,926,440 that has since become obsolete.

The fixed assets have been lumped up based on their nature or function instead of being properly identified and recorded. In addition, a detailed schedule to support the balance of Kshs.83,110,514 has not been provided for audit review. The Fund did not also maintain fixed assets register during the year under review as reported in the previous year.

Consequently, the existence, completeness and correct values of the fixed assets reflected in the financial statements cannot be confirmed.

Submission by Accounting Officer

a) The Accounting Officer submitted that it was true that during the financial year 2016/2017, prison industries had a debtors balance of Kshs. 77,391,757.86 owed to the fund. It is also true the debtors rose by a 73% from the previous year and that all the new debts were from government institutions. The debts were stipulated as below: -

Government debts	Kshs. 77,214,497.86
Private debts	Kshs. 177,260.00
Total	**Kshs. 77,391,757.86**

It was true Kshs 40,156,906.66 was owed by government institutions. The fund has hitherto received payments from some of the debtors amounting to Kshs 2,954,290.00 of the debts leaving a balance of Kshs 37,202,616.66

b) Included in the debt balance was Kshs 177,260.00 being private debtors dating back to many years. The management has been tracking clearance of the balances.

An amount of Kshs 99,500.00 relating to private debtors was cleared leaving a balance of Kshs 77,760.00 which is outstanding to date and management is following up on settlement.

Committee Observations and Findings

(i) The Committee observed that the management did not provide a list of debtors with a corresponding amount.

(ii) The matter remains unresolved.

Committee Recommendations

The Accounting Officer must ensure that the recovery of the outsatnding debts is completed within three months upon adoption of this report.

86. Paymaster General Account

The statement of financial position reflects a balance of Kshs.178,175,323 against Paymaster General Account as at 30 June 2017. This includes an amount of Kshs.175,210,763 representing cash and cash equivalents explained as held by the former Ministry of Home Affairs Deposit Account which is yet to be transferred to the Fund's new account. However, no documentation has been provided to support the said balance. Consequently, the existence, completeness and accuracy of the Pay Master General (P.M.G) balance of Kshs.178,175,323 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Prison Industries Fund had a closing account balance of Kshs. 178,175,322.62 as at 30th June, 2017 which included funds not yet transferred from former Ministry of Home Affairs to the Ministry of Interior and Co-ordination of National Government totaling to Kshs 175,210,763.05:

PMG BALANCES				
		INDUSTRIES	**FARMS**	**TOTAL PMG BAL**
2013/2014	Bal. B/F 1st July 2013	119,965,675.51	56,021,755.07	**175,987,430.58**
2013/2014	Add revenue for (1st July - 30th Oct)	155,336,405.00	18,634,357.35	**173,970,762.35**
		275,302,080.51	**74,656,112.42**	**349,958,192.93**
Less: amounts transferred to Ministry of Interior & Co-ord. fund account.		(92,135,930.55)	(26,589,743.85)	**(118,725,674.40)**
Bal. as at 30th Oct 2013		**175,987,430.00**	**55,245,088.53**	**231,232,518.53**

During the financial year 2012-2013, books of account for both prison industries and farms reflected the balance in the Paymaster General account as follows:-

Prison Industries	Kshs.	119,965,675.51
Prison Farms	Kshs.	56,021,755.00
Total	**Kshs.**	**175,987,430.51**

This balance was not reconciled by then Ministry of Home Affairs who were the administrator of the account. During the financial year 2013-14 the management of the fund was transferred to the Ministry of Interior and Co-ordination of National Government. The deposit account was put on suspension from 1st July to 30th October, 2013. During this period, prison farms and industries were depositing revenue at the suspended deposits account. A separate bank account under the name Prison Industries Fund was opened by the Ministry of Interior and Co-ordination of National Government on 3rd October, 2013.

As from 1st July 2013 to 31st October, 2013 both Prison Industries and Prison arms had generated and deposited revenue in the suspended MOHA Deposit Account as follows: -

Prison Industries	Kshs.	155,336,405.00
Prison Farms	Kshs.	18,634,357.35
Total	**Kshs.**	**173,970,762.35**

During the transfer of Prison farms' and industries funds from Ministry of Home Affairs to Interior and Co-ordination of National Government, reconciliation of the deposit account for the period July to October 2013 confirmed that both Prison industries and farms had deposited Kshs. 173,970,762.35.

The amount transferred to the new Prison Industries Fund account was Kshs. 118,725,674.40 as tabulated below leaving a balance of Kshs. 55,245,087.95.

Prison Industries	Kshs.	92,135,930.55
Prison farms	Kshs.	26,589,743.85
Total	**Kshs.**	**118,725,674.40**

The remaining balance not transferred to the new PIF Account is as below:-

Balance of revenue raised during 2013/2014	Kshs.	55,245,087.95
PMG balance B/f 1st July, 2013	Kshs.	175,987,430.51
Total	**Kshs.**	**231,232,518.46**

During the transfer of funds from Ministry of Home Affairs to the Ministry of Interior and Co-ordination of National Government, only Kshs.118,725,674.40 was transferred to the new deposit account leaving balance of Kshs.55,245,087.95 and the closing balance of Kshs.175,987,430.51 as at 30th June, 2013 totaling to Kshs.231,232,518.46 which was not transferred to the new deposit account. The non- transfer was effected by the reorganization of government in the financial year 2013/14 where the Ministry of Home Affairs was merged with Office of the President to form the new Ministry of Interior and Co-ordination of National Government**.**

Committee Observations and Findings

- **(i) The Committee observed that Kshs.118,725,674.40 was transferred to the new deposit account leaving a balance of Kshs.55,245,087.95 and the closing balance of Kshs.175,987,430.51 as at 30th June, 2013 totaling to Kshs.231,232,518.46 which was not transferred to the new deposit account.**
- **(ii) The matter rteamined unresolved.**

Committee Recommendations

(i) **The Accounting Officer should within three (3) months of adoption of this report follow up the transfer of these funds from the then Ministry of Home Affairs to the Ministry of Interior and Co-ordination of National Government.**
(ii) **The Executive should strive to make sure that re-organization of government does not interfere with already existing and established votes for ease of release of funds by the Exchequer for quick delivery of service to the public**

87. Suspense Account

The statement of financial position also shows a balance of Kshs.3,647,677 under suspense account but whose analysis has not been provided for audit review. It is therefore, not possible to confirm its validity, completeness and accuracy.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the prison industries fund annual report and financial statement for the year ended 30th June 2017 reflected a suspense account of Kshs. 3,647,677.10 the figure decreased by 337,214.00 as compared to the previous year balances. The suspense account balance represents AIEs issued to stations which were not spent at the closure of the financial years. The balances have been carried forward for many years since the establishment of the fund in 1988. The management requested for authority from the officer administering the fund to write off the suspense account balance of Kshs.3, 966,921.00 from the financial statements of the fund for the year ending 30th June, 2015.

Committee Observations and Findings

(i) **The Committee observed that the state department did not provide evidence of the write off of Ksh 3,966,921.00 and the auditor general confirmed the same.**
(ii) **The matter remains unresolved.**

Committee Recommendations

The Cabinet Secretary, National Treasury should within three (3) months of adoption of this report, consider and advise the Accounting Officer on the request by the State Department for authority from the officer administering the fund to write off the suspense account balance of Kshs.3, 966,921.00 from the financial statements of the fund for the year ending 30th June, 2015. This would clear and resolve the matter.

88. Accounts Payables (Creditors)

The financial statements reflect a balance of Kshs.69,651,920 against creditors as at 30 June 2017. As similarly reported in 2015/2016, no reasons have been provided for failure to pay the creditors despite the huge Pay Master General (bank) balance as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true during the financial year 2016/17, prison industries had a balance of Kshs. 69,651,920.00 owed to creditors by the fund for supplies made. The balance of Kshs 175,987,430.51 was not readily available to the fund for utilization since it was held at our former mother ministry of Home Affairs/National Treasury. Kshs 56,401,920.00 has been paid leaving a balance of Kshs 13,250,000.00.

Committee Observations and Findings

- **(i) The Committee observed that Kshs 56,401,920.00 has been paid leaving a balance of Kshs 13,250,000.00.**
- **(ii) The matter remains unresolved.**

Committee Recommendation

The Cabinet Secretary, National Treasury should within three (3) months of adoption of this report, consider and advise of the Accounting Officer on the request by the officer administering the fund to pay off Kshs 13,250,000.00 owed to suppliers. This would clear and resolve the matter.

PRISON FARM REVOLVING FUND

89. Accounts Receivables (Debtors)

The statement of financial position reflects debtors` balance of Kshs.204,003,180 as at 30 June 2017. Although management has explained that part of the debts is owed by other government agencies, there were no measures taken to recover outstanding debts and avoid further accumulation of huge debts.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of financial position as at 30th June, 2017 reflected a balance of Ksh. 204,003,179.50 relating to outstanding debtors. The management has been undertaking the process of clearing the debtors as follows.

Outstanding as at 30th June	Ksh. 204,003,179.50
Less cleared	Ksh. 137,641,101.35
Balance C/F	Ksh. 66,362,078.15

The balance of Ksh. 66,362,078.15 is in the process of payment from Recurrent vote to Revolving Fund Account after verification**.**

Committee Observations and Findings

(i) **The Committee observed that the balance of Ksh. 66,362,078.15 is in the process of payment from recurrent vote to Revolving Fund Account after verification.**
(ii) **The matter remained unresolved.**

Committee Recommendations

The Accounting Officer must ensure that the recovery of the outsatnding debts completed within three months upon adoption of this report.

90. Suspense Account

The statement of financial position reflects a balance of Kshs.5,825,968 against suspense account which, has not been supported with analyses and verifiable source documents contrary to Regulation 107 (1) of the Public Finance Management (National Government) Regulations, 2015. Consequently, the validity, completeness and accuracy of the balance of Kshs.5,825,968 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Prison Farms Revolving Fund annual report and financial statement for the year ended on 30th June, 2017 reflected a suspense account of Ksh.5, 825,967.60. The suspense account is formed of unspent AIE balances in the field stations whose balances were submitted together with recurrent and development AIE balances to exchequer. All the Bank balances in all the station balances were lumped to exchequer after the close of F/Y 2016/2017 AIE balances.

Committee Observations and Findings

(i) **The Committee observed that the evidence of payment to exchequer account was not availed and the auditors confirmed the same.**
(ii) **The matter remains unresolved.**

Committee Recommendations

The Cabinet Secretary, National Treasury should within three (3) months of adoption of this report, consider and advise the Accounting Officer to ensure the suspense account balance of Kshs.5,825,968.00 is analysed and verified with documents in line with Regulation 107 (1) of the Public Finance Management (National Government) Regulations, 2015. This will enable validity, completeness and payment of the same to clear the matter

91. Accounts Payables (Creditors)

The statement of financial position reflects a balance of Kshs.30,002,138 against accounts payables (creditors). No satisfactory reasons have been provided for failure to pay these debts despite the huge Pay Master General (bank) balance of Kshs.57,504,034 as of 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of financial position reflected a balance of Ksh.30, 002,138.00 owed to merchants as at 30th June 2017.

The management has since paid all the creditors.

Committee Observations and Findings

(i) **The Committee observed that the management has since paid all the creditors but there were no documents to prove that.**
(ii) **The matter remains unresolved.**

Committee Recommendations

The Accounting Officer must ensure that within three months after the adoption of this report, all documents showing payment of all creditors are provided to the Auditor General for verification and certification of the same.

92. Undisclosed Loss of Livestock

Available records indicate that the Prison Farm Revolving Fund lost Kshs.198,000 in Nakuru Main Prison following an attack by leopards on a flock of sheep killing five(5) rams, twenty-five (25) sheep and critically injuring eleven (11) others on the night of 16 March 2017. However, the loss has not been disclosed in the financial statements for the year 56 ended 30 June 2017. In addition, the State Department for Correctional Services has not taken measures to reinforce the security of farm assets to avoid future losses.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that an examination of records revealed that the Prisons Farm Revolving Fund lost Kshs. 198,000.00 in Nakuru Main Prison following attack by wild animals on a flock of sheep killing five (5) rums, twenty-five (25) sheep and critically injuring eleven (11) others on the night of 16th March 2017.

The responsible entity (KWS) was contacted on the matter and issued a valuation and compensation report. The compensation has not been effected, and the management has taken steps to follow-up the matter. The non-disclosure in the financial statement of 2016/2017 was due to late information on the accepted value by (KWS)**.**

Committee Observations and Findings

(i) The Committee observed that the compensation has not been effected and the management has taken steps to follow-up the matter.
(ii) The matter remains unresolved.

Committee Recommendation

The Accounting Officer must put in place mechanisms to ensure safety of the livestock from the wildlife.

93. Fixed Asset Register

The statement of financial position reflects fixed assets balance of Kshs.32,698,618 as at 30 June 2017. A detailed schedule to support the balance has, however, not been provided for audit review. The fixed assets have instead been lumped together based on their nature or function without providing the particulars. Further the Fund did not maintain a fixed-assets register during the year under review. Consequently, the existence, location, completeness and accuracy of the fixed assets and the related balance reflected in the financial statements cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Statement of Financial position values the assets owned by the Prison Farms revolving fund at Kshs. 32,698,617.66. The management has taken steps of maintaining fixed asset register.

Committee Observations and Findings

(i) The fixed asset register for assets worth of Kshs. 32,698,617.66 was availed.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General for review

7.0. MINISTRY OF DEVOLUTION AND ASAL

7.1. STATE DEPARTMENT FOR DEVOLUTION

FINANCIAL STATEMENTS FOR VOTE 1032

Mr. Charles Sukuli, the Principal Secretary and Accounting Officer for State Department of Devolution (Vote 1032) appeared before the committee on 7th May 2019 to adduce evidence on the Audited Financial Statements for State Department of Devolution (Vote 1032) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1.	**Dr. Alice J. O Yalla**	**-**	**Ag. Integration Secretary**
2.	**Mr. Nyambati Kennedy**	**-**	**Director**
3.	**Mr. Jackson Owuor**	**-**	**Finance Officer**
4.	**Ms. Lucy W.**	**-**	**Assistant A General**
5.	**Mr. Jackson Mwangi**	**-**	**Principal State Counsel**
6.	**Mr. Reuben Thuku**	**-**	**Assistant Secretary Administration**
7.	**Mr. Joseph Kipronoh Koech**	**-**	**Accounts**
8.	**Mr. Caleb Musiambo Bulili**	**-**	**Head of Internal Audit**
9.	**Mr. Amos Omagi**	**-**	**Accounts**
10.	**Jane Kirop**	**-**	**Accounts**
11.	**Ms. S. Hamisi Kuti**	**-**	**Accounts**
12.	**Mr. Moses M. Macharia**	**-**	**Accounts**

94. Opening Balances

The financial statement for the year ended 30th June, 2017 includes restated comparative figures for the financial year 2015/2016. However, no documents have been provided for audit verification in support of the restated comparative figures. The accuracy and validity of the comparative figures as reported cannot, therefore, be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that at the time of submission of the revised financial statements, the documents had not been attached to the financial statements. However, the same were availed for audit verification and are also hereby attached. These include cashbook extracts bank reconciliation statements, bank certificates and board of survey report. These figures had also been discussed and cleared before PAC during the appearance for the Financial Year 2015/2016**.**

Committee Observations and Findings

(i) **The committee observed that at the time of the audit the documents had not been availed but they were later availed and verified by the auditors.**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting Officer must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

95. Other Revenue

The statement of receipt and payments and as disclosed at Note 3 and Annex 3 to the Financial Statements reflects other revenues amounting Kshs. 3,031,318. These other revenues are described under Note 3 as receipts found in the State Department bank statement as having been credited to the bank account. However, the management has not provided any supporting documents to prove that the receipts were due to the State Department for services rendered. Consequently, the validity, ownership and accuracy of other revenue cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that under the statements of receipts and payments there is a total amount of Ksh. 3,031,318 which was received from various ministries and credited into the Ministry's bank account. These receipts relate to training levy, unspent AIE's and surrender of revenue as shown in the analysis. At the time of submission of the financial statements no documents had been provided to support validity of ownership of the revenue except the bank statements.
In the financial year 2013/2014 the State Department for Devolution shared bank accounts with the following State Departments:

- Directorate of Public Service Management
- Planning
- Youth
- Special program
- Northern Kenya

- Gender

After splitting of the state departments some ministries continued to remit funds to the State Department of Devolution. Out of the Kshs 3,031,318 an amount of Kshs. 1,299,824.25 was for unspent balances from Deputy County Commissioners (former district commissioners) regarding AIE's issued by special program which was then under State Department of Devolution. As such these amounts were properly disclosed as other revenue in the Financial Statements.

The balance of Kshs 1,731,494, was confirmed to have been credited in the ministry's bank account with Kshs 891,250 relating to training levy and a surrender of revenue of Kshs 840,244. All these amounts were recovered by the National Treasury after the end of the Financial Year on 23rd August 2017 together with other closing balances totaling to Kshs 19,456,203.55 as supported by PV No. 1150 of the same amount.

Committee Observations and Findings

(i) The Committee observed that the unused A. I.Es have been treated as other revenue
(ii) The Committee observed that training levy from ministry of agriculture was treated as revenue.
(iii) The Committee observed that recovery of the funds by the National Treasury was the only way to treat the funds in relation to the format provided for by the Public Service.
(iv) The Committee marked the matter as resolved.

Committee Recommendation

Accounting Officers must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68.

96. Grants and Transfers to other Government Entities

The financial statements reflect payments totaling Kshs. 541,135,010 as grants and transfers to other government entities. However, the amounts recorded in the financial statements of the receiving government entities differ from the ones reported in the State Department's financial statements as detailed below.

Entity	Amount as Per the Entity's Financial Statements Kshs.	Amount Reported in the State Dept. Financial Statements Kshs.	Variance Kshs.
Council of Governors	153,302,024	160,145,650	6,943,026
KDSP Component	101,159,883	80,939,360	20,170,523

The variances above have not been explained or reconciled.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the amounts transferred to the Council of Governors were Kshs. 153,202,624. The Financial Statements showed an amount of Kshs 160,145,650 analyzed as follows:

Payment to COG	153,202,624
Settlement of the Court Award	7,162,626
Adjustment in respect to IGRTC Expenses	(219,600)
	160,145,650

The settlement of the Court award was a payment for damages on a court award Case No. HCCC 496/2004 to Mr. James Muigua PV NO 4351**.** This was a case against the Defunct Municipal Council of Meru and the Ministry of Local Government (now State Department of Devolution). The Attorney General advised compliance with the Court Decree as the Principal Secretary risked a jail term.

At the time there was no adequate budgetary provision for arbitration, legal and court awards. The settlement of the Court award was therefore charged to the account for Transfer to Other Government entities. The Ministry made a request to the National Treasury for additional funding through supplementary budget which was not granted.

The State Department of Devolution Financial Statement for Financial Year 2016/17 under transfers to other Government entities reported other capital grants and transfer of Ksh. 80,989,360 leaving a variance of Kshs 20,170,523. This amount relates to a payment made to Kenya School of Government in the Financial Year 2015/16. This amount was part of the PPA for KDSP which was paid to KSG to train the county governments on the program operations and guidelines and also how to access the conditional grants.

KDSP Project Preparation Advance amounted to Kshs 101,159,883 which was received in three tranches. The PPA cut across two Financial Years 2015/16 and 2016/17 the First tranche of Kshs. 20,170,523 was received in Financial Year 2015/2016 and was reported in the State Department Restated Financial Statement.

Committee Observations and Findings

(i) The Committee observed that the original voucher to support the Ksh. 7,162,626 for the settlement of Court award has been confirmed as the true copy of the original
(ii) The Committee marked the matter as resolved.

Committee Recommendations

The explanation by the accounting oficer was satisfactory. However, the Accounting Officer must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

97. Use of Goods and Services

The use of goods and services payments totaling Kshs. 415,522,851 as reflected in the statement of receipts and payments and disclosed in Note 5 to the financial statements includes an amount of Kshs. 260,256,399 in respect of other operating expenses. However, examination of the ledger revealed that the following amounts were charged to operating expenses instead of the correct items of the expenditure.

AMOUNT – KSHS.	NATURE OF EXPENSES
3,219,000	Communicating, supplies and services
580,000	Salaries to staff
15,697,081	Domestic travel & subsistence, staff meal allowances
5,113,500	Accommodation and Conference
722,036	Motor Vehicle Repairs & Maintenance
925,900	Routine Maintenance- Other assets

No explanations have been provided for the above anomalies. In addition, an unexplained journal entry of Kshs. 19,897,500 was similarly posted to the operating expenses account and no explanation to justiFinancial Year this journal has been provided.

Submission by Accounting Officer

The Accounting Officer submitted that the expenses indicated under the Operating expenses relate to the Kenya Devolution Support Program (KDSP). It is a World Bank supported program of Kshs. 28.7 billion. It is a conditional grant meant to strengthen capacity building and technical assistance at the county level. In carrying out this function the program usually incurs costs related to accommodation, conference facilities, communication, domestic travels and other operating expenses related to the secretariat. The KDSP secretariat is required to be staffed with experts (PFM, monitoring and evaluation, capacity building, intergovernmental fiscal relations) who are drawn from outside the mainstream government to offer support to the counties and the ministry in carrying out capacity building and therefore the expenses towards salaries.

The KDSP is budgeted for in the Ministry under budget item code 2211300 (Other operating expenses) as one-line budget item for purposes of tracking, monitoring and consolidation of the program expenditure as per the Program Appraisal Document (PAD)**.** This further assists in the program evaluation and GoK counterpart funding since it is under the development budget.

With regards to the amount of Kshs.19, 897,500 the journal was meant to recognize the funds received and transferred to the Instrument for Devolution Advice and Support project (IDEAS) bank account to cater for the project activities for the financial year 2016/17.

Committee Observations and Findings

The Committee marked the matter as resolved.

Committee Recommendation

The explanation by the accounting oficer was satisfactory. However, the Accounting Officer must at all times ensure entity keeps up-to-date accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

98. Cash and cash equivalent

The statements of assets and liabilities as at 30th June, 2017 reflects an amount of Kshs. 76,795,422 as cash and cash equivalents comprising of the bank balances of Kshs. 75,987,651 and cash balance of Kshs. 807,771. However, even though the balances were supported by bank statements, board of survey report and bank confirmation certificates as at 30th June, 2017, the bank reconciliation statements for the rest of the year have not been presented for audit review. The completeness of transactions arising from the bank accounts and the cash system for the whole year cannot not be confirmed under the circumstances.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the cash and cash equivalent comprising of cash and bank balances were supported by bank statements, board of survey reports, and bank confirmation certificates as at 30th June 2017. The bank reconciliation for the rest of the year had also been prepared but had not been attached to the financial statements. However, they are available for verification and have also been attached.

Although the bank confirmation certificate as at 30th June, 2017 reflects an amount of Kshs. 1,163,889 in respect of Kenya Devolution Support Program, the same has not been considered in spite of the expenditure forming part of the other operating expenses. Further, an adjustment of Kshs. 440,298 under the deposits account has not been explained. In the circumstances, the completeness and accuracy of the cash and cash equivalents balance of Kshs. 76,795,422 as at 30th June, 2017 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the bank confirmation certificate as at 30th June 2017 reflects an amount of Ksh. 1,163,883 in respect to KDSP. This amount was the closing balance of the KDSP Project Preparation Advance (PPA) account held at the Central Bank of Kenya. The financial statements for the PPA had been prepared separately and have already been audited. The expenditure therefore had not been included in the ministry’s financial statements.

It was also true that there was an adjustment of Ksh. 440,298.00 under the Deposits account. This adjustment was made into the Deposits cash book to recognize a receipt in Deposit bank account of Kshs. 440,298. This amount relates to 10% retention from the contract sum amounting to Kshs. 4,402,975.00 payable to Interpid Contractors.

This amount had also been outstanding in the bank reconciliation statement of both recurrent and deposit bank accounts. It is worth noting that the cash and cash equivalent have since been verified and resolved with the auditors, hence the balances have been confirmed as accurate.

Committee Observations and Findings

(i) **The committee observed that the bank statements, cashbook extracts have been attached for verification.**
(ii) **The committee marked the matter as resolved.**

99. Prior Year Adjustments

The statements of assets and liabilities as at 30th June, 2017 reflects prior year adjustments of Kshs. 180,997,512 in respect of the current year and Kshs. 792,501 in respect of the previous year. However, the reasons for the prior year adjustments and the documentation in support of the adjustments of IPSAS 3 on, *Accounting policies, Changes in Accounting Estimates and Errors* which, require restatement of the affected figures in the year the error first occurred except when it is impracticable and this fact must be disclosed. Under the circumstances, the accuracy and validity of the adjustments as presented cannot be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statements of assets and liabilities as at 30th June 2017 reflects prior year adjustments of Kshs. 180,997,512 in respect of the current year and Ksh. 792,501 in respect of the previous year. *IPSAS 3 on Accounting Policies changes in estimates and errors* require restatement of figures in the year the adjustment applies. However, *IPSAS 3(49) "limitations of retrospective restatement"* allows for the restatement of opening balances of Assets and Liabilities for the earliest period which the retrospective restatement is practical (which may be the current period).

This amount of Kshs. 180,997,512 and Kshs. 792,501 relates to Recurrent and Development Bank Balances respectively as at the close of the previous Financial Years 2015/16 and 2014/15 respectively which were surrendered back to the National Treasury in the preceding years, as such it was not practical to make the adjustment in the years the bank balances related to and thus the reason for adjustment through a prior year adjustment in the Financial Statements. The journal vouchers and bank statements to recognize these adjustments have been explained and supported fully. These are still available and have been attached for perusal.

Committee Observations and Findings

(i) **The committee observed that the journal vouchers and bank statements have been availed for audit review.**
(ii) **The committee marked the matter as resolved.**

100. Pending Bills

The State Department of Devolution reported at Annex 2 to the financial statements pending bills amounting to Kshs. 3,296,627,373 as at 30th June, 2017, comprising of Kshs. 3,286,465,791 brought forward from the previous year and Kshs. 10,161,582 for the financial year 2016/2017. Failure to settle bills during the year to which they relate distorts the financial statements for year and adversely affects the provisions of the subsequent year to which they have to be charged. Had the bills been paid and expenditure charged to the accounts for 2016/2017, the statement of receipts and payments for the year would have reflected a deficit of Kshs. 3,259,566,371 instead of the surplus of Kshs. 37,061,102 now shown.

Submission by Accounting Officer

The Accounting Officer submitted that the pending bills as mentioned above are classified as follows:

	Payee	Amount Ksh	Description	Status/Remarks.
1.	Various County Governments	2,929,909,303	CILOR (Contribution In Lieu of Rates)	awaiting IBEC adoption of the IGRTC report and way forward
2.	Kenya Railways Corporation	105,000,000	Sale of Land for Muthurwa \open air market	Waiting for budget allocation
3.	Taib Ali Taib	10,171,941	Legal case on Dismissal	Funds provided in the Budget for FINANCIAL YEAR 2018/19
4.	Spencon Kenya Limited	233,268,713	Laying of sewerage line in Mombasa municipality in the year 2010	Waiting arbitration report between the parties- Devolution and Spencon K LTD.
5.	David Mereka	8,115,834.49	NBI CMCC NO.3919 of 2012.DAVID Mereka VS John Ngaruiya, Ministry of	AG has recommended for payment- allocation has been proposed in the

			Local Government and others.	FINANCIAL YEAR 2019/20 budget
	Total	**3,286,465,791.49**		

The debt amounting to Kshs. 2,929,909,303 was owed to the defunct local authorities by the central government in relation to government properties which were within the jurisdiction of the defunct local authorities. The National Government was unable to pay due to budgetary constraints over the years. This led to the accrual and high interest to the figures indicated. In the new dispensation the transition authority was mandated to audit and veriFinancial Year the assets and liabilities of the defunct local authorities, a task that was not completed during the transition period. This was later taken over by the intergovernmental relations technical committee.

The committee has finalized the verification of assets and liabilities of the defunct local authorities and a report prepared. The report is expected to be presented to IBEC (Intergovernmental Budget and Economic Council) for adoption. The committee in the report proposed that the two levels of government do a net off of the liabilities based on mutual indebtness.

The debt amounting to Kshs. 105,000,000 was owed to Kenya Railways for land purchased for the construction of Muthurwa market. The bills were inherited from the defunct Ministry of Local Government but have not been cleared due to budgetary constraints. Requests to the National Treasury for budgetary allocation to defray the bills have however been unsuccessful in the past. This matter has now been presented to the departmental committee on finance and planning of the national assembly during our 2018/2019 budget presentation which has recommended clearance of the bills.

Other pending bills relating to Financial Year 2016/17 for supply of goods and services amounting to Kshs. 10,161,582 have been cleared except one for an amount of Kshs. 69,600 owed to supplier Begon for sanitary services. This is yet to be paid due to non-compliance with tax requirements.

Committee Observations and Findings

(i) The committee observed that the debt amounting to Kshs. 2,929,909,303 was owed to the defunct local authorities by the central government.
(ii) The committee observed that the National Government was unable to pay due to budgetary constraints over the years.
(iii) Other pending bills relating to Financial Year 2016/17 for supply of goods and services amounting to kshs. 10,161,582 have been cleared except one for an amount of Kshs. 69,600 owed to supplier Begon for sanitary services.
(iv) The matter remains unresolved.

Committee Recommendations

(i) **The Cabinat Secretary should ewithin three months after the adoption of this report ernsure that a policy decision be made on how the bills will be paid.**
(ii) **The Accounting Officer Should ensure that IBEC should fastrack adoption of the report of IGRTC.**
(iii) **The IGRTC should resolve the issue of completion of the transfer of assets and liabilities from County Governmnet to National Government.**
(iv) **Accounting Officers must at all times ensure that pending bills are listed as first charge in subsequent financial year when preparing estimates of expenditure and revenues of the entity in conformity with the strategic plan pursuant to the provisions of section 68(2) (h) of the Public Finance Management Act, 2012.**

7.2. STATE DEPARTMENT FOR SPECIAL PROGRAMMES

FINANCIAL STATEMENTS FOR VOTE 1033

Mr. Micah Powon, the Principal Secretary and Accounting Officer for the State Department for Special Programmes (Vote 1033) appeared before the committee on 16th April 2019 to adduce evidence on the Audited Financial Statements for the State Department for Special Programmes (Vote 1033) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr Maina Waruingi - Director of Policy**
2. **Mr Joseph O. Yamo - Principal Accountant**
3. **Mr John Mose - Chief Finance Officer**
4. **Amb. Leonard Ngathe - Secretary Administration**
5. **Mr George Ngige - Senior Economist**
6. **Mr Lawrence Nyaguthi O. - SAS**
7. **Mr Joseph Maina - Senior Principal Finance Officer**
8. **Mr Andrew Waithaka - Engineer**
9. **Ms Stella Moraa - ASAL**
10. **Mr John K. Muhia - Engineer**

Basis for Qualified Opinion

101. Pending Bills

The State Department of Special Programmes reported pending bills totalling Kshs.118,865,458 as at 30 June 2017 out of which bills amounting to Kshs.116,113,212 or about 98% had been brought forward from the year 2015/2016. Failure to settle pending bills during the year to which they relate distorts the financial statements for the year and adversely affects the provisions of the subsequent year to which they have to be charged. Had the pending bills of Kshs.118,865,458 been paid in 2016/2017 and the expenditure charged to the accounts for that financial year, the statement of receipts and payments would have reflected a deficit of Kshs.92,044,585 instead of the surplus of Kshs.26,820,873 now shown.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the State department for Special programmes reported pending bills amounting to **Kshs. 118,865,457.50** as at 30th June 2017

It's important to note that the State Department came in to being through Executive Order No. 1 of May 2016, thus did not have pending issues from the prior year having been created during the financial year under review. It's also important to note that, the above pending bills emanated and were forwarded from the state department for Devolution.

The table below shows the status of Pending bills in Question as at 30-June-2019 that relate to Financial Year 2016/17:

No	Supplier of Goods & Services	Outstanding Amount (Kshs)	Dates Contracted
1	PISU & CO	6,875,000.00	06/01/2016
2	National Cereals & Produce Board	22,040,075.50	29/06/2016
3	National Cereals & Produce Board	44,021,931.50	25/09/2015
4	National Cereals & Produce Board	6,035,261.70	31/12/2015
5	National Cereals & Produce Board	29,019,826.60	13/01/2016
6	National Cereals & Produce Board	1,000,000.00	12/01/2016
	Sub-Total	**108,992,095.30**	**Dates paid**
7	Zimma Stationers	90,000.00	28/05/2016
8	Vendours System	229,500.00	29/06/2016
9	High Point Agencies	3,998,000.00	06/06/2016
10	Wajir Vegetable Supply Ltd	887,229.00	03/05/2016
11	Wajir Vegetable Supply Ltd	1,829,388.2	11/05/2016
12	Kenyatta International Conventional Centre	2,752,245.00	08/06/2016
13	Chrome Express Innovations	87,000.00	03/05/2016
	Sub-Total	**9,873,362.20**	
	Grand Total	**118,865,458.00**	

The pending bills totaling to Kshs. **Kshs. 108,992,095.30** out of the ***Kshs. 118,865,458*** were not paid because the State department is still undertaking reconciliation between **National Cereals Board** and **State Department for Devolution** for proper supporting documents that could assist in processing the payments.

The function for relief food has since been transferred to State Department for Devolution where it was originally when the pending bills were incurred.

Committee Observations and Findings

- **(i) The Committee observed that the pending bills totaling to Kshs.108,992,095.30 out of the Kshs. 118,865,458 have not been paid to date.**
- **(ii) The Committee observed that the function for relief food has since been transferred to State Department for Devolution.**
- **(iii) The Committee observed that the reconciliation between National Cereals Board and State Department for Devolution is ongoing.**
- **(iv) There was no explanantion by the Accounting Officer on the issue of Kshs.116,113,212 or about 98% had been brought forward from the year 2015/2016.**
- **(v) The matter remained unresolved.**

Committee Recommendations

- **(i) The Accounting Officer should institute mechanisms to expedite the reconciliation between National Cereals Board and State Department for Devolution three (3) months after the adoption of this report to facilitate preparation of documents to facilitate payment of pending bills totaling Ksh. 108,992,095.30.**
- **(ii) The Accounting Officer must at all times ensure that pending bills are listed as a first charge in subsequent financial years when preparing estimates of expenditure and revenues of the entity in conformity with the strategic plan pursuant to the provisions of section 68(2)(h) of the Public Finance Management Act, No. 18 of 2012.**

102. Acquisition of Assets

The expenditure of Kshs. 38,424,433 on acquisition of assets as disclosed in Note 8 to the financial statements includes an amount of Kshs. 32,182,850 incurred in respect of Wajir Sewerage Project which stalled in the year 2013.

The Accounting Officer admitted that the amount paid to M/S Triple Eight Construction (K) Ltd in respect of Wajir sewer and electron mechanical works project was **Kshs. 32, 182, 850**.

Submission by Accounting Officer

He reported that the following matters were noted with regard to payment for the Wajir Sewerage Project, the responses are as follows:

a. **The amount was paid on the strength of advice from the Attorney General on a claim that had been filed by the Contractor. However, the advice was that, part of the claim was payable but only to the extent that a certificate of work done had been issued.**

Certificate No. 01 was issued and certified in June 2013 but there were no funds to pay at the time**.**

b. **Certificate No. 01 was issued on 6th June 2013 by the Resident Engineer for an amount of Kshs.32, 182, 850. However, the minutes for the progress meeting held on the 3rd June 2013 indicated that the contractor had done 5% of the work, equivalent to Kshs. 15,446,878 of the contract sum of Kshs. 308,937,558. The contractor was, therefore, overpaid by an amount of Kshs. 16, 735, 972.**

Payment for the works done is based on the certificate of work done issued. In this case, certificate No. 01. Showing a total of **Kshs 32,182,850** was issued in relation to the contracted works. This is the amount that was subsequently paid.

The 5% estimate outlined in the minutes referred to the percentage of physical works (i.e. works contained in bills 2-15 in the Bills of Quantities). The payment in the certificate has taken into consideration the preliminary items (contained in Bill No.1) such as insurance of the works, setting out of the works, maintenance of the Resident Engineer's facilities and supervision expenses. The first interim payment certificate ordinarily has a high component of preliminaries as compared to subsequent payments. There was therefore no overpayment as the payment was made only on the basis of amount contained in payment certificate.

c. **The contractor was paid the entire amount on the certificate without retaining the necessary retention money as is the case with payments for construction contracts**

The contractor was paid **Kshs. 31,217,364.50** after deduction of 3% withholding tax. This payment was a pending bill that had been outstanding for more than three years. The project had stalled in August 2013 and a termination of the contract was effected, in October 2016. The objective of the retention money which is to remedy any defects upon completion could now not apply as the defects, liability period of one year, as per the contract, for the completed work had lapsed. The works as designed could also not be completed under this contract which had been terminated. It was therefore considered prudent to process the payment as per the certificate.

d. **Although the project stalled in 2013 and the contractor ought to have been issued with a formal contract termination letter and surcharged for breach of the contract, this was never done.**

The contract stalled in August 2013 after the Ministry was unable to pay the first certificate due to lack of funds following reorganization of government and devolution of water and sanitation services to the counties. There were extensive consultations with the National Treasury on how to handle the stalled project and these were:

(i) The Ministry wrote to the National Treasury seeking additional funds to complete this project. In their response to the Ministry, the Principal Secretary National Treasury in a letter **Ref No. DV/ES103/13/01/TY (6)** dated 23rd September, 2013 recommended that this project and others in respect of devolved functions be handed over to the respective counties.

(ii) From the foregoing, the Attorney General's advice was sought on the modalities of handing over of this contract and on the draft deed of novation for handing over to the county. The Attorney General responded through a letter **Ref. AG/CONF/21/70 VOL 1(21)** dated October 24, 2014 recommending two options for the Ministry in dealing with this project. The recommendations are contained in guidelines prepared by the Transition Authority on the 'Mechanisms and Criteria for Transfer of Assets and Liabilities' - a document prepared pursuant to **Section 7(2) (g) and (h)(ii)** of the Transition to Devolved Government Act.

The options were:

a. *Parties to be allowed to finish the contract and hand over to the respective government.*
b. *If impossible to complete, payment to be done on a Quantum merit basis*.

(iii) The handover of the project was unsuccessful as the Governor of Wajir County declined to sign the MOU (Deed of Novation) on 30th June 2015.

(iv) The Contract was formally terminated by the Accounting Officer on 17th October 2016 and the contractor accepted the decision vide his letter dated 27th February 2017.

e. The project remains incomplete to date and there are no activities going on at the site. This therefore casts doubt on the value for money received on use of public funds for the payment of Kshs. 32, 182, 850.

The State Department has shared all the proposed project design details with the Ministry of Water, Northern Water Services Board and the World Bank Kenya who are currently reviewing the Wajir town water and sewerage project under a new programme The North and North Eastern Development Initiative (NEDI). The inability to complete the project was occasioned by the lack of budget provision in the 2013-2014 financial year and transition challenges that were beyond the State Department's ability.

Committee Observations and Findings

(i) **The Committee observed that the State Department has so far spent Kshs 32,182,850 on the above project.**
(ii) **The Committee observed that the project remains incomplete to date.**
(iii) **The matter remains unresolved.**

Committee Recommendations

The DPP should investigate the whole project if breach of law is identified the people involved in the procurement and management of the project should be prosecuted.

103. Motor Vehicles

The summary of fixed assets register which is attached as Annex 2 to the financial statements does not reflect transport equipment (motor vehicles). Available information, however, indicate that the State Department of Special Programmes was handed over thirteen motor vehicles by the defunct Western Kenya Community Development Project, which are claimed to be grounded at various locations in Western Kenya. Further, eleven motor vehicles identified for boarding have not been disposed-off so far. Another motor vehicle registration KBJ 936E (GKB 320D) Toyota Hilux double cabin had been reported lost. From the foregoing, the total cost of fixed assets of Kshs.87,980,743 reported cannot be confirmed, and the existence of the assets is in doubt.

Submission by Accounting Officer

a. The Accounting Officer admitted that the summary of the fixed asset register did not reflect transport equipment. The State Department has since updated the Motor Vehicle register showing a total of 120 vehicles including their current locations.

b. Out of the fleet in register, the Western Kenya project had thirty-two (32) motor vehicles that were handed over to the State Department and not thirteen (13) vehicles.

The State Departments subsequently donated some of the vehicles as tabulated below.

The table below shows a summary of the donated vehicles as at 30th June 2018

NO.	***GOVERNMENT INSTITUTION ISSUED***	***REG. NO.***	***MODEL***
1.	Ministry of Mining	GKA 287S	Nissan Patrol
2.	Ministry of Mining	GKA 288S	Nissan Patrol
3.	Ministry of Mining	GKA 293S	Nissan Patrol
4.	Ministry of Mining	GKA 843S	Nissan Patrol
5.	Ministry of Mining	GKA 834S	Nissan Patrol
6.	Ministry of Education	GKA 835S	Nissan Patrol
7.	Ministry of Education	GKA 839S	Nissan Patrol
8.	Ministry of Education	GKA 842S	Nissan Patrol
9.	Ministry of Education	GKA 837S	Nissan Patrol
10.	Administration Police Service, Lugari Sub - County	GKA 844S	Nissan Patrol

c. It is true that eleven (11) motor vehicles identified for boarding had not been disposed-off as at the time of the audit. However, as at 30th June 2019 five (5) motor vehicles were disposed-off and the balance is set to be disposed-off in the financial year 2019/2020.

The table below shows the details of the five (5) vehicles disposed-off as at 30th June 2019.

No.	***Reg. No.***	***Model***
1	GKA 609R	Toyota Hilux D/Cab
2	GKA 100R	Land Rover
3	GKA 026R	Mitsubishi Pajero
4	GKA 027R	Mitsubishi Pajero
5	GKA 111L	Toyota Prado

d. The motor vehicle registration number KBJ 936E (Toyota hilux Double Cab) was reported lost on 20th June 2017. The driver of the vehicle was Mr. Humphrey Litali Kasyamani of P/No. 2010032839. The loss of the vehicle was reported at Buruburu Police Station.
The officer was charged at Makadara Law Court with the offence of "stealing by a person employed in public service contrary to section 280 of the penal code". The officer was arraigned in court vide the Case no. **CRI 134/114/2017** and **Court file No. 1688/17.** The officer was granted cash bail of

Kshs. 500,000 and a personal bond of **Kshs.700, 000**. The officer was interdicted and the matter is awaiting a court verdict.

Committee Observations and Findings

(i) The Committee observed that the State Department has since updated the Motor Vehicle register showing a total of 120 vehicles including their current locations; and
(ii) The committee marked the matter as resolved.

STREET FAMILIES REHABILITATION TRUST FUND – STATE DEPARTMENT OF SPECIAL PROGRAMMES

Basis for Qualified Opinion

104. Lack of Ownership Documents for Land

Paragraph 104 to 106

It was observed that the above paragraphs were forwarded to State Department for Social Protection where the Street Families and Rehabilitation Trust Fund is domiciled.

7.3. STATE DEPARTMENT FOR PLANNING AND STATISTICS

FINANCIAL STATEMENTS FOR VOTE 1034

Dr. Julius Muia, the Accounting Officer for the State Department of Planning and Statistics (Vote 1034) appeared before the committee on 16th April 2019 to adduce evidence on the Audited Financial Statements for the State Department of Planning and Statistics (Vote 1034) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1.	**Mr. C.T Muchiri**	**-**	**Director Administration**
2.	**Mr. Benson K. Kimani**	**-**	**Director Economic Planning**
3.	**Ms. Veronicah Kamau**	**-**	**Assistant Accounting General**
4.	**Mr. James K. Mungai**	**-**	**Chief Accountant**
5.	**Ms. Priscilla Njuguna**	**-**	**Accountant**
6.	**Mr. Anthony Mwangi Nduthu**	**-**	**Finance Officer**
7.	**Mr. Beatrice W. Thuo**	**-**	**Finance Officer**
8.	**Mr. Peterson Njenga**	**-**	**Economist**
9.	**Ms. Emma Kimetu**	**-**	**Finance Officer**

Basis for Disclaimer of Opinion

107. Trial Balance and Financial Statements

The first trial balance as at 30 June 2017 provided for audit reflected a credit balance of Kshs.38,202,648,535 which did not agree with the debit balance of Kshs.36,524,054,642. Subsequently, the trial balance was amended to have the debit and debits agreeing but the movement between the two trial balances has not been explained. In addition, the account balances reflected in the amended trial balance does not agree with the balances reflected in the financial statements. No reasons have been given for the variances or a reconciliation of the balances reflected in the two records provided for audit review.

In addition, the comparative surplus of Kshs.1,877,590,910 under 2015/2016 financial year shown in the statement of receipts and payments does not agree with the comparative surplus (2015/2016) in the statement of assets and liabilities which is reflected as a debit of Kshs.1,820,184,001. Consequently, the accuracy of the financial statements is doubtful.

Submission by Accounting Officer

The Accounting Officer submitted that that there was a technical problem with IFMIS. However, this was later rectified and the debit and the credit figures on the trial balance agreed. The receipts and payments items in the financial statement had no variances hence the financial position was not affected.

The variances between the Debit and credit balance in the trial balance provided for audit are analyzed as per the attached schedule.

He admitted that a surplus of Kshs 1,877,590,910 under 2015/2016 financial year
Shown in the statement of receipts and payments in the initial financial statements did not agree with the comparative surplus (2015/2016) in the statement of assets and liabilities which was reflected as a debit of Kshs 1,820,184,001.

He reported that that there was a trans-positional error in the financial statement where Kshs 1,820,184.00 was reflected as a surplus instead of being posted as a prior year adjustment. This error was rectified in the revised financial statements submitted to the Auditor General's office on 10th April1018.

Committee Observations and Findings

The Commitee marked the matter as resolved.

108. Unsupported Adjustments to the Financial Statements

The financial statements submitted on 30 September 2017 were amended and a revised set of financial statements prepared and re-submitted. However, the movements in the balances noted below were not supported by any documentation or journal entries making it difficult to confirm the accuracy of the new balances.

Component	**Initial Financial Statements (Kshs.)**	**Revised Financial Statements (Kshs.)**
Bank balance	2,014,472	12,191,813
Outstanding imprest	571,498,282	561,320,941
Fund balance b/f	-	76,081,384
Prior year adjustments	-	(76,081,384)

In addition, analyses for various expense accounts have unexplained adjustments as shown below that have been processed to agree the balances in the financial statements:

Code	Item	Balance reflected in the Initial accounts analyses Kshs.	Balance in the Revised accounts analyses (Kshs.)	Unexplained adjustment (Kshs.)
2210300	Domestic travel and Subsistence and other transportation costs	63,914,660.65	63,940,860.65	26,200.00
2210600	Rentals of produced assets	40,541,830.55	40,724,530.55	182,700.00
2210700	Training	66,640,854.50	67,072,054.50	431,200.00
2210800	Hospitality supplies and services	83,524,153.55	84,717,653.55	1,193,500.00
2211200	Fuel Oil and Lubricants	29,187,173.00	29,207,173.00	20,000.00
2220100	Routine maintenance –m/vehicle assets	18,639,238.00	18,777,236.00	137,998.00
2220200	Routine maintenance -other assets	6,741,511.85	6,753,793.15	12,281.30
	Membership and subscription	72,453,395	75,432,409	2,979,014
TOTAL				**4,982,893**

Submission by Accounting Officer

He admitted that the Financial Statements submitted on 30th September, 2017 were amended and a revised set of Financial Statements prepared and resubmitted. The movement of balances is explained as below: -

Component	Initial Financial Statement	Revised Financial Statement	Explanation
Bank Balances	2,014,472.00	12,191,813.00	The deposit bank balance of Kshs 10, 177, 341 had not been included in the bank balance figure in the initial financial statements. The deposit bank balance is included in the bank figure on the revised financial statement.
Outstanding imprest	571,320,914	561,320,914	The Initial reported balance in the financial statements erroneously includedKshs10, 177,341 deposit bank balance as a receivable. This error was corrected by debiting the Kshs 10,177,341 from the receivable figure and crediting the accounts payable with the equivalent amount in the revised financial statements.
Fund Balance B/F		76,081,384	This figure was a comparative figure of the balance carried forward from the former Ministry of Planning, Public Service, Youth and Gender affairs.
Prior Year Adjustments		(76,081,384)	This figure was a comparative figure of the balance carried forward from the former Ministry of Planning, Public Service, Youth and Gender affairs

i. The variances between the balances reflected in the initial account's analysis and the revised accounts analysis were due to imprest surrenders that were done after the initial financial statements had been presented.
They are explained as below: -

Code	Item	Balance reflected in the initial accounts analyses Kshs	Balance in the Revised accounts analyses (Kshs)	Variance	Variance Explanation
2210300	Domestic travel and subsistence and other transportation costs	63,914,660.65	63,940,860.65	26,200.00	These were imprest surrenders processed after the initial financial statements were prepared

2210600	Rentals of produced assets	40,541,830.55	40,724,530.55	182,700.00	This was a payment voucher captured after the initial financial statements were prepared.
2210700	Training	66,640,854.50	67,072,054.50	431,200.00	These were imprest surrenders processed after the initial financial statements were prepared.
2210800	Hospitality supplies and services	83,524,153.55	84,717,653.55	1,193,500.00	These were imprest surrenders processed after the initial financial statements were prepared and captured
2211200	Fuel Oil and Lubricants	29,187,173.00	29,207,173.00	20,000.00	This was imprest surrender processed after the initial Statement were paid.
2220100	Routine maintenance-m/vehicle assets	18,639,238.00	18,777,236.00	137,998.00	This was a payment voucher captured after the initial financial statements were prepared.
2220200	Routine Maintenance-m/vehicle assets	6,741,511.85	6,753,793.15	12,281.30	This was a payment voucher captured after the initial financial statements were prepared

2620100	Membership and subscription	72,453,395	75,432,409	2,979,014	These payment vouchers captured after the initial financial statements were presented.

Committee Observations and Findings

The Committee marked the matter as resolved.

109. Wrong Classification and Charge of Expenses

Kshs.25,252,896 was charged to the wrong items of expenditure accounts for the reasons that the funds in the respective correct accounts had been exhausted. The wrong charging of the expenditure amounts to reallocation. However, authority for reallocation was not obtained from the National Treasury. No documentary evidence has been provided for audit verification to support the charge of expenditure to the accounts indicated below:

Expenditure Account Charged	Correct Account to Have Been Charged	Expenditure Amount Kshs.
Domestic Travel	Foreign Travel	312,295
Pre-feasibility, feasibility and Appraisal Studies	Printing	8,340,000
Specialized Material	Hospitality/Training	350,000
Expenditure Account Charged	**Correct Account to Have Been Charged**	**Expenditure Amount Kshs.**
Domestic Travel	Other Operating Expenses	1,255,700
Construction of buildings	Maintenance of buildings	7,493,645
Construction of buildings	Refurbishment of buildings	6,590,000
Refurbishment of buildings	Hospitality	494,256
Refurbishment of buildings	Hospitality	417,000
Total		**25,252,896**

Submission by Accounting Officer

The Accounting Officer submitted that the under listed expenses were charged in the related expense items as explained below: -

Expenditure Amount (Kshs)	Expenditure Account Charged	Expenditure related Account	Explanation
312,295	Domestic Travel	Foreign Travel	The budget on foreign travel was reduced in supplementary I when the commitment had already been done.
8,340,000	Pre-feasibility	Printing	The research prefeasibility, feasibility and appraisal studies involves printing of the policy documents hence charged in the feasibility item
350,000	Specialized material	Hospitality/Training	This was a training undertaken in Wambugu training center which involved specialized training.
1,255,700	Other operating expenses	Domestic travel	The Ministry had a contract and a purchase agreement with the travel agency for travel related services. Hence the expenditure was charged under contracted services.
7,493,645	Construction of building	Maintenance of building	The expenditure was charged to non-residential buildings item as it was necessary to refurbish the office for the officers who had reported to the state department.
6,590,000	Construction of building	Maintenance of building	The expenditure was charged to non-residential buildings item as it was necessary to refurbish the office for the officers who had reported to the state department.
494,256	Refurbishment of building	Hospitality	The expenditure was incurred in implementing a presidential directive which required officers to travel to the site to undertake feasibility studies to establish a suitable location to purchase land.
417,000	Refurbishment of building	Hospitality	The expenditure was incurred in implementing a presidential directive which required officers to travel to the site to undertake feasibility studies to establish a suitable location to purchase land.

Committee Observations and Findings

(i) The submission by the Accounting Officer was satisfactory.
(ii) The Committee marked the matter as resolved.

110. Membership Dues and Subscriptions to International Organizations

Note 9 to the financial statements discloses that an amount of Kshs.75,432,409 was paid as membership dues and subscriptions to international organizations for the year ended 30 June 2017. However, relevant payment vouchers and supporting documentation show that a total of Kshs.78,165,786 was paid as subscriptions, resulting to a difference of Kshs.2,733,377. In addition, there are differences between the amounts recorded in the payment vouchers and the accounts analysis in respect of two payees as detailed below:

Payee	**Purpose**	**Payment Vouchers (Kshs.)**	**Account Analysis (Kshs.)**	**Variance between the amount paid as per the PV and figure posted in the account analysis (Kshs.)**
African, Caribbean and Pacific Group of States Secretariat (ACP) Secretariat	Kenya's annual contribution towards the ACP Secretariat being her membership fee.	14,635,786	11,573,781	3,062,005
NEPAD Continental Secretariat in South Africa (NEPAD) Secretariat	Kenya's annual contributions towards the NEPAD Secretariat to support its operational activities	10,880,000	8,355,164	2,524,836

No explanations have been provided for the above variance.

Submission by Accounting Officer

He admitted that there was a difference of Kshs 2,733,377.00 between the Kshs 75,432,409 disclosed in the financial statement for the year ended 30th June,2017 and the amount shown in the relevant payment vouchers and supporting documentation of Kshs 78,165,786.00 in respect of membership dues and subscription to international organizations item.

He reported that the amount of Kshs 2,733,377.00 was captured in the membership subscription account. The State Department has no outstanding dues in respect of membership to international organizations.

Additionally, the difference between the amount recorded in the payment vouchers and amount posted in the account analysis in respect of African Caribbean and Pacific group of States Secretariat and NEPAD continental Secretariat in South Africa are as explained below:-

African Caribbean and Pacific group of states

Payee	**PV No.**	**Amount as per PV**	**Accounts Analysis**	**Variance between the amount paid as PV and figure posted in the accounts analysis**	**Comment**
African Carribean & Pacific group of States	2366	2,649,705.00		2,649,705.00	The amount was erroneously not posted in the subscription account.
African Carribean & Pacific group of States	8222	4,048,473.00	3,636,173.00	412,300.00	The amount of Kshs 412,300 was erroneously not posted in the subscription account
African Carribean & Pacific group of states	4982	7,937,608.00	7,937,608.00	No Variance	
		14,635,786.00	**11,753,781.00**	**3,062,005.00**	

NEPAD Secretariat

PAYEE	PV	Amount as per	Account Analysis	Variance between the amount paid as PV and figure posted in the account analysis	Comment
NEPAD Secretariat	8225	10,880,000.00	8,355,164.00	2,524,836.00	The amount was erroneously not posted in the subscription account.

The amount has been fully captured and the State Department has no outstanding dues in respect of membership subscription to International organizations.

Committee Observations and Findings

(i) The Commitee observed that the necessary reconciliations were made.

(ii) The Committee marked the matter as resolved since necessary reconciliations were made.

111. Variances in Disbursements to Semi-Autonomous Government Agencies (SAGAs)

The statement of receipts and payments for the year ended 30 June 2017 reflects transfers to other government entities amounting to Kshs.33,323,844,396. However, variances were noted between the amounts disbursed by the State Department and amounts received by two SAGAs during the year under review as indicated below:

Entity	**Amount disbursed by Ministry (Kshs)**	**Amount received by Entity (Kshs.) as per their financial statements**	**Difference Kshs.**
Ewaso Nyiro North Development Authority	248,879,280	276,879,280	28,000,000
Kenya Institute for Public Research and Analysis	301,570,627	322,648,000	21,077,373

No explanation has been provided for the above variances.

Submission by Accounting Officer

The Accounting Officer admitted that the statement of receipts and payments for the year ended 30 June 2017 reflects transfers to other government entities amounting to Kshs.33,323,844,396 and as disclosed in Note 8 to the financial statements. The variances noted between the amounts disbursed by the state Department and the amounts posted by the SAGAs in their financial statements are explained as follows:

a) **Ewaso Ngiro North Development Authority**

The actual amount disbursed to the SAGA was Kshs 276,879,280 as analyzed below:-

Disbursements to Ewaso Ngiro North Development Authority 2016/2017 Financial Year

Recurrent

S/No	Dates	Amounts
1.	23/08/2016	29,719,820.25
2.	01/11/2016	29,719,820.00
3.	02/03/2017	29,719,820.00
4.	09/05/2017	29,719,820.00
5	19/06/2017	50,000,000.00
	TOTAL	**168,879,280.25**

Development

S/No	Dates	Amounts
1.	29/09/2016	80,000,000.00
2.	30/06/2017	28,000,000.00
	TOTAL	**108,000,000.00**
	GRAND TOTAL	**276,879,280.00**

The Difference between the amount recorded by the State Department and the amount reported by the SAGA was due to Kshs. 28,000,000 erroneously charged to civil works instead of capital grants in the state Department's books. This error was corrected vide JE No. 15103056 of 27th March, 2018. The correction is reflected in the revised Financial Statements that were submitted to the Auditor General's office on 10th April, 2018.

Ewaso Ngiro North Development Authority has confirmed receipt of Kshs 276,879,280.00 vide letter Ref. ENNDA/FIN/2018/19/18.

b) **Kenya Institute for Public Policy Research and Analysis (KIPPRA)**

He submitted that the difference of Kshs 21,077,373 between the amount disbursed by the State Department and the amount recorded by the SAGA was due to the fact that KIPPRA included revenue received from other Development partners in their financial statements.

The SAGA has confirmed through their letter dated 10/4/2019 that they received Kshs 301,570,627 from the State Department which agrees with the amount reported in the Financial Statement.

Committee Observations and Findings

The Committee marked the matter as resolved.

112. Utilities Supplies and Services

Disclosed in the financial statements at Note 7 is an amount of Kshs.1,000,000 in respect of utilities supplies and services. However, this item is not in the approved budget estimates for the year ended 30 June 2017.

In addition, no supporting documents have been provided for audit examination in respect of the expenditure.

Submission by Accounting Officer

The Accounting Officer submitted that the utilities supplies and services item was factored under development supplementary budget under programme for Agriculture & Livelihood in Western communities (PALWECO) since it related to the project. The expenditure was captured as a Journal Entry (JE) 12819810 on 15th September, 2017 since an AIE had been issued and Authority given by the National Treasury vide letter Ref. RES/1034/16/01/4/83 dated 2nd March 2017.

Committee Observations and Findings

(i) **The Committee observed that the expenditure was captured as a Journal Entry (JE) 12819810 on 15th September, 2017 since an AIE had been issued and Authority given by the National Treasury.**
(ii) **The Committee marked the matter as resolved.**

113. Acquisition Assets

The statement of receipts and payments reflects an expenditure of Kshs.668,102,870 on acquisition of assets which, includes a total of Kshs.310,830,233 in respect of construction of buildings, refurbishment of buildings and construction and civil works. Information available, however, indicated that the amount of Kshs.310,830,233 was disbursed to projects and Regional Authorities but has been wrongly accounted for under acquisition of assets.

In addition, the construction and civil works expenditure of Kshs.271,692,590 includes amounts of Kshs.10,000,000 in respect of funds disbursed to PALWECO Project and Kshs.10,442,590 in respect of infrastructure and civil works funded by Finland Government all which have no supporting documents. Further, the acquisition of assets expenditure includes an amount of Kshs.269,424,461 for research, studies, project preparation, design and supervision that does not represent any tangible assets because the amount was used mainly to pay the staff per- diems.

Submission by Accounting Officer

The Accounting Officer admitted that the statement of receipts and payments reflects an expenditure of Kshs 668,102,870 on acquisition of assets which as disclosed in Note II of the financial statements includes a total of Kshs 310,830,233 in respect of construction of buildings, refurbishment of buildings and construction and civil works which was disbursed to projects and Regional Development Authorities and accounted for under acquisition of Assets.

He submitted that the Regional Development Authorities were under the State Department and the Kshs 301,830,233.00 on acquisition of assets was in respect of water pans, bore holes and water supplies which was budgeted and charged on the right item as per the attached appropriation summary.

He admitted that the construction and civil includes an amount of Kshs 10,000,000 disbursed to PALWECO and Kshs 10,442,590 funded by the Finland Government. The funds were issued as AIEs to the Project through the District Treasury. The Expenditure was captured upon receipt of the expenditure returns.

He further admitted that the acquisition of assets expenditure includes an amount of Kshs. 269,424,461 for research, studies, project preparation design and supervision.

He reported that the Mandate of the State Department for Planning is Coordination in the Formulation and Development of Social Economic Policies which include short term Strategic plans, Medium term plans, Sectoral plans and Policies as well as Long range plans.

This involves Research, public participation and community mobilization, printing and dissemination of the results.

These activities require officers to frequently travel to the field to collect data and other research activities which necessitates the payment of Per Diems.

Committee Observations and Findings

(i) **The Committee observed that the payments have been made.**
(ii) **The Committee marked the matter as resolved.**

114. Proceeds from Foreign Borrowing

As disclosed in Note 3 to the financial statements proceeds from foreign borrowing of Kshs.15,302,899 relate to a direct payment made by a donor on behalf of Kerio Valley Development Authority to a consultant. The soft loan agreement was made on 28 January 2007 and a further endorsement made on 18 September 2007. The project being funded had a lifespan of four years and had detailed deliverables for each phase up to December 2013.

Information available indicates that the consultancy contract was signed on 4 December 2014, which was outside the period of the financing agreement. The payment to the consultant was made in July 2016 which was also outside the agreement timelines. No amended financing loan agreement has been provided for audit review to confirm the extension of the project execution period, if any. Consequently, the validity of the receipts and expenditure captured in the financial statements cannot be confirmed.

Submission by Accounting Officer
The Accounting Officer admitted that Kshs 15,302,899 was direct payment on behalf of Kerio Valley Development Authority to the Consultant. The contract agreement between KVDA Eldoret Kenya and SWS consulting Engineering S&L Rome Italy was renewed on 27th August 2015.

Committee Observations and Findings

(i) **The submission by the Accounting Officer was satisfactory.**
(ii) **The Committee marked the matter as resolved.**

115. District Suspense (AIEs)

The statement of assets and liabilities as at 30 June 2017 reflects accounts receivable balance of Kshs.561,320,941 which includes a district suspense figure of Kshs.557,798,755. The district suspense figure has been explained as the difference between the monies disbursed to various Regional Authorities for drought intervention measures totalling Kshs.700,500,000 and amounts converted to expenditure. The following anomalies have been noted as regards the disbursement:

(i) No evidence has been provided to demonstrate approval by Cabinet for the use of Regional Authorities as the vehicles to deliver drought mitigation measures;

(ii) The basis of allocating funds to various Regional Authorities and the details of the programmes each Regional Authority was to run have not been provided for audit examination; and

(v) The Regional Authorities did not confirm the amount of monies received and unaccounted for as at 30 June 2017.

Further, the amounts converted to expenditure comprise Kshs.132,523,904 and Kshs.701,245 in respect of Ewaso Nyiro South Development Authority and Ewaso Nyiro North Development Authority respectively. However, an amount of Kshs.9,476,096 disbursed to Ewaso Nyiro South Development Authority has not been disclosed either as expenditure or outstanding AIE and has not been supported with any relevant documentation. The exclusion of the figure of Kshs.9,476,096 from the financial records has not been explained.

Submission by Accounting Officer

The Acocunting Officer admitted that the Statement of Assets and Liabilities as at 30th June, 2017 reflects accounts receivable balance of Kshs 561,320,941 which includes as disclosed under Note 13 to the financial statements a district suspense figure of Kshs. 557,798,755. The District suspense figure is explained as the difference between the monies disbursed to various Regional Development Authorities for drought intervention measures totaling to Kshs.700, 500,000 and amounts converted to expenditure. The explanations to the various matters raised are as follows;

1. **Evidence of Approval**

The state Department has requested the National Treasury vide letter ref TNTP/SDP/17/25(58) to provide a copy of the cabinet memo that gave approval for the Regional Development Authorities to act as vehicles to deliver drought mitigation measures.

Committee Observations and Findings

(i) The Committee observed that a Cabinet Memo had not been provided to ascertain the approval.

(ii) The matter remained unresolved.

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

2. **The basis of allocating funds to various Regional Development Authorities**

The Accounting Officer submitted that the basis of allocating funds to various Regional Development Authorities and the details of the programmes each Regional Development Authority was to carry out have been availed for audit verification.

He admitted that the Regional Development Authorities had not confirmed the amount of monies received and unaccounted for as at 30th June, 2017. However, all Regional Development Authorities have confirmed that they received the amounts as per the AIEs issued to them.

The Kshs 9,476,096 disbursed to Ewaso Nyiro South Development Authority was disclosed as an expenditure in the financial statement as per the attached Accounts Analysis, Journal Voucher and copies of payment vouchers.

Committee Observations and Findings

(i) **The Committee observed that the observation by the Accounting Officer was satisfactory.**
(ii) **The Committee marked the matter as resolved.**

116. Cash and Cash Equivalents

The bank balances of Kshs.12,191,813 as at 30 June 2017 reflected in the statement of assets and liabilities and disclosed under Note 12A to the financial statements differs from the verified cash book balances as at that date as detailed below:

Account	**Balance as per Note 12A Kshs.**	**Balance as per Cashbook Kshs.**	**Difference Kshs.**
Recurrent	1,693,603	65,786,573.25	64,092,970.25
Development	320,870	63,330,511	63,009,641
Deposits	10,177,341	10,109,514.05	67,826.95

Further, trial balance figures for bank balances differ with the balances as per financial statements (Note 12A) as detailed below:

Account	Trial balance Kshs.	Financial Statements Kshs.	Difference Kshs.
Recurrent	1,744,074,553	1,693,603	1,742,380,950
Deposits	0	10,177,341	(10,177,341)
Development	1,000,059	857 320,870	999,738,987

In addition, the bank statement balances as per the reconciliations differ with bank certificate balances provided as detailed below:

Account	Bank Certificate Balance as at 30th June 2017 Kshs.	Balance reflected in the Bank Reconciliation (balance as per bank certificate) Kshs.	Variance Kshs.
Recurrent	268,399,971.65	1,693,602.60	266,706,369.05
Development	110,449,357.30	320,870.80	110,128,486.50

Also, the cash book balance in the reconciliation statement for the deposits account differs with the actual cash book balance as shown below:

Account	Bank Reconciliation Statement	Cashbook Balance as at 30 June 2017 Kshs.	Variance Kshs.
Deposits	10,177,341	10,109,514.05	67,826.95

The above differences have not been reconciled or explained.

Submission by Accounting Officer

The Accounting Officer admitted that the cash and cash equivalent balance in the financial statement were understated by Kshs 127,170,438.20 because July 2017 bank balances were erroneously used to do the bank reconciliation instead of June 2017 bank balances.
He reported that the cash book balances were Kshs 65,786,573.25 for recurrent, Kshs 63,330,571 for development and Kshs. 10,109,514.05 for deposit as evidenced by the correct bank reconciliations. The financial statements will be restated to reflect the above position.
He admitted that the trial balance figures for bank balances from IFMIS differed with the balances as per the Financial Statements (Note 12A).

On this matter, I wish to state that the IFMIS cash management module is not fully operationalized and the department uses manually prepared bank reconciliations for reporting. The department is awaiting the IFMIS department to fix the above problem.

The bank reconciliation statement that was availed for audit was erroneous. The correct balances as per the certificate of balances namely recurrent Kshs 268,399,971.65 and development Kshs 110,449,357.30 have now been used in the respective bank reconciliations.

The deposit cashbook balance was understated by Kshs 67,826.95. This figure is analyzed below:

Analysis of 67,826.95 Deposit cashbook undercast.	Kshs
Under cast on closing balance (Folio) 2	505, 598.10
Reversal –Opet Enterprises Posted twice (Folio 2)	154,786.10
Reversal of VAT Opet Enterprises posted twice	8,442.90
	668,827.10
	Kshs.
Overcast –Closing balance (Folio 1) 601,000.00	
Overcast – Crimon Enterprises	601,000.15
Variance	***67,826.95***
The error has been corrected.	

Committee Observations and Findings

- **(i) The Accounting Officer was given one month from the date of the meeting to make and submit the necessary corrections in the financial statements.**
- **(ii) The Committee observed that the ommission is act of maladministration and leads to improper conduct.**
- **(iii)The matter remained unresolved.**

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

117. Bank Reconciliations Statements

The bank balances of Kshs.12,191,813 include an amount of Kshs.1,693,603 in respect of recurrent account. However, the reconciliation statement for the recurrent cash book reflects receipts in the bank statement not in cash book of Kshs.2,105,672 out of which Kshs.116,499 were dated July

2017 and therefore relates to 2017/2018 financial year. The statement also reflects payments in the bank statement and not posted in the cashbook amounting to Kshs.44,349,057 out of which Kshs.3,180,559 were dated July 2017 and therefore relate to 2017/2018 financial year. In addition, another payment of Kshs.9,039,078 was over one month old and no explanation has been provided for the delay in its resolution.

Further, the statement reflects receipts in the cash book not in the bank statement totalling Kshs.34,956,458 which include an unexplained adjustment of Kshs.34,769,910 in the cash book. In addition, the bank balances of Kshs.12,191,813 also include an amount of Kshs.320,870 in respect of development account. However, the reconciliation statement for the development cash book also reflects payments in the bank statement but not in the cash book of Kshs.1,291,100.50 all of which were over one month old. The reconciliation statement also reflects receipts in the bank statements not in cash book of Kshs.5,180,386.00 out of which Kshs.4,325,950 had been outstanding for one month as of 30 June 2017. The above anomalies have not been explained.

Submission by Accounting Officer

The Accounting Officer admitted that the bank reconciliation statement submitted for audit reflects receipts in the bank statement not in the cash book of kshs116, 499.20 dated July 2017 and payments in the bank statement not posted in the cash book of Kshs 3,180,558.80 also dated July 2017.As stated earlier, the bank reconciliation submitted for audit was erroneous, the correct bank reconciliation as per Appendix 11 does not have receipts/ payments for July 2017. Further, the over one-month old payments of Kshs 9,039,078 in recurrent and Kshs 4,325,950 in development have since been recorded in the cash book.

Committee Observations and Findings

(i) **The Accounting Officer was given one month from the date of the meeting to make and submit the necessary corrections in the financial statements.**
(ii) **The matter remains unresolved.**

Committee Recommendations

The omission by the Accounting Officer to provide the financial statements is an act of maladministration and leads to improper conduct.

118. Prior Year Adjustments

Disclosed at Note 16 to the financial statements are prior year adjustments amounting to Kshs.76,081,384. However, justification for the prior year adjustments and the documentary evidence to support the figures have not been provided for audit verification. In addition, the prior year adjustments have not been done in line with International Public Sector Accounting Standards which require restatement of all affected prior year balances in the financial statements unless it is impracticable to do so.

Submission by Accounting Officer

He admitted that Note 16 to the financial statements shows the prior year adjustments amounting to a net of Kshs.76, 081,384. These were balances brought forward as from the Ministry of Devolution and planning comprising State Departments of Public Service, Youth and Gender Affairs as reflected in the 2015/ 2016 financial statements.

However, the Kshs 76,081,384 has been supported as per the statement of Assets and liabilities of the former Ministry of Devolution and Planning.

Committee Observations and Findings

The Committee marked the matter as resolved.

119. Pending Bills

Records maintained by the State Department of Planning and as disclosed in Note 18.1 to the financial statements indicate that bills totalling Kshs.26,475,233 were not settled during the year 2016/2017 but were instead carried forward to 2017/2018. Had the bills ben paid and the expenditure charged to the accounts for 2016/2017, the statement of receipts and payments for the year ended 30 June 2017 would have reflected a reduced surplus of Kshs.536,925,074 instead of the amount of Kshs.563,400,307 now reported.

Failure to settle bills during the year to which they relate distorts the financial statements for that year and adversely affects the provisions for the subsequent year to which they have to be charged.

Submission by Accounting Officer

The Accounting Officer admitted that the Department reported pending bills amounting to KShs. 26,475,233as at 30th June, 2017. The pending bills were due to lack of adequate exchequer and budget cut in the supplementary budget.

However, most of the pending bills have been cleared in the financial year 2017/2018 as they formed the first charge.

Committee Observations and Findings

(i) **The Committee noted that the amount of KShs 694,248.00 was still outstanding.**
(ii) **The matter remains unresolved.**

Committee Recommendations

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills are available, they should form a first charge in the subsequent year's budget thereby impending smooth implementation of the subsequent budget.

120. Fixed Assets Register

The statement of receipts and payments reflects expenditure totalling Kshs.668,102,870 on acquisition of assets in 2016/2017 which agrees with a summary of fixed assets register at Annex 4 to the financial statements.

However, the actual fixed assets register provided for audit verification reflects assets totalling Kshs.10,997,175 leaving an unexplained balance of Kshs.657,105,695. No reason has been given for failure to update the fixed assets register.

Submission by Accounting Officer

He admitted that the statements of receipts and payments reflects expenditure totaling to Kshs 668,102,870 which agrees with the summary of fixed assets register. The state department provided a fixed asset register amounting to Kshs 10,997,175 for audit verification.

The balance of Kshs**. 657, 105,695** is analyzed in the table below:

SNO	**AMOUNTS KSHS.**	**REMARKS**
1	387,681,234	The amount related to assets in respect of PALWECO, Kimira Aluoch Smallholder Farm Improvement Project and Regional Development Authorities.
2	269,424,461	The amount related to Research and Feasibility Studies
TOTALS	**657, 105,695**	The amount were budgeted under acquisition of Assets

Committee Observations and Findings

(i) **The Committee observed that the difference of Ksh. 657,105,695.00 related to assets in respect of PALWECO, Kimira Oluoch Smallholder Farm Improvement Project and Regional Development Authorities and Research and Feasibility Studies.**
(ii) **The matter remains unresolved.**

Committee Recommendations

It was recommended that the State Department of Planning and Statistics have discussions with the National Treasury on the possibilities of the funds being issued as Grants rather that AIE's.

121. Budget and Budgetary Control

Although the statements of appropriation for recurrent and development financial statements do not reflect excess expenditure above budget at the global level, the itemized budget under use of goods and services reflect over expenditure under domestic travel and routine maintenance of motor vehicle as detailed below:

Item	**Actual (Kshs.)**	**Budget (Kshs.)**	**Variances (Kshs.)**	**% Variance**
Domestic Travel	63,903,061	53,002,930	10,900,131	21%
Routine maintenance – motor vehicle and other transport facilities	18,777,236	15,870,000	2,907,236	18%

No authority for reallocation of the above expenditure has been provided for audit review though the reported variances exceeded the ceiling of 10%.

Submission by Accounting Officer

He admitted that the domestic travel and routine maintenance of motor vehicles had a budgetary provision of Kshs. 53,002,930 and Kshs 15,870,000 respectively as per 2016/17 budget estimates and an expenditure of Kshs 63,903,061 and Kshs 18,777,236 respectively resulting to an over-expenditure of Kshs 10,900,131 in the domestic travel and Kshs 2,907,236 in the routine maintenance of motor vehicles.

The anomaly was occasioned by the reduction of the budget for the specific items during the supplementary budget.

Committee Observations and Findings

The Committee marked the matter as resolved.

NATIONAL YOUTH SERVICE MECHANICAL AND TRANSPORT FUND

Basis for Disclaimer of Opinion

122. Costs of Operation

Statement of financial performance reflects revenue amounting to Kshs.235,386,086 and total operating expenses of Kshs.483,547,363 for the year ended 30 June 2017. However, the management of the Fund has included depreciation and amortization expenses and bank charges only in the reported total operating expenses of Kshs.483,547,363 and excluded all other costs and expenses in relation to the operations of the Fund. These excluded costs and expenses include undetermined value of personnel emoluments, spares and other repairs of Kshs.1,156,942,596 and fuel and lubricants of Kshs.776,524,309 all totalling Kshs.1,933,466,905. These costs directly relate to the operation of the Fund and should have been matched to the revenue in order to arrive at the loss for the period. Consequently, the reported loss for the period of Kshs.248,161,278 and the cumulative deficit of Kshs.644,399,164 as at 30 June 2017 are not fairly stated.

Submission by Accounting Officer

The Accounting Officer submitted that the Financial Statements were prepared and forwarded to the office of the Auditor General. He tabled a copy of the Kenya Gazette Supplement No. 39 dated 1st April 2016 on the formation and operation of the fund and a copy of a forwarding letter Ref.MPDYGA/SDGA/FIN/2/4 which was received by the Auditor General.

123. Non-Current Assets

The statement of financial position as at 30 June 2017, reflect total non-current assets balance of Kshs.5,779,547,213 which include an amount of Kshs.3,736,740,990 relating to plant and heavy machinery. However, the Fund`s management has not valued the plant and heavy machinery for financial reporting purpose since inception.

The total non-current assets balance of Kshs.5,779,547,213 as at 30 June, 2017 is not, therefore, fairly stated under the circumstances. Further, it was indicated in the report for 2015/2016 that, the non-current assets movement schedule under Note 3 and the statement of financial position reflected a net book value of Kshs.6,263,076,866.57 while the computed figure using appropriate rates showed a balance of Kshs.6,366,028,632.

The resulting variance of Kshs.102,951,764.94 has not been analyzed or explained. In addition, and as previously reported in 2015/2016, the accumulated depreciation brought forward as 1 July 2016 of Kshs.2,178,510,682 included unsupported adjustments of Kshs.3,662,814 relating to plant and heavy machinery and unaccounted for depreciation of Kshs.94,168,883. No documentation has been provided in support of this movement to date. Under the circumstances, the accuracy of non-current assets brought forward balance of Kshs.6,263,076,867 as at 1 July 2016 and the closing balance of Kshs.5,779,547,213 as at 30 June 2017 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted that there were variances between the final approved budget and actual receipts/payments.
He reported that the variances have been explained and the omission is highly regretted.

124. Domestic Debts

As disclosed under Note 4(a) to the financial statements, gross domestic debts of Kshs.429,523,206 includes balance brought forward of Kshs.299,503,490. The balance brought forward include unsupported Director General National Youth Service debt of Kshs.18,380,963 in respect of financial year 2013/2014 and an amount of Kshs.124,600,000 borrowed from the Fund's Account at Kenya Commercial Bank Moi Avenue by the Ministry of Devolution and Planning in the same financial year.

Information available indicates that there was no documented policy or authority given to borrow from the Fund. During the year under review, an amount of Kshs.58,839,952 was repaid leaving a balance of Kshs.429,523,206. No proper justification has been provided for no settlement of the outstanding balance of Kshs.429,523,206 as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer admitted that the State Department had an operational audit committee.

He tabled Copies of minutes of the Audit Committee meetings and work plan for the internal audit department for that year.

125. Commercial Debts

Disclosed under Note 4(b) to the financial statements are commercial debts totalling Kshs.438,787,714 made up of Tana Road Project debt of Kshs.424,987,103 and other debts of Kshs.13,800,611 all being more than three years old. No provision for impairment has, however, been made against the long outstanding debts even though the recovery is clearly uncertain. Under the circumstances, the commercial debts balance of Kshs.438,787,714 as reported in the financial statements is not fairly stated.

126. Non-Current Liabilities Sundry Creditors

The statement of financial position reflects under non-current liabilities, sundry creditors balance of Kshs.8,579,223. The balance was previously classified as a current liability. No documentation has been provided to justiFinancial Year its reclassification to long term liability. In addition, the balance has been outstanding for over four years and there is no clear justification as to why the amounts have not been settled.

127. Fund Balance

The Fund balance of Kshs.8,409,522,779 as at 30 June 2017 comprise of various adjustments passed in the previous years and in the current year all of which have not been supported to date as highlighted below:

Year ended	**Amount Kshs.**	**Description**
30 June 2014	39,807,203.75	Prior year adjustment error
30 June 2015	26,860,668.96	Prior year adjustment error
30 June 2016	6,951,553.18	Prior year adjustment error
30 June 2016	136,013,262.00	Changes in Net Book Value
30 June 2017	1,488,772.00	Prior year adjustment

In addition, the balance includes an amount of Kshs.327,993,842 reflected as addition to the Fund balance during the year and Kshs.205,419,622 in respect of earlier years related to grants received from the State Department of Public Service and Youth in form of stocks. However, the amounts are not adjusted to reflect the stock consumption over the years or any impairment that may be necessitated by changes in fair value. Under the circumstances, the accuracy and completeness of the Fund balance amount of Kshs.8,409,522,779 as at 30 June 2017 cannot be confirmed.

128. Inventory

The statement of financial position reflects an inventory balance of Kshs.503,774,082 as at 30 June 2017. However, part of the stock balance relates to spares procured in 2014/2015 financial year amounting to Kshs.175,780,240 which have had no movement or consumption during the year under review. This is a possible indicator of obsolescence of the stock but no provision for impairment has been made against the balance. Consequently, the inventory balance of Kshs.503,774,082 as at 30 June 2017 is not fairly stated.

129. Statement of Cash flows

The statement of cash flows reflects under cash flows from operating activities what has been described as "increase/decrease in differences" figure of Kshs.1,600,372 and a comparative figure of Kshs.47,310,811. These figures have not been supported with any documentation. Consequently, the accuracy of the statement of cash flows cannot be confirmed.

8.0. MINISTRY OF DEFENCE

FINANCIAL STATEMENTS FOR VOTE 1041

Dr. Ibrahim M. Mohamed, the Accounting Officer for the State Department of Defence (Vote 1041) appeared before the committee on 1st and 15th October 2019 to adduce evidence on the Audited Financial Statements for the Ministry of Defence (Vote 1041) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Lt. Gen. Robert Kibochi - Vice Chief of Defence Forces**
2. **Brigadier Muthuri Kiugu - Chief of Logistics Defence Headquarters**
3. **Brig. Daniel O. Odeny - Legal Officer**
4. **Mr. Charles K. Muhia - Senior Chief Finance Officer**
5. **Col. Peter Sulabu - Col. In-Charge of Communications and IT.**
6. **Col. Peter Limo - Col. Supply and Maintenance**
7. **Col. Linus Obim - IT-Division Headquarter.**
8. **Mr. Joshua M. Musau - Director Supply Chains Management Service**
9. **Ms. Julia Wanjiru - Senior Principal Finance Officer**
10. **Mr. Wilson Nganga - Senior Economist**
11. **Mr. G. F. Sakina - Principal Legal Officer**
12. **Mr. Wilson Nganga - Senior Economist**
13. **Mr. Joshua Njungu - Accountant**
14. **Mr. Gerald Sakwa - Principal Liaison Officer**

and submitted as follows:

Unqualified opinion

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

Emphasis of Matter

a. Installation of ERP System at Various Military Barracks

Contract documents and records indicate that the Ministry of Defence awarded a contract through direct procurement method and paid Kshs.123,693,024 to a firm in respect of installation and maintenance of an Enterprise Resource Planning (ERP) system in 2010/2011 financial year. According to the contract documents, the system were to be installed at Kenya Army Ordinance

Corp (KAOC), 23 Ordinance Composite Company (OCC) Lanet, 43 Ordinance Composite Company (OCC), Central Supplies Depot (CSD) and Naval Supplies Depot (NSD).

However, an audit inspection undertaken at Kenya Army Ordinance Corps (KAOC) - Kahawa Barracks revealed that the system failed and that the staff stationed at the procurement and stores sections is using a manual system. The staff were equally not trained on the system contrary to the stipulations in the contract document.

Further, the justification for awarding a two-year maintenance contract for 2012/2013 and 2013/2014 financial years to an already failed system at a cost of Kshs.16,266,100 per year to the supplier has not been explained. An audit verification also revealed that another company was awarded a similar contract at undisclosed contract sum and has been paid Kshs.9,925,000 during the financial years 2016/2017 and 2017/2018 for maintenance of the same system.

In the circumstances, it is not possible to confirm that value of money has been obtained on use of resources under the initial contract valued at Kshs.156,225,224 as required under Section 68 (1)(b) of Public Finance Management Act, 2012.

Submission by Accounting Officer

The Accounting Officer provided the following clarifications: -

<u>Background</u>

The procurement and installation of Enterprise Resource Planning (ERP) system was borne out of the need for the Kenya Defence Forces (KDF) to efficiently manage its logistics processes. This involved transitioning from manual to automated systems as part of a wider KDF computerization programme. The ERP solution for logistics involved identification of suitable modules to allow transparence and accountability of supplies transactions, hence reducing the use of papers. Progressively the ERP solution at KAOC was to be extended to Services and other Logistic entities with the objective of having the whole of KDF logistics integrated and paperless.

ERP Implementations

A restricted tendering process for the ERP system in KAOC was completed in 2008 and awarded to M/s Alliance Technologies Ltd at a cost of Kenya Shillings Six Million only (Kshs 6,000,000.00). On 11 Jun 09, the system was commissioned. The system managed receipts, storage and issue of stores. The success of ERP in KAOC was notable and plans started for roll out the system to Kenya Air Force Central Supplies Depot (KAF CSD), Kenya Navy Supplies Depot (KN NSD) and the 23 & 43 Ordnance Composite Companies (OCCs).

Roll-out of ERP System

On 13 Sep 10, MOD awarded a contract (Contract No MOSD/423(256)2010/2011) to M/s Alliance Technologies Ltd for Development, Formulation and Implementation of the ERP system at a cost of Kenya Shillings Ninety-Five Million, Six Hundred Eighty-Two Thousand, Five Hundred and Fifty only (Kshs 95,682,550.00). The scope of the project covered;

a) Development and Implementation of the system;
b) Training of personnel as follows;
c) Technical personnel to be trained on system administration; and
d) Users to be trained on effective and responsible use of the system.

The roll out of ERP system to services was launched on 11th February 2011, and within the same year it became operational.

System Go Live

In compliance with the contract, the contracted firm Alliance Technologies Solutions Ltd completed the scoping and review of project specification and subsequently jointly with the client formulated project charter that was duly executed. Project charter execution certificate was issued on 23 November 2010. In compliance with the contract, ERP Software testing was conducted to the satisfaction of MOD and certificate issued on 14 March 2011. Upon completion of the contract project, implementation of the ERP System for 23 &43 OCC, CSD, and NSD MOD were issued 'Go Live Certificate' on 16 December 2012.

Upon commissioning, the system was largely used in warehouse and procurement management functions. Copies of commonly used print out from the system in form of release orders issued to MTO 2nd Ordinance Bn and Regional Stores 2nd Ordinance Bn in November 2012 are available for audit verification.

The system was not able to perform optimally due to rapid technological changes and low manning levels following deployment of KDF personnel to operations in Somalia. In order to have continuous and effective maintenance to sustain the system, a maintenance contract became a critical requirement.

Training

The Enterprise Resource Planning (ERP) System training was carried out for both System Administrators and Users for support and effective use of the system. The training schedule covered a total of twenty-four (24) Service personal.

System Challenges

The system faced challenges that impaired its effective operation as follows;

a) Infrastructural failures such as network and terminal equipment. This affected smooth operation of the system.
b) The ERP system operated, and it became apparent that the system to be upgraded for more efficiency due to changes in technology.

ERP System Review

On 20 March 2013 a Board of Officers from Logistics and IT was constituted to review the system. The Board confirmed that the ERP system had been installed successfully but not fully utilized. The board identified the following challenges:

a) Lack of IT trained personnel to maintain/manage the system.
b) Lack of trained operators.
c) High turnover of personnel.
d) Frequent power failures.
e) Incomplete infrastructure and lack of enough computers.

The Board recommended for the establishment of a maintenance contract to offer technical support to the system and train more personnel. Consequently, a maintenance contract (Contract No. MOD/423 (01407)2014/2015) was awarded to M/s Alliance Technologies Ltd at a cost of **Kenya Shillings Thirty-Eight Million, One Hundred Seventy-One Thousand, One Hundred only** (**Kshs 38,171,100.00**). The scope of the contract covered the following:

a) Upgrade of KAOC ERP system which was of a lower version to what had been implemented in KAF CSD, KN NSD and the OCCs.
b) Maintenance of ERP system at KAF CSD, KN NSD and OCCs for 1 (one) year and an additional 1 (one) year subject to mutual consent of both parties.
c) Technical and user support.
d) Training of administrators, users and trainers of trainers.

During the period of the contract, the ERP system was actively used in KAOC and KAF CSD and the trained personnel were available to man the system. However, in KN NSD and OCCs (both 23 & 43), infrastructural challenges impaired effective usage. The maintenance contract was not renewed in 2016, due desire for upgrade.

Upgrade of ERP System

The need to upgrade and expand the scope of the current ERP system to include management of Procurement process, Vote Book and Production (for the Kenya Army Tailoring Unit) in addition to training of more technical personnel, informed the decision to engage a vendor, M/s Nasoft

Technology Solutions Ltd, to undertake the work. Currently, the system is fully operational and is supported by trained KDF personnel.

Summary of Payments for the ERP System

The total amount paid for the ERP system is Kenya Shillings One Hundred Forty-Nine Million, Seven Hundred Seventy-Eight Thousand, Six Hundred Fifty (Kshs 149,778,650.00) and not Kenya Shillings One Hundred Fifty-Six Million, Two Hundred Twenty-Five Thousand, Two Hundred Twenty-Four (Kshs 156,225,224.00) as indicated in the audit observation.

Actions taken from lessons learnt

The following measures have so far been instituted to ensure smooth and sustainable operation of ERP in KAOC:

a) Training of technical personnel and users, particularly female personnel who are rarely deployed in operation areas.
b) Upgrade of the IT network to improve its reliability.
c) Installation of standby power generators to reduce cases of mains power interruption that impair ERP system operation.
d) Continuous sensitization of users on effective and responsible use of the ERP system.

The measures will be implemented in all KDF Logistics establishments to facilitate smooth operation of the ERP system and ensure value for money.

Committee Observations and Findings

(i) The Committee was satisfied with the explanation provided by the Accounting Officer.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

(i) The Accounting Officer should at all times avail all documents necessary for audit review.

b. Procurement of Liquefied Petroleum Gas (LPG)

The records maintained at Ministry of Defence Headquarters also show that an Amount of Kshs.184,359,000 was spent in respect of purchase of Liquefied Petroleum Gas (LPG) during the financial year 2016/2017. The records further reveal that the Ministerial Tender Committee (MTC) had recommended National Oil Corporation and Dash Energy Ltd whose market prices were Kshs.95,000 and Kshs.115,000 per ton for Nairobi and other areas, respectively.

However, in unexplained circumstances, the Ministry opted to procure the same product from a Merchant, the 10th lowest bidder, at a higher price of Kshs.190,000 and Kshs.195,000 per ton in Nairobi and other areas respectively, resulting in an apparent opportunity loss of Kshs.84,239,500 contrary to the requirements under regulation 10 (2)(e) of the Public Procurement and Disposal Regulations, 2006.

Consequently, the validity of the expenditure of Kshs.84,239,500 on purchase of Liquefied Petroleum Gas (LPG) could not be confirmed and value for money was not realised contrary to the requirement of Regulation 10(2)(e) of the Public Procurement and Disposal Regulations, 2006.

Submission by Accounting Officer

The Accounting Officer submitted that it was correct that records maintained at the Ministry of Defence Headquarters show that an amount of Ksh. 184,359,000 was spent in respect of purchase of Liquefied Petroleum Gas (LPG) during the financial year 2016/2017. It is however not correct that the Ministerial Tender Committee (MTC) had recommended National Oil Corporation and Dash Energy Ltd whose market prices were Ksh. 95,000 and Ksh. 115,000 per ton for Nairobi and other areas respectively. The correct position with regard to this query is as follows: -

Introduction

The subject tender was advertised in the month of March, 2014 closed and opened on 20 March, 2014.

2. The following twenty-nine (29) firms bought the tender documents:

a. M/S Dash Energy Ltd.
b. M/S Bahar Holdings Ltd.
c. M/S Impex General Merchants Ltd.
d. M/S Biglots Ltd.
e. M/S Cresco (K) Ltd.
f. M/S Acre on Diamonds Ltd.
g. M/S Faulu Gas investment.
h. M/S Kengreen Energy Ltd.
i. M/S Stiff Int.
j. M/S Galana Oil (K) Ltd.
k. M/S Jitengemee Kenya Ltd.
l. M/S Alvan Holdings Ltd.
m. M/S County Homes.
n. M/S Sublime Holdings Ltd.
o. M/S Green Energy Ltd.
p. M/S Citilink Ltd.
q. M/S BOC (K) Ltd.
r. M/S UlFinancial Year Enterprises Ltd.
s. M/S National Oil Corporation of Kenya.
t. M/S Trinity Petroleum Ltd.

u. M/S Oryx Energies.
v. M/S Yaba Energy Ltd.
w. M/S Lake Gas Ltd.
x. M/S Partex Petroleum Ltd.
y. M/S Heller Petroleum Ltd.
z. M/S Sunset Electro Services Ltd.
aa. M/S Kosmac Enterprises.
bb. M/S Branton Investment.
cc. M/S Ringway Services Ltd.

Documentation

As at the closing and opening of the tenders, eighteen (18) firms had returned their tender documents, while the following eleven (11) firms did not submit tender documents.

a. M/S Cresco (K) Ltd.
b. M/S Acre on Diamonds Ltd.
c. M/S Stiff Int.
d. M/S County Homes.
e. M/S BOC (K) Ltd.
f. M/S UlFinancial Year Enterprises Ltd.
g. M/S Oryx Energies.
h. M/S Lake Gas Ltd.
i. M/S Partex Petroleoum Ltd.
j. M/S Kosmac Enterprises.
k. M/S Branton Investment.

Physical Evaluation

4The summary of physical evaluation report on a predetermined parameter is as tabulated below:

S/N	Firms	Line of Business	Capacity	Tpt	Total	Rank	Remarks
1.	M/S Yaba Energy Ltd	22	13	15	50	1	**Recommended**
2.	M/S National Oil Corporation of Kenya	20	13	15	48	2	**Recommended**
3.	M/S Heller Petroleum Ltd	20	12	15	47	3	**Recommended**
4.	M/S Dash Energy Ltd	19	12	15	46	4	**Recommended**

5.	M/S Green Energy Ltd	17	12	15	44	5	**Recommended**
6.	M/S Faulu Gas investment	18	13	10	41	6	**Recommended**
7.	M/S Galana Oil (K) Ltd	15	10	15	40	7	**Recommended**
8.	M/S Trinity Petroleum Ltd	15	09	15	39	8	**Recommended**
9.	M/S Biglots Ltd	14	10	15	39	8	**Recommended**
10.	M/S Impex General Merchants Ltd	13	10	15	38	10	**Recommended**
11.	M/S Alvan Holdings Ltd	13	10	15	38	10	**Recommended**
12.	M/S Bahar Holdings Ltd	13	05	10	28	12	**Recommended**
13.	M/S Kengreen Energy Ltd	06	03	10	19	13	Not Recommended
14.	M/S Citilink Ltd	05	03	10	18	14	Not Recommended
15.	M/S Sunset Electro Services Ltd	06	00	00	06	15	Not Recommended
16.	M/S Ringway Services Ltd	05	00	00	05	16	Not Recommended
17.	M/S Jitengemee Kenya Ltd	**Withdrew**					Not Recommended
18.	M/S Sublime Holdings Ltd	**Withdrew**					Not Recommended

Price Evaluation and Award

5Pursuant to Section 66 (4) of the Public Procurement and Disposal Act, 2005, The MTC awarded the contract for the supply of Bulk Liquefied Petroleum Gas (LPG) to the Defence Forces for the period **from 13th September, 2014 to 12th September, 2016** to **M/S Impex General Merchants Ltd** being the most responsive tenderer pricewise based on the market price by that time at Kshs. 162,000.00 for all Nairobi and Mombasa regions.

Price Adjustment

M/S Impex General Merchants Ltd on 28th July, 2015 requested price adjustment after one year from the date of award from Kshs. 162,000.00 to Kshs. 190,000.00 and the approval was considered and approved by the Ministerial Tender Committee on 2nd October 2015, Pursuant to Section 31 of the Public Procurement and Disposal Regulations, 2006.

Financial Year 2016/2017

During the financial year 2016/2017 the Ministry procured the products through restricted tendering process, where the following eighteen (18) firms participated: -

a. M/S Kengreen Energy.
b. M/S Vivo Energy (K) Ltd
c. M/S Utility Group Kenya Ltd.
d. M/S Axon Energy Ltd.
e. M/S Citilink Ltd.
f. M/S Impex General Merchants Ltd.
g. M/S Galana Oil (K) Ltd.
h. M/S Yaba Energy Ltd.
i. M/S Octane Gas Oil Ltd.
j. M/S Jitegemee Kenya Ltd.
k. M/S Bahar Holdings Ltd.
l. M/S Faulu Investment.
m. M/S Sublime Holdings Ltd.
n. M/S Green Energy Ltd.
o. M/S National Oil Corporation of Kenya.
p. M/S Alvan Holdings Ltd.
q. M/S Heller Petroleum Ltd.
r. M/S Dash Energy Ltd.

As at the closing and opening of the tenders, **eleven (11) firms** had returned their tender documents, while the following **seven (07) firms** did not return the tender documents:

a) M/S Kangreen Energy.
b) M/S Utility Group Kenya Ltd.
c) M/S Axon Energy Ltd.
d) M/S Citilink Ltd.
e) M/S Bahar Holdings Ltd.
f) M/S Faulu Investment.
g) M/S Heller Petroleum Ltd.

The financial year, 2016/2017 the Accounting Officer approved the contract for the supply of Bulk Liquefied Petroleum Gas (LPG) to the Defence Forces for **two (2) years** as follows:

Firm 1:**M/S National Oil Corporation of Kenya**

Item/Price:

S/N	**Production/Delivery Points**	**Quoted Prices (Kshs)**		
1	**Bulk Gas Nairobi/Thika Regions**	**Unit Cost Per Ton**	**Other Charges**	**Total Cost**
	DHQ CAU	95,000.00	00.00	95,000.00
	Kabete Barracks	95,000.00	00.00	95,000.00
	DFMH	95,000.00	00.00	95,000.00
	Karen NDC&DSC	95,000.00	00.00	95,000.00
	Langata Barracks	95,000.00	00.00	95,000.00
	Embakasi Garrison	95,000.00	00.00	95,000.00
	Moi Air Base	95,000.00	00.00	95,000.00
	Kahawa Garrison	95,000.00	00.00	95,000.00
	Thika Barracks	95,000.00	00.00	95,000.00

Firm 2:**M/S Dash Energy Ltd.**

2	**Bulk Gas Mombasa/Eldoret/Lanet /Nanyuki/Gilgil Regions**	**Unit Cost Per Ton**	**Other Charges**	**Total Cost**
	KN Mtongwe	85,000.00	10,000.00	95,000.00
	Nyali Barracks	85,000.00	10,000.00	95,000.00
	Mariakani	85,000.00	10,000.00	95,000.00
	FOB	85,000.00	10,000.00	95,000.00
	KNB Manda	85,000.00	10,000.00	95,000.00
3	Gilgil Region	105,000.00	10,000.00	115,000.00
4	Lanet Region	105,000.00	10,000.00	115,000.00
5	Nanyuki/Isiolo Region	105,000.00	10,000.00	115,000.00
6	Eldoret Region	105,000.00	10,000.00	115,000.00

<u>Comments</u>

The following facts are hereby presented:

a) The audit team relied on contract prices for Financial Year 2016/2017 while auditing financial statements of the Financial Year 2013/2014 contract which expired on 12th December 2016.
b) In the Financial Year 2013/2014 contract **M/S National Oil Corporation of Kenya** quoted Ksh.187,650.00 and Ksh.204,650.00 for Nairobi region and Nanyuki/Isiolo regions respectively.
c) The prices dropped during the last quarter of the second year of the contract which expired on 12th December 2016 due to government intervention.
d) The **M/S Impex General Merchants Ltd** was the lowest responsive evaluated bidder although it was ranked position 10 out of 12 in the physical evaluation committee and recommended among others.

Committee Observations and Findings

(i) The Committee observed that the matter was addressed satisfactorily.
(ii) The Committee marked the matter as resolved.

9.0. MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE

FINANCIAL STATEMENTS FOR VOTE 1052

Amb. Macharia Kamau, the Accounting Officer for the Ministry of Foreign Affairs and International Trade (Vote 1052) appeared before the committee on 2nd July 2019 to adduce evidence on the Audited Financial Statements for the Ministry of Foreign Affairs and International Trade (Vote 1052) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr. A. A. Osiya	**-**	**Senior Accountant**
2. Mr. James A. Aloyo	**-**	**Senior Chief Finance Officer**
3. Ms. Margaret Gachuru	**-**	**Director SCMS**
4. Mr. Vincent L. Kuria	**-**	**Senior Assistant Accountant General**
5. Ms. Lilian Nzari	**-**	**Director Human Resource Management**
6. Mr. Zedekiah Ogendi	**-**	**Deputy Director SCMS**
7. Ms. Christine Nzumbu	**-**	**Central Planning & Project Division**
8. Ms. Esther Magiti	**-**	**Parliamentary Liaison Officer**
9. Ms. Caroline Loko	**-**	**Finance Officer**
10. Mr. Solomon Nyangesa	**-**	**Finance Officer**
11. Mr. Peter Kariuki	**-**	**Finance Officer**
12. Ms. Susan Thiong'o	**-**	**Finance Officer**
13. Mr. Abel Njuguna	**-**	**P.A. to the PS**

Basis for Qualified Opinion

157. Payment of Foreign Service Allowance to Ineligible Officers

The statement of receipts and payments reflects payments of Kshs.6,367,410,324 against compensation of employees as disclosed in Note 5 of the financial statements. The amount includes foreign service allowance totalling Kshs.24,837,757 paid irregularly to ten (10) officers whose official tour of duty at various missions came to an end but did not report back to the Ministry Headquarters contrary to Section C.6 (a) of the Foreign Service Regulations which provides, that an officer will cease to draw foreign service allowance from the date he vacates his post at the end of his service at the mission outside Kenya in line with the posting letters which stipulate that the postings are for four (4) years.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of receipts and payments reflects payments amounting to Kshs 6,656,163,506 against compensation of employees (note 5 of the financial statements) out of which, Foreign Service allowances totalling Kshs. 24,837,757 was paid to ten (10) officers at various missions whose official tour of duty came to an end but did not report back to the Ministry headquarters as required under section c.6 (a) of the foreign service regulations.

Although the general rule is that officer's report back to the Headquarters upon expiry of their tour of duty there are exemptions to this rule including the following: -

- Ambassadors/Heads of Missions are replaced and recalled by His Excellency the President and may therefore not vacate a station before being replaced officially.
- Officer's handling accountable documents may not leave a station before a replacement reports to the station and proper handing over is done.
- Officer's handling security matters may not leave the station before a replacement reports to the station and proper handing over is done.
- Officer's representing other government Agencies may not report back before formal consultations are concluded.
- Special circumstances (sickness, exigencies of duty etc) may present unique challenges to individuals and may render them unable to report back as required.

Where officers are unable to report back to the Headquarters as required their cases are considered on case by case basis and where the delay is found meritorious, an official extension is granted by the Ministry or the relevant appointing authority. The above cases were considered and extensions of tour of duty were granted as necessary. Moreover, the Ministry vide letter **Ref.MFA.ADM1/90A. VOL.XVIII** formalised the extension for officers that were unable to report back. The officers have all since reported back to the Ministry headquarters.

Justification for extension of tours of duty for each of the above officers has been availed for audit review.

Committee Observations Findings

(i) The Committee observed that foreign service allowance totalling Kshs.24,837,757 was paid to ten (10) officers at various missions whose official tour of duty had expired;
(ii) The Committee also observed that under section c.6 (a) of the Foreign Service Regulations, the 10 Officers qualified for exemptions under the general rule and thus were eligible for payment of foreign service allowances; and
(iii) The Committee marked the matter as resolved

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

158. Use of Goods and Services

The statement of receipts and payments reflects payments totalling Kshs.6,862,713,237 under use of goods and services and as further disclosed in Note 6 of the financial statements. The amounts include irregular payments as follows:

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of receipts and payments reflects payments totalling Kshs. 6,862,713,237 under the use of goods and services which includes the following: -

158.1 Insurance Premiums

According to Note 6 an amount of Kshs.57,003,455 was incurred on insurance costs. However, audit of Kenya Permanent Mission in Geneva and Kenya High Commission in London revealed that payments for insurance premiums totalling Kshs.11,498,606 and Kshs.3,393,028, respectively relating to medical insurance, properties, household goods, plant, equipment and machinery and various vehicles owned by the missions were made without valuation reports. In the absence of the reports, it is not possible to confirm the basis upon which the insurance contracts were awarded to the service providers.

Submission by Accounting Officer

Medical Insurance

The Missions invited proposals from major Insurance Service Providers in the market to submit quotations for offering staff Medical Cover outlining the parameters to be covered in the Medical Insurance Cover. The quotations were evaluated by the procurement committees at the Missions and the firms that had met the set parameters were considered by the Missions and awarded. Since the firms continued to offer quality and affordable Medical services over the years, the Missions retained their services.

The Accounting Officer regretted that the Missions had not been annually renewing the contracts of the Medical service providers through fresh procurements but moving forward the Ministry has written to all Missions abroad informing them to be renewing the Medical Service Providers annually in accordance with the procurement regulations.

General Insurance

The Missions invited proposals from major Insurance Service Providers in the market to submit quotations for offering General Insurance Cover to the Mission's buildings and office and household equipment. The Missions provided schedules/inventory of their assets to the bidders who came up with valuation reports and insurance premiums for the same. The quotations were evaluated by the procurement committees at the Missions and the firms with the lowest premiums were awarded.

It was worth noting that conducting valuation an expensive exercise in the various jurisdiction abroad and most of the major service providers are usually not willing to participate in this process. This forces the Missions to use the lower of closure of year asset valuations as provided by the insurance firms or end of year Net Book Value as the basis of coming up with premiums used in annual contracts.

The Accounting Officer regretted that the Missions had not been annually renewing the contracts of the General Insurance Service Providers through fresh procurements but were rolling over insurance contracts over the years using the initial contract as the basis. Moving forward, the Ministry has addressed a circular to all Missions instructing them to move from this practice and to conduct annual procurement in compliance with the provisions of the Public Procurement and Asset Disposal Act 2015.

ADDITIONAL SUBMISSION FROM HIS EXCELLENCY AMB. CLEOPA MAILU

a) **Health Insurance**

Amb. Mailu submitted that out of the Ksh.11,498,606.00 in question, the breakdown was as follows:

- Medical (Health) Insurance Ksh.9,930,727.60;
- General Insurance (Civil Liability) Insurance Ksh.216,276.44; and
- Motor Vehicle Insurance Ksh.1,351,601.96.

He further explained that the Medical scheme locked the mission for a five-year contract irrespective of whether the Officer insured was recalled before end of the five years or not. This meant that the Mission continued to pay premiums even after the Officers left the Mission. This scheme did not include optical and dental benefits to the insured.
The Mission further reported that cover has since been replaced by a new scheme sourced competitively with annual renewal to comply with Kenya Public Procurement and Asset Disposal Act 2015. In addition, the new scheme covers all medical conditions including: -

(i) General health cover;
(ii) Dental;
(iii) Optical;
(iv) Allows cancellation at any time; and
(v) Reimburses 90% of the medical costs as opposed to 80% in the previous scheme

Motor Vehicle Insurance
The Committee wanted to know whether there was valuation report on which the premiums paid were based.

In his response, the Mission explained that in Switzerland, the motor vehicle dealers (Manufacturers) have a schedule indicating the vehicle make, the model and the year of manufacture, this schedule is what is used to fix the insurance premium for a motor vehicle. The dealer sends the schedule to the motor vehicle insurer who then calculates the amount of insurance premium to be paid by the vehicle owner and in case of invoice it is sent to the Mission for settlement. In this regard, there would normally be no variation in the premium quoted by different insurance companies for similar vehicle.

The Mission was advised to come with criteria for awarding contracts for the motor vehicle insurance since the price/rate was not a basis for a such a case in Switzerland.

b) Property (Civil Liability) Insurance

The Mission informed that it does not have any Government of Kenya owned property. All the residential houses and Chancery are rented. It was observed that the Mission has never taken a property insurance. It was clarified that the Mission only insures, Office Equipment and household goods owned by the Kenya Government.

ADDITIONAL SUBMISSION FROM THE KENYA HIGH COMMISSIONER TO LONDON HIS EXCELLENCY MONOAH ESIPISU

Insurance Premiums

The High Commissioner submitted that the Mission has been renewing the existing insurance for properties and motor vehicles. After the expiry of the current policies, the Mission will seek quotations from other insurers to ensure competitiveness.

It is also important to report that valuation for properties in London for purposes of insurance is much an expensive venture which would require enormous financial resources, and therefore the Mission relies on the values given at the insurance policy renewal dates. The Mission used Kshs.3,393,028.00 to pay premiums for insured properties, household goods, plant, equipment and machinery and various vehicles owned by the mission.

It is also important to note that in London all Mission staff enjoy the free health care services provided by the National Health Insurance Care Services in the UK.

Accumulated Congestion Charges

It is true that the Mission has accumulated congestion Charges of £2,453,305.00 payable to Transport for London. The existence of this contingent liability was communicated to the Ministry vide letter reference number KHCL/ADM?1/1A/69 of 18th August 2016.

Procurement Planning

It is true that the Mission's procurement plan for the financial year 2017/2018 did not include the development budget activities as observed by the Auditor General. This omission was occasioned by lack of information from the Ministry Headquarters on the development budget allocated to the Mission in the current financial year. At the time the Mission was preparing the procurement plan, only recurrent budget estimates had been received.

The Commissioner also stated that the Mission was not aware that Kshs.785,775,330.00 was allocated to the Kenya High Commission London for development projects during the current financial year 2017/2018, as indicated in the Auditor General's management letter.

Committee Observations Findings – Geneva

(i) The Committee observed that insurance premiums totalling Kshs.11,498,606 were paid by the Missions in Geneva without valid contracts;
(ii) The Committee observed that Mission continued to pay premiums even after the Officers left the Mission because of the five-year locked Medical scheme contract irrespective of whether the Officer insured was recalled before end of the five years or not;
(iii) The Committee also observed that in Motor Vehicle insurance premiums are determined by manufacturers who issue a schedule indicating the vehicle make, the model and the year of manufacture, this schedule is what is used to fix the insurance premium for a motor vehicle;
(iv) The Committee observed that the five-year locked medical scheme has since been replaced by a new scheme sourced competitively with annual renewal to comply with Kenya Public Procurement and Asset Disposal Act 2015;
(v) The Committee observed that it was expensive to procure yearly medical insurance services due to strict regulations governing insurance service providers in that jurisdiction; and
(vi) The Committee marked the matter as resolved.

Committee Observations Findings – London

(i) The Committee observed that the Mission has been renewing the existing insurance for properties and motor vehicles and at the expiry of the current policies, it will seek quotations from other insurers to ensure competitiveness;
(ii) The Committee observed that the Mission relies on the values given at the insurance policy renewal dates since valuation for properties in London for purposes of insurance was much an expensive venture which would require enormous financial resources; and
(iii) The Committee observed that the Mission had accumulated congestion Charges of £2,453,305.00 payable to Transport for London. The existence of this contingent liability was communicated to the Ministry vide letter reference number KHCL/ADM?1/1A/69 of 18th August 2016.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

158.2 Irregular Payment of Rent

Disclosed under Note 6 to the financial statements is an amount of Kshs.2,375,072,829 on rental of produced assets. Examination of records revealed that although tour of duty for ten officers had ended, they continued to occupy rented houses in various missions resulting in irregular payment of Kshs.9,140,000. 159. Other Grants and Transfers The statement of receipts and payments reflects an amount of Kshs.2,510,514,339 against other grants and other payments. The amount includes USD 160,316 (equivalent to Kshs.16,432,390) disbursed to the Kenya Mission in Bujumbura for payment to International Conference on Great Lake Region but irregularly paid to another officer from a different government department serving in the mission without payment voucher and 86 supporting documents contrary regulation 104 (1) of Public Finance Management (National Government) Regulations, 2015.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the financial statements for the Ministry for the year under focus reflect an amount of Kshs. 2,375,072,829 against rental of Produced Assets. This amount includes Kshs. 9,140,000 paid as rent for officers whose tours of duty had ended but had not reported back to the Ministry Headquarters as directed in their letters of recall.

As per the response in query number one above the Ministry extended the stay for several officers whose circumstances warranted such extension. For the officers, whose tour of duty was extended rent had to be paid for their stay within the Mission.

The Ministry had also released a posting order to replace the officers recalled and the mission had to retain the houses for the officers who were to report as per the posting order and replace the other officers who had been recalled.

Committee Observations and Findings

(i) The Committee observed that the issue was related to paragraph 157 and that the rent for officers whose tour of duty had been extended had to be paid;
(ii) The Committee observed that the officers have since reported back to the Ministry Headquarters and assigned other roles; and
(iii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

159. Other Grants and Transfers

The statement of receipts and payments reflects an amount of Kshs.2,510,514,339 against other grants and other payments. The amount includes USD 160,316 (equivalent to Kshs.16,432,390) disbursed to the Kenya Mission in Bujumbura for payment to International Conference on Great Lake Region but irregularly paid to another officer from a different government department serving in the mission without payment voucher and supporting documents contrary regulation 104 (1) of Public Finance Management (National Government) Regulations, 2015.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of receipts and payments of the Ministry for the year under review reflects an amount of Kshs. 2,510,514,339 against Other Grants and Other payments, of which an amount of USD 160,316 (equivalent to Kshs 16,432,390) was disbursed to the Kenyan Mission in Bujumbura for payment to the International Conference on Great Lakes Region (ICGLR) being Kenya's 2016 assessed subscription to the Joint Intelligence Fusion Centre (JIFC).

The payment was made through an officer (Kenya's representative in the JIFC board) vide PV NO 00012 - this was done in accordance with the boards, arrangement at that time. The funds were thereafter forwarded to the JIFC by the said officer/representative as evidenced by their acknowledgement letter reference **CORD - JIFC-ICGLR-200/2016** dated 3rd November 2016. The Ministry has since established a direct link (interbank transfer) with the institution to enable direct remittance of funds to JIFC's account as a risk mitigating intervention.

Committee Observations and Findings

(i) **The Committee observed that the cash book extract for the Mission had been availed for audit review and verified; and**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

160. Acquisition of Assets

The statement of receipts and payments reflects an amount of Kshs.2,665,385,564 against acquisition of assets. The audit has revealed anomalies as follows with regard to the assets:

160.1 Proposed Construction of Ambassador's Residence; Four Staff Houses; and Renovation of Four Staff Houses and Chancery - Pretoria

The contract was advertised in Pretoria News and attracted thirteen contractors. The bids were evaluated and adjudicated during Ministerial Tender Committee (MTC) meeting held on 9 June 2015 Ref. No. MFA/MTC/031/2014-2015 under minute number 3, which approved and awarded the tender to a contractor, at a tender sum of Rands 102,000,000 (Kshs.816,000,000) The scope of work included construction of new Ambassador's residence (261 Crown Avenue) new staff houses (318 Polaris Avenue) renovation of chancery (302 Brooks street) renewal of four (4) dilapidated staff houses (various locations) Payment records made available for audit review reveled that twenty-four (24) certificates valued at Rands 59,736,228.43 or 58 % of the contract sum had been submitted by the contractor and paid as at the time of audit inspection on 16 November 2017. The contract period was initially set to be eighteen (8) months with effect from 18 August.

However, the completion date was later revised by 354 days to 22 January 2018 due to the following:

- Boundary/land dispute between Kenya High Commission and Iranian Embassy in South Africa. This dispute lasted for eight months; a joint confirmation of beacons was undertaken by both parties' surveyors which established that the wall of Iranian houses had exceeded the boundary by approximately one to two meters.
- Delay in appointment of sub-contractors due to different methods of procurement used in South Africa and Kenya.
- Existence of 11 KVA electrical cable, which was not anticipated but crossed through the construction site and had to be relocated immediately at the cost of the Government of Kenya or wait for another one year to be relocated by the responsible service provider.
- Delay in payment of at least five certificates that were piling at a given time during the execution of the contract which resulted in suspension of works.

Although the extension of time was awarded without cost, breach of contractual obligations automatically attracts cost implications. In the circumstances, the contractor has submitted two claims valued at Rands 10,291,267 as follows:

- Extension of contract period by 354 days valued at Rands 4,071,841 87
- Standing time and disruption claim valued at Rands 6,219,426 An inspection undertaken on all construction sites on 16 November 2017 revealed a number of issues, some of which require immediate intervention of the High Commission, Ministry of Foreign Affairs and the National Treasury. This include:
- pending payments totalling Rands 762,000 (or about Kshs.6,096,000) due to consultants as a risk to successful completion of the project.

• The audit team was unable to establish order and coherence in the project team as the structural and electrical engineers as well as the quantity surveyor did not attend the meeting. The clerk of works also not on site during the visit.
• Although the extension of time had been awarded speciFinancial Yearing the completion date as 22 January 2018, the contractor's programme of work issued in accordance with clause 13 of the condition of contract is in conflict as works are due to end in August 2018. It is not clear whether there is an anticipation for recovery of liquidated damages in accordance with clause 27 of the conditions of contract.
• Although the contract period had been extended, no documentary evidence was provided for audit review that would clariFinancial Year the position of insurance and performance bond issued in accordance with clause 28 of the condition of contract.
• No evidence of additional works was observed. However, like any other contract, some minor changes in the design with the approval of the client are expected.
• Site meeting minutes were not been made available for audit review.
• In addition, there is a likelihood of high cost over-runs in this project due to the following reasons:
(i). Massive earthworks observed at the site for the construction of new ambassador's residence (261 Crown Avenue) and the site for the construction of four (4) new staff houses (318 Polaris Avenue).
(ii). There are high chances that the contract will exceed twelve (12) months, thus giving rise to indent chances that the contract will automatically attract price adjustments.
(iii). Clause 23.3 of the conditions of contract dictates that the employer pays the contractor within thirty days of the date of issue of the certificate otherwise it will start attracting interest on delayed payments.
(iv). Clause 33.1 (d) of the conditions of the contract is specific on circumstances upon which the contractor can terminate a contract due to failure to pay submitted certificates within 30 days. The contractor has succeeded before and can do it again in light of the recent austerity measures introduced by the National Treasury.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the contract was advertised in Pretoria News and attracted thirteen (13) contractors; bids were evaluated and adjudicated during MTC meeting Ref No. MFA/MTC/031/2014-2015 under minute number 3 held on 9th June 2015 which approved and awarded the tender to M/s Unik Civil Engineering (PTY) Ltd. at the tender sum of R. 102,000,000.00 (Kshs. 816,000,000.00).

Scope of Work

It was also true that the scope of works includes but not limited to: -

- Construction of new Ambassador's Residence (261 Crown Avenue)

- Construction of four (4) new staff houses (318 Polaris Avenue)

- Renovation of Chancery (302 Brooks Street)
- Renovation and renewal of four (4) dilapidated staff houses (various locations).

Schedule of Payments

Further, it was true that as at the time of audit inspection (on 16th November 2017), twenty-four (24) certificates valued at Rands 59,736,228.43 or 58% of the contract sum had been submitted by the contractor and paid.

Contract Period and Extension of time

The contract period was initially indicated to be eighteen (18) months starting from 18th August 2015 to 31st January 2017. The practical completion date was later extended by 354 days to 22nd January 2018 due to the following: -

- Boundary/land dispute between Kenya High Commission and Iranian Embassy in South Africa. This dispute lasted for eight (8) months; a joint confirmation of beacons was undertaken by both parties' surveyors which established that the wall of Iranian houses had exceeded the boundary by approximately one (1) or two (2) meters.
- Delay in appointment of Sub Contractors due to different methods of procurement used in South Africa and Kenya
- Existence of 11 KVA electrical cable, which was not anticipated but crossed through the construction site and had to be relocated immediately at the cost of Government of Kenya or wait for another one (1) year to be relocated by the responsible service provider
- Delay in payment of at least five (5) certificates that were piling at a given time during the execution of the contract resulted in suspension of works.

Cost of Extension of Time

Although the extension of time was awarded without cost, breach of contractual obligations automatically attracts cost implications. In this circumstance, the contractor has submitted two (2) claims valued at **R 10,291,267** as follows: -

- Extension of contract period by 354 days valued at R 4,071,841
- Standing time and disruption claim valued at R 6,219,426.

The above applications from the contractor have been received and discussed in a technical site meeting held on 5th December 2018. During the meeting, the Project Manager (State Department of Public Works) instructed that the standing time claim as presented related to items already compensated under extended preliminaries and interest on delayed payments and asked the contractor to drop the same. This is contained in the Minutes of the Site meeting held on 5th December 2017.

Pending Payments

It was true that as at the date of the audit inspection payments totalling Rands 762,000 (or about Kshs. 6,096,000) due to consultants were pending. The pending payments were due to delays in release of exchequer. Once the exchequer was released, the payments were settled.

Site Meeting during Audit Inspection

It was true that the site meeting held during the audit inspection was not fully attended as it was convened at short notice. The Consultant informed that the other Consultants had various commitments during this visit. The Clerk of Works was however, present during the technical team inspection held on December 2018.

Further Extension of Contract Period

The Contractors programme for completion of the remaining works had not been approved as at the date of the audit inspection. The Contractor later presented his request for further extension of time vide letter dated 17th November 2017 which was forwarded to the State Department of Public Works for evaluation and further guidance. This request was reviewed and approved vide letter **REF: MOPW/A/04/74** for a further 24 weeks to 28th June, 2018.

As at the date of the audit inspection the Auditor had not been provided with details and evidence of the Insurance and Performance Bond for the construction. These were later obtained and availed for audit review as **Appendix 160.1B - Pretoria 2016/2017.**

As observed in the audit query some changes are expected of any construction and especially about renovation works. The main changes made to the Chancery building were indicated in the **Minutes of Meeting held in September 2016**. Copies of the Minutes of the site meeting held during the audit inspection were later prepared and availed to the audit team.

The Consultant was requested to prepare and forward a financial appraisal indicating the financial position of the project. The final changes and outcome of the construction and renovation works will be incorporated in the "As built drawings" which will be prepared at completion.

Cost Overruns

It was true as observed in the audit query that the project will experience cost overruns owing to the following factors: -

(i) Changes in scope of works.

(ii) Time extensions and the attendant/associated PC Sums.

(iii) Interest on delayed payments and claims for idle capacity on site.
(iv) Costs associated suspension of works and remobilization costs.

To minimise the effect of the above on the execution of the project, the following interventions have been put in place among others: -

i. The project experienced challenges during FINANCIAL YEAR 2016/2017 and 2017/18 due to delays in release of exchequer. The challenges have since been addressed and as the auditor correctly observes, payments are now up to date.
ii. The Ministry has also been ensuring that funds are readily available to facilitate timely payments.
iii. In addition, the Public Works has already addressed the issue of standing time claims by the Contractor. Any other issues will be addressed when they arise.

Committee Observations and Findings

(i) The Committee observed that the contract was advertised in Pretoria News and attracted thirteen (13) contractors; bids were evaluated and adjudicated during MTC meeting Ref No. MFA/MTC/031/2014-2015 under minute number 3 held on 9th June 2015 which approved and awarded the tender to M/s Unik Civil Engineering (PTY) Ltd. at the tender sum of R. 102,000,000.00 (Kshs. 816,000,000.00);
(ii) The Committee also observed that as at the time of audit inspection (on 16th November 2017), twenty-four (24) certificates valued at Rands 59,736,228.43 or 58% of the contract sum had been submitted by the contractor and paid;
(iii) The Committee observed that the contract period was initially indicated to be eighteen (18) months starting from 18th August 2015 to 31st January 2017. The practical completion date was later extended by 354 days to 22nd January 2018; and
(iv) The Committee finds the contract extensions imprudent leading excessive expenditure of public funds;

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General with all information required to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

160.2 Leased Properties Abroad

The Ministry of Foreign Affairs has continued to operate mostly on leased office space for its chanceries / consular offices in foreign missions abroad and on rented residential houses for its home-based staff. Consequently, during the year under review, the Ministry incurred expenditure totalling Kshs.2,372,176,985 on lease of properties abroad, which could have been avoided or minimized if there was a clear policy on purchase or construction of government owned properties for the missions.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry has continued to operate mostly on leased office space for its Chanceries /consular offices in foreign missions abroad and on rented residential houses for its home-based staff. Consequently, during the year under review, the Ministry incurred expenditure totalling Kshs. 2,372,176,985 on lease of properties abroad.

The Ministry has over the years acquired diplomatic properties in several countries. The 2008 Report on Rationalization and Restructuring of the Ministry and its Missions abroad somehow formalized the policy on acquisition of diplomatic properties and prioritized Chanceries and Ambassadors residences. However, the policy has never been funded and the Ministry relies on budgets allocated at the Sector level, which normally have ceilings that have not been able to address the needs of the Ministry.

The Ministry has now developed an Assets Management Plan with a prioritization list for acquisition of Chanceries and Ambassadors residences in key Missions. The draft has been discussed by Heads of Departments, circulated to all Heads of Missions and comments received. A small team has been appointed to collate the comments and finalise the Assets Management Plan before it is submitted to the Cabinet for approval.

ADDITIONAL SUBMISSION FROM THE PERMANENT REPRESENTATIVE OF THE REPUBLIC OF KENYA TO THE UNITED NATIONS - GENEVA HIS EXCELLENCY CLEOPA MAILU

He informed the Committee that the Mission was opened in 1985 in response to the need follow the United Nations and Other International Organisations proceedings in Switzerland. It was noted that a lot of United Nations work is done in Geneva at technical/expert level before to New York for political input. This makes Geneva complex and a truly multilateral station with diverse but interrelated nature of United Nations agencies, programmes International Organizations dealing with a wide spectrum of issues ranging from economic and trade matters, to peace and security, disarmament, human rights labour, humanitarian affairs and sustainable development among others.

He also informed the Committee that Geneva is the third most expensive city in the world after San Fransico and Zurich. In this regard, given the permanency of Kenya presence in Geneva through the Mission, the Government should consider procuring and owning property in order to reduce the recurrent expenditure. The Mission was grateful that this Financial Year the government embarked on purchasing a Chancery and its hoped in the subsequent Financial Years the residence for the Permanent Representative and Deputy will be procured.

Ambassador Mailu informed the Committee that despite the importance and central role of the Mission in multilateralism it still has the following challenges: -

a) Understaffing;
b) Underfunding;
c) Loss of exchange rate/transaction costs, in addition, there is chronic late release of funds which leads to the Mission and staff incurring heavy penalties for late settlement of financial obligations. This and loss on exchange rates severely erodes into the meagre resources allocated to the Mission. The Mission hoped that it would be prudent for the Committee to intercede to ensure funds meant for Foreign Missions are released on time, and
d) Bank charges on account balances in excess of two million Swiss Francs (CHF2 million) at the rate of 0.75% per annum.

About the population of Kenyans in Switzerland, it is estimated that there are about 3000 Kenyans in Switzerland. However, only about 300 are registered with the Mission. During the Huduma Number registration about 865 Kenyans were registered. However, the Swiss authorities indicates that there are about 1500 Kenyans.

On whether there are any Kenyan-Swiss who want to regain their citizenship with the provision of the dual citizenship in the Constitution, The Ambassador informed the Committee that there were a number of Kenyans who were applying to regain their Kenya citizenship; however, the process was very slow at the headquarters with a number of cases having been pending for years without conclusion. The Mission has also Kenyans employed on local terms and most of them are dual citizens (Kenya and Swiss).

ADDITIONAL SUBMISSION BY THE KENYAN MISSIONS IN THE UNITED STATES OF AMERICA – USA

Ssubmission by New York Chancery

The Ambassador submitted that the Government of Kenya owns five (5) properties in New York, a Chancery, Ambassador's Residence and three residential houses. Details of the five properties were given below.

a. Chancery - Suite 304, 866 United Nations Plaza

The Chancery is located in 866 United Nations Plaza, Suite 304, on the 3rd floor in Manhattan and occupies 20,285 square feet. The Office was purchased in 201 at a total cost of USD 18,256,500.00. Previously, the Mission used to pay rent at a cost of $45,000.00 per month but a much smaller space covering 7,964 square feet. The current office space houses both the chancery and the consulate.

b. Ambassador's Official Residence (Kenya House)-5275 Arlington Road, Bronx

The Mission owns an official residence which was purchased in 13th May, 1965. The Residence is located in Bronx. Currently the residence is not in a habitable condition and as a result the Mission leased alternative accommodation for the Permanent Representative in Manhattan. During the 2019/2020 Financial Year Medium Term Expenditure Framework budget, the Mission submitted a request for funding to carry out comprehensive renovation of the residence. Unfortunately, the request was not approved. The residence is registered under the name of Government of Kenya.

c. Deputy Permanent Representative house- 12 Paddington Road, Scarsdale New York 10583

The Government of Kenya purchased this property on 1st February 1973. The house serves as accommodation for the Deputy Permanent Representative. Early this year, the house was extensively damaged following leakage from broken water pipes caused by frozen water during the winter season. Following the damage, the Mission sought funding and approval from the Ministry headquarters and following the approval, renovations have been going on since July, 2019 and are expected to be finalised by November, 2019 after which the house will be ready for occupation.

At the time of acquisition of the house, New York City laws did not allow for exemption of property taxes for staff houses and granted privilege only for Ambassador's residence. This in essence resulted to titling of the property in the name of the Ambassador rather than the Government of Kenya, hence the name of Amb. Joseph Gordon Jowi, the then Permanent Representative to the United Nationas – New York in the title. This rule applied to other diplomatic missions in New York.

The Diplomatic community appealed to the federal government and after a prolonged case the federal government eventually ruled that all diplomatic properties should be exempt from payment of property taxes. Subsequently the mission engaged a lawyer to effect the changes and document to affect the transfer. The title has since been transferred to the "Government of Kenya."

d. 187-04 Aberdeen Road, Jamaica New York 11432

The Mission owns a residential house which is located in Queens, Jamaica Estates at 187-04 Aberdeen Road. The property was purchased in 4th November, 1971. As explained above, the property was registered under the name of Amb. Joseph Gordon Jowi, the then Permanent Representative, but was subsequently transferred and currently ownership is under the name of "Government of Kenya" Last Financial Year the Mission received funding and the house is currently under renovation. The renovation works are expected to be finalised by the end of November, 2019.

e. 188-56 85th Road Queens New York 11432

The Mission owns a residential house which is located in Queens, Jamaica Estates at 188-56 85th Road. The property was purchased in 25th April 1972. As explained above, the property was registered under the name of Amb. Joseph Gordon Jowi, the then Permanent Representative, but was subsequently transferred in the name of "Government of Kenya". The house was also under renovation and the renovation works are expected to be accomplished by the end of this month.

In the last Financial Year 2018/2019, the Mission received some funding and the house is currently under renovation. The renovation works are expected to be finalised by the end of November, 2019.

Committee Observations and Findings

- **(i) The Government of Kenya does not own any property in Geneva and that this Financial Year the government embarked on purchasing a Chancery and its hoped in the subsequent Financial Years the residence for the Permanent Representative and Deputy will be procured;**
- **(ii) The Committee observed that Geneva is a complex and a truly multilateral station with diverse but interrelated nature of United Nations agencies, programmes International Organizations dealing with a wide spectrum of issues ranging from economic and trade matters, to peace and security, disarmament, human rights labour, humanitarian affairs and sustainable development among others;**
- **(iii) The Committee also observed that since Geneva is the third most expensive city in the world after San Fransico and Zurich and given the permanency of Kenya presence in Geneva through the Mission, it would be prudent for the Government to consider procuring and owning property in order to reduce the recurrent expenditure;**
- **(iv) The Committee observed that since the establishment of the Mission in Geneva in 1985, the Government has spent Ksh2,040,000,000.00 for rent to date;**
- **(v) The Committee observed that the Government of Kenya owns five (5) properties in New York, a Chancery, Ambassador's Residence and three residential houses;**
- **(vi) The Committee observed that the mission receives inadequate funding especially for operations and maintenance;**
- **(vii) The scope of work at the UN has grown exponentially overtime without corresponding growth in personnel. Currently the Mission has four political officers against an optimal staffing level of 12 officers;**
- **(viii) The environment in which the Mission operates is very peculiar compared to what is obtaining in Kenya and therefore when it comes to application of some policies and regulations it becomes very challenging especially in the area of procurement and staff recruitment; and**

(ix) **The Roads Queen New York house which was initially registered under the name of Amb. Joseph Gordon Jowi, the then Permanent Representative, was subsequently transferred and its current ownership is in the name of "Government of Kenya"; and**

(x) **The Committee observed that it would save the Government a lot of money spent on recurrent expenditure inform of rentals and lease charges if it owned property in our Missions abroad.**

Committee Recommendations

(i) **The Cabinet Secretary for the Ministry of Foreign Affairs should review the existing policy guidelines on acquisition, management and maintenance of leased properties abroad;**

(ii) **The Accounting Officer Ministry of Foreign Affairs in liaison with the Ministry of Public Works should assess the existing deplorable structures in our Missions abroad with a view to modernize the same;**

(iii) **The Government through the Ministry of Affairs should ensure that each Kenyan Mission abroad acquires its own buildings for Chancery and Residentials to cut on the huge recurrent expenditure incurred through leasing and renting; and**

(iv) **The National Treasury should ensure allocating adequate development budget to Kenyan Missions to uplift the FACE of the Kenyan Nation abroad.**

160.3 Ownership Documents for Government Properties

Audit of records relating to missions abroad revealed that Government of Kenya owned properties in nine countries that do not have original title documents. Further Government owned properties in seven countries are documented in foreign languages which have never been interpreted while the other four properties are registered in third parties' names. No satisfactory reasons have been given for failure to acquire title deeds for these properties.

Submission by Accounting Officer

The Accounting Officer submitted that it was true as observed in the audit report that Government of Kenya owned properties in nine countries but did not have original Title Document; Government owned properties in seven countries were documented in foreign languages while the other four properties were registered in third parties' names. Below is the current status of the above properties: -

Title to government owned properties: -

Mission Name	Auditor's observation	Response
1. Rome	**Documents in foreign language without official translation**	Translation is on file **Appendix 160.3 Rome - 2016/2017.**
2. Bujumbura	**Copy of title Deed on file**	Copy of the deed of ownership is on file. Title is yet to be issued.
3. Juba	**Copy of lease agreement for Block AXV Plot no.1 on file**	A letter of allotment is now on file **Appendix 160.3 - Juba 2016/2017.** The Mission informed that the Government of South Sudan is yet to start issuing title Deeds.
4. Stockholm	**Ownership document in foreign language**	Translation is on file **Appendix 160.3 - Stockholm 2016/2017**
5. Islamabad	**Copy of certificate of possession on file**	A certificate of possession is on file. The Mission is pursuing the title from the Capital Development Authority. **Appendix 160.3 - Islamabad 2016/2017**
6. Paris	**Ownership documents in foreign language- No official translation**	Translation is on file.
7. Kinshasa	**Correspondences on file indicate original title deed documents were lost. Replacement ownership documents were on file were in foreign language with no official translation**	Translation in progress.
8. Brussels	**Brussels Copy of Original title with official translation on file**	Mission is following up on the Original title.
9. Kampala	**Copy of title on file**	Original title deed for the Chancery building was forwarded to The National Treasury vide a letter ref**. MFA.REL13/4A VOL.42 (33)** dated 4th July, 2016.
10. Riyadh	**Copy of land acquisition agreements signed on 31st January, 1983.**	Two copies of Land Acquisition Agreements A copy of the letter signed by the King issuing the land to the Government of Kenya is on file.

Mission Name	Auditor's observation	Response
		Saudi Arabia does not issue title deeds.
11. **Beijing**	**Copy of contract on buying and selling of property signed on 11th April, 2007 on file**	Copy of contract between the Government of Kenya and Chinese Government on file. The Government of the Republic of China does not issue title deeds since land belongs to government.
12. **Addis Ababa**	**Ownership documents in foreign language- No official translation**	The Title deed in file is in Amharic language but a short translation is in file **Appendix 160.3 - Addis Ababa 2016/2017.**
13. **Khartoum**	**Photocopies of ownership documents in foreign language- No Official Translation**	The Ministry does not have custody of the said property in Khartoum. The property is owned by the Government of Kenya through a different Agency but not The Ministry of Foreign Affairs.
14. **Berlin**	**Ownership Documents in Foreign language- No official translation**	Translation on file **Appendix 160.3 - Berlin 2016/2017.**
15. **The Hague**	**Ownership documents in Foreign Language- No official Translation**	Translation on file **Appendix 160.3 - The Hague 2016/2017.**
16. **Tokyo**	**Ownership documents in Foreign Language- No official Translation**	Translation is on file.
17. **New York**	**-Original documents for the property purchased in 2016/17 was not in file** **-3 other properties registered in the name of Joseph Gordon Odero Jowi**	All files have been transferred to the name of the Government of Kenya and filed by the State of New York. Copies are available in file. **Appendix 160.3 New York - 2016/2017.**
18. **London**	**-Ownership documents for two properties were not on file** **-One property registered under the New Hampstead Garden Suburb Trust Ltd**	Chancery is on a 45-year lease that expires in June 2021. Ownership document on file. Copies of the titles for the two residential buildings are on file. **Appendix 160.3 - London 2016/2017**

In New York government of Kenya owns the offices and four residential properties as follows:

Offices located on 3rd Floor of 866 UN Plaza	**-**	**Chancery**
5275 Arlington Road, Bronx, NY	**-**	**Ambassador's residence**
12 Paddington Road, Scarsdale NY 10583	**-**	**Deputy Ambassadors House**
187-04 Aberdeen Road, Jamaica NY 11432	**-**	**Staff House**
188-56 85th Road Queens NY 11432	**-**	**Staff House**

At the time of acquisition of the residential houses, New York City laws did not allow for exemption of property taxes for staff houses and granted the privilege only for the Ambassador's residence. This translated to titling of the property in the name of the Ambassador rather than the government of Kenya, hence the name of Ambassador Joseph Gordon Jowi Odero on the three titles. This rule applied to other diplomatic missions.

The diplomatic community appealed to the federal government and after a very prolonged case, the federal government eventually ruled that all diplomatic properties should be exempt from payment of property taxes. Subsequently, the Mission engaged a lawyer to effect the changes and documents to facilitate the transfer. The Ministry also engaged the Embassy of the United States of America which subsequently advised the New York City Department of Finance of the tax-exempt status of the three properties, and of the efforts to correct the names on the titles. Amb. Jowi signed the necessary documents which were sent back to the Mission in New York. The titles have since been transferred to the "Government of Kenya" as per attached copies.

ADDITIONAL SUBMISSION FROM THE KENYA HIGH COMMISSIONER TO UNITED KINGDOM HIS EXCELLENCY MONOAH ESIPISU

London

The High Commissioner submitted that the Government of Kenya owns three properties in London namely:

a) **The Chancery located** on 45 Portland Place: The property is controversially owned by the Republic of Kenya on leasehold for a period of 65 years expiring on 10th October 2021. On the same Lease indicates ownership by
b) **The High Commissioner's Official Residence** situated on 78 Winnington Road: The property is on a 999-year Under-lease from the Hampstead Garden Surburb Trust
c) **A residential building** located at 48 Connaught Drive: This property is owned by the Government of Kenya on Freehold basis.

The Government properties (especially the High Commissioner's Residence and Residential Building) require urgent renovations. The High Commission with the assistance of the Director for Asset management at the Ministry of Foreign Affairs, Nairobi and technical experts from the ministry of Transport, Infrastructure, Housing and Urban Development procured services of a Consultant (M/s Jordan + Bateman Archtects) during the Financial Year 2017/2018.

The Consultants commenced work and came up with a detailed and comprehensive proposals aimed at modernizing the Government owned properties. The preliminary Inception Report highlighted the scope of works to be undertaken and detailed cost estimates for each of the properties.

It is estimated the cost of undertaking the work for the properties would be £5,820,558.00 (Approximately: Ksh.785,775,330.00). The Chancery would cost £2,869,955.00 (Approximately: Ksh.331,468,470.00), the residence of the High Commissioner, 78 Winnington Road would cost £2,455,322.00 (Approximately: Ksh.331,468,470.00) and the Residential building at 48 Connaught Drive would cost £495,281.00 (Approximately: Ksh.66,862,935.00).

<u>Progress Report</u>

The contract to provide consultancy services for renovations and upgrading of the Government properties was signed in June 2017. The details of the Consultants' duties comprise (but not limited to) the following activities:

a) **Inception** (Stage I)
   i. Compile all documents and as existing drawings. This will involve measuring existing spaces to compile the drawings. The Client has no custody of the building's drawings.
   ii. Discussion with the Client on the Client's requirements including timescale and any financial limits.
   iii. Cost planning to align project cost to Client's Budget.
   iv. Preliminary (Sketch or Concept) design proposal and construction estimates.

b) **Outline and Scheme Designs** (Stage II)
   i. Advancing the preliminary designs and firming up the estimate's costs.
   ii. Cost planning to align project cost to Client's Budget.

c) **Detailed Budget** (Stage III)
   i. Production information (working drawings)
   ii. Prepare technical specifications for the works to be carried out.
   iii. Prepare Bills of Quantities and cost estimates for all works to be carried out.

d) **Tender action.**

e) **Construction Supervision.**

f) **Undertaking Planning, Monitoring, Reporting and Financial management of project construction.**

g) **Supervise the Contractors in making good any arising defects.**

h) **Provide a draft and subsequently a final documentation Report which consists of As Built Drawings (where applicable) and Final Account.**

Summary

1. As of the date of this status report (11/10/2019) Stage I, II and III (that is, bullet 'a' to 'c' above) had been undertaken and the Contractors paid their monies charged from the Development budget w.e.f Financial Year. 2017/2018; Financial Year.2018/2019 and Financial Year. 2019/2020.
2. Renovations involving the Chancery Building located on 45 Portland Place was discontinued following the realization that the Government of Kenya does not own the Building and the leasehold is coming to an end on 10th October 2021.
3. Tender action: The advertisement of the tender to procure a Contractor was finalized in June 2019. However, due to non-compliance of Kenya's procurement regulations on the part of the Consultants, the process has been put on hold.
4. Planning permits: All planning permits and consent from local authorities and the general public for renovation and upgrading of the residential building located at 48 Connaught Drive have been received.
5. On the other hand, the planning permits for the High Commissioner's Residence situated on 78 Winnington Road is ongoing and it is hoped that once the issue regarding the legalities of the Under-lease are cleared then the exercise to gain the planning permits and consents will be undertaken.

Committee Observations and Findings

(i) The Committee observed that the Government of Kenya claims ownership of three properties in London namely: the Chancery located on 45 Portland Place, The property is owned on leasehold for a period of 65 years expiring on 10th October 2021, the High Commissioner's Official Residence situated on 78 Winnington Road: The property is on a 999-year Under-lease from the Hampstead Garden Surburb Trust and a residential building located at 48 Connaught Drive: This property is owned by the Government of Kenya on Freehold basis;

(ii) The Committee also observed that the Government owned property require urgent renovations. This process has been initiated through the High Commission with the assistance of the Director for Asset management at the Ministry of Foreign Affairs, Nairobi and technical experts from the ministry of Transport, Infrastructure, Housing and Urban Development which procured services of a Consultant (M/s Jordan + Bateman Architects) during the Financial Year 2017/2018;

(iii) There exist controversial circumstances in the ownership of the Chancery located on 45 Portland Place where a scrutiny of the lease shows that Republic of Kenya is listed as the actual owner;

(iv) The Committee observed that renovations involving the Chancery Building located on 45 Portland Place was discontinued following the realization that the Government

of Kenya does not own the Building and the leasehold is coming to an end on 10th October 2021;

(v) The Committee that the said Lease indicates ownership by Howard de Walden Estates and London Investments and Mortgage Company Limited who have already given notice for vacation at the expiry of the lease in October 2021; and

(vi) The Committee further observed that the said lease provided a restriction that: Except under an order of the Registrar no disposition by the proprietor of the land is to be registered.

Committee Recommendations

The Cabinet Secretary on behalf of the Kenya High Commission – London should engage a legal consultant to: -

(i) Verify the documentation and establish whether the Commission has ownership or tenancy of the Chancery Building located on 45 Portland Place;

(ii) Ascertain under what circumstances proprietorship of the High Commissioner's Official Residence situated on 78 Winnington Road changed on 5th March 1981 to Great Peter Nominees Limited;

(iii) Whether the Republic of Kenya consented to the change as per the condition of 1st May 1964 in the under-lease agreement;

(iv) What role Crown Agents for Overseas Governments and Administration was to play in such dispositions;

(v) Whether the notice served on the Kenya High Commission is well founded and avenues for nullification and or extension of the lease;

(vi) The Ministry of Foreign Affairs needs to take URGENT arrangements for alterative space for the Chancery in London if they fail in securing the Building located on 45 Portland Place.

160.4 Assets Register

A comprehensive and approved register of all the assets controlled and possessed by the Ministry was not provided for audit review. In addition, contrary to the requirements of Public Sector Accounting Standards Board, a summary of assets register as at 30 June, 2017 has not been disclosed in the notes to the financial statements. Consequently, it has not been possible to confirm the existence and value of non- current assets owned or held by the Ministry as of 30 June, 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true as observed in the audit report that a comprehensive and approved register of all the assets controlled and possessed by the Ministry was not provided for audit review. The Ministry has since availed to the auditors the following for audit review: -

- An inventory of properties owned by the government of Kenya has been provided.
- Inventory of movable assets in Missions abroad are maintained in respective Missions and are available for audit.
- An Inventory of movable assets at the Ministry Headquarters has been provided. The Ministry is in the process of preparing a formal Asset Register with the following details:
- Asset class & Description
- Date and cost at acquisition
- Location
- Condition
- Revaluation/Reduction in Value/Depreciation/Amortization
- Ownership details/Title
- Embedded picture of the property.

The exercise is likely to take 6 months effective from 1st June, 2019. The register will be availed for audit review as soon as it is ready.

Committee Observations and Findings

(i) The Committee observed that the Ministry did not have an asset register according to the requirements of the Public Procurement and Asset Disposal Act of 2015;
(ii) The Committee observed that the Ministry was in the process of preparing the Assets register; and
(iii) The matter remains unresolved.

Committee Recommendations

The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.

161. Confidential Expenditure

IFMIS records relating to the Ministry of Foreign Affairs indicate that a total expenditure of Kshs.437,776,983 was incurred on confidential expenditure in 2016/2017 financial year on campaign. However, a certificate issued by the Cabinet Secretary responsible for the Ministry as required under regulation 101(5) of the Public Financial Management (National Government)

Regulations 2015 including, the supporting schedules and documents reflects confidential expenditure totalling Kshs.385,681,684 for the year then ended resulting in expenditure difference of Kshs.52,095,299 has not been fully accounted for or satisfactorily explained by the Ministry. The schedules for bank payments in respect of the confidential expenditure reflects some payments totalling Kshs.50,000,000 through a local bank out of which an amount of Kshs.30,000,000 is claimed to have been transferred to another government agency.

However, the financial statements of that agency for the year ended 30 June 2017 do not reflect any transfers from the Ministry of Foreign Affairs. The remaining amount of Kshs.20,000,000 is indicated in the documents made available for audit as having been paid to the Principal Secretary for the purposes of a special activity,but is not supported by any relevant documentation. Consequently, the propriety of the total expenditure of Kshs.50,000,000 cannot be confirmed.

In addition, Section 54(2) of the Public Procurement and Asset Disposal Act, 2015 require that standard goods, services and work with known market prices be procured at the prevailing market prices. However, some 89 tonners purchased at a total cost of Kshs.27,368,000 under the confidential expenditure item were overpriced by Kshs.9,857,800 over and above their prevailing market prices. No satisfactory explanation has been provided for this anomaly.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statements on African Union Chairmanship (AUC) campaigns as supported by the certificate issued by the Cabinet Secretary responsible for the Ministry as required under regulation 101(5) of the Public Financial Management (National Government) Regulations 2015 including, the supporting schedules and documents reflects confidential expenditure totalling Kshs. 385,681,683.50 for the year 2016/2017. AUC campaign expenditure as captured in the initial working schedules, however, stood at Kshs. 437,776,982.55 which differs from the certified amount by Kshs. 52,095,299.05.

This difference relates to the AUC campaigns conducted by the Deputy President and were initially charged under the AUC campaign funds but were later transferred to state visits expenditure.
It was true that the ministry incurred 50,000,000 on a security operation relating to the AUC campaigns during the year under focus. This expenditure was rightfully classified as confidential as per the prescription at regulation 101(6) of the Public Financial Management Act (National Government) Regulations 2015, and therefore details of the same could not be disclosed.

The expenditure was however, fully accounted for through a certificate that the money has been paid and a declaration by the Cabinet Secretary that the money had been properly expended as required under regulation 101(5) of the Public Financial Management (National Government) Regulations 2015.

It was true that goods/tonners were procured during the African Union Chairmanship campaign for use by the campaign secretariats. Although the items were procured under emergency conditions, they were sourced through quotations from prequalified suppliers under AGPO programme, whereby prices charged include market price plus a mark-up.

Committee Observations and Findings

(i) **The Committee observed that the amount by Kshs. 52,095,299.05 was a difference in the confidential expenditure totalling Kshs. 385,681,683 as shown in the supporting schedules and reflected documents to the actual expenditure which stood at stood at Kshs. 437,776,982.55;**

(ii) **The Committee observed that the ministry incurred 50,000,000 on a security operation relating to the AUC campaigns during the year under focus. This expenditure was rightfully classified as confidential as per the prescription at regulation 101(6) of the Public Financial Management Act (National Government) Regulations 2015, and therefore details of the same could not be disclosed;**

(iii) **The Accounting Officer accounted for the money fully through a certificate showing the money had been paid and a declaration by the Cabinet Secretary that the money had been properly expended as required under regulation 101(5) of the Public Financial Management (National Government) Regulations 2015;**

(iv) **The Committee observed that goods/tonners were procured during the African Union Chairmanship campaign for use by the campaign secretariats. That although the items were procured under emergency conditions, they were sourced through quotations from prequalified suppliers under AGPO programme, whereby prices charged include market price plus a mark-up; and**

(v) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

10.0. STATE DEPARTMENT OF BASIC EDUCATION

FINANCIAL STATEMENTS FOR VOTE 1063

Dr Belio Kipsang, the Accounting Officer for the State Department of Early Learning and Basic Education (Vote 1063) appeared before the committee on 19th August 2019 to adduce evidence on the Audited Financial Statements for the State Department of Early Learning and Basic Education (Vote 1063) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr Robert Osamo Osamo - Senior Principal Finance Officer**
2. **Ms Reginah Kanyi - Deputy Director Supply Chain Management**
3. **Mr Emilio Mukira - Assistant Accountant General**
4. **Mr Paul Kibet - Ag Director Secondary Education**
5. **Mr Jeremiah Munai - Under Secretary**
6. **Mr Philip Owang - Principal Supply Chain Management Officer**
7. **Mr Martin Kungania - Directorate of Primary Education**
8. **Ms Martha Ekirapa - Project Co-Coordinator PRIEDE**
9. **Mr Elijah K. Mungai - Ag Director Project Coordination**

Basis for Qualified Opinion

162. Failure to Surrender Temporary Imprests

The statement of assets and liabilities as at 30 June 2017 reflects accounts receivables balance of Kshs.213,67,488 which as disclosed in note 13 to the financial statements includes imprest totalling Kshs.3,305,371 which had not been surrendered as at 30 June 2017. This is contrary to Section 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 7 working days after returning to duty station.

Consequently, the state department contravened the law and the validity of the expenditure totalling Kshs.3,305,371 for the year ended 30 June 2017 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer admitted that as at the time of the report the outstanding imprest amounted to Kshs. 3,305,370.80. Most of the officers had surrendered physically the imprests up to the tune of Kshs. 2,577,900.00 whereas the outstanding imprests to the tune of Kshs. 727,470.80 were recovered. The delays in surrender were caused by anomalies which were due to imprests being issued to officers working outside the Ministry. The ministry regrets the anomaly and has put measures in place to cub recurrence that is by working with the said institutions to meet the deadlines of imprest surrender

Committee Observations and Findings

(i) The Committee observed that imprest totalling Kshs.3,305,371 had not been surrendered as at 30 June 2017 contrary to Section 93 (5) of the Public Finance Management (National Government) Regulations, 2015.
(ii) The Committee observed that the outstanding imprests were later recovered and the documents verified by the auditor general.
(iii)The Committee marked the matter as resolved.

Committee Recommendation

All Accounting Officers should ensure that all imprest is surrendered within 7 days after travel.

163. Accounts Payable- Deposits and Retentions

The statement of assets and liabilities as at 30 June 2017 reflects accounts payable balance of Kshs.64,852,390 which is disclosed under Note 14 to the financial statements includes other liabilities figure of Kshs.62,990,464 whose nature and supporting documents were not availed for audit review. In addition, it is not clear and management has not explained why the payables balance of Kshs.62,990,464 which has been outstanding over three (3) years has not been settled as at the date of this report. In the circumstances, the accuracy, validity and completeness of the accounts payable balance of Kshs.64,852,390 for the year ended 30 June 2017 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that the ministry did not submit the analysis for deposits as at the time of review. The amounts had not been paid since the claimants had not come to claim so far. The same was analyzed as appended below;

PARTICULARS	AMOUNT	TOTAL
CDE Kisumu	12,907.80	
Infrastructure Funds	229,956.00	
UNESCO	486,801.50	

ASK Show	1,132,260.35	**1,861,926**
Capital Construction	17,060,218.10	
TSC Headquarters Building	44,847,445.85	
ECDE Grants	378,318.55	
World Food Program	434,370.00	
M/S High Point	270,111.80	**62,990,464**
Grant Total		**64,852,390**

Committee Observations and Findings

(i) The Committee observed that the accounts payables and other liabilities figure of Kshs.62,990,464 had not yet been settled and supporting documents had not been availed for audit review.

(ii) The matter remained unresolved

Committee Recommendations

The Accounting Officer should ensure that the amount not claimed should be remitted back to the National Treasury.

164. Failure to Disclose Pending Bills

Records maintained at the state department indicate that an amount totalling Kshs.1,960,860 was paid to various suppliers during the year under review. However, examination of supporting documents revealed that one of the local purchase orders (LPOs) and invoices amounting to Kshs.1,960,860 relates to the financial year 2013/2014 but the same was not included in the pending bills for the same year. No reason or justification has been given for failure to disclose the amount of Kshs.1,960,860 as pending bills in the previous years and with effect from the year in which they relate. In the circumstances, it has not been possible to confirm that payment of Kshs.1,960,860 was a proper charge to public resources.

Submission by Accounting Officer

The Accounting Officer admitted that the payment was not disclosed as a pending bill for the year 2014/2015. This was because as at the time of compilation of pending bills for the previous years, the invoices nor demand note had not been submitted to the Department. So, the payment remained outstanding and when it was presented it formed first charge at the beginning of the financial year.

The Department regrets this anomaly and has since put measures to avoid recurrence, i.e. the Department adopted the new cash plan management systems in IFMIS system. Further the

Ministry had also gone full implementation of the procurement plan and timely procurement of goods and services**.**

In addition, the national treasury had also introduced a new cash management system that will help solve the problem of pending bills arising due to lack of exchequer

Committee Observation and Findings

(i) The Committee observed that supporting documents revealed that one of the local purchase orders (LPOs) and invoices amounting to Kshs.1,960,860 related to the financial year 2013/2014;
(ii) The Committee observed that the Pending Bill of Kshs.1,960,860 relating to the financial year 2013/2014 was settled during the year 2016/2017;
(iii) The Committee observed that that payment of Kshs.1,960,860 was a proper charge to public resources; and
(iv) The Committee marked the matter a resolved.

Committee Recommendations

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills are available they should form a first charge in the subsequent year's budget thereby impending smooth implementation of the subsequent budget.

165. Use of Goods and Services

165.1 Single Sourcing of Services

The statement of receipts and payments for the year ended 30 June 2017 reflects use of goods and services figure of Kshs.4,843,009,920 which includes payments totalling Kshs.7,576,448 in respect of repairs of motor vehicles amounting to Kshs.2,802,710 made up of 21 payments accommodation and conference laptops amounting to Kshs.1,659,300 and procurement of air tickets of Kshs.3,114,438 made up of 5 payments.

This is contrary to Section 103 (1) of the Public Procurement and Asset Disposal Act 2015 which stipulates that the use of direct procurement is only allowed as long as the purpose is not to avoid competition. In the circumstances, it has not been possible to confirm the propriety of expenditure totalling Kshs.7,576,448 for the year ended 30 June 2017.

Date	Pv/cheque No.	Payee	Details	Amount (Kshs.)
30-Jun-17	5251	Samo Agencies	Repair of motor vehicles	1,480,964
30-Jun-17	20003876	Samo Agencies	Repair of motor vehicles	170,056
30-Jun-17	20004105	Samo Agencies	Repair of motor vehicles	148,000
30-Jun-17	20003792	Samo Agencies	Repair of motor vehicles	98,600
30-Jun-17	20008943	Samo Agencies	Repair of motor vehicles	73,776
30-Jun-17	20008944	Samo Agencies	Repair of motor vehicles	72,152
30-Jan-17	20004094	Samo Agencies	Repair of motor vehicles	69,832
30-Jun-17	20008946	Samo Agencies	Repair of motor vehicles	68,556
30-Jun-17	20008945	Samo Agencies	Repair of motor vehicles	65,192
30-Jun-17	20008950	Samo Agencies	Repair of motor vehicles	65,076
30-Jun-17	20008948	Samo Agencies	Repair of motor vehicles	54,752
30-Jun-17	20008941	Samo Agencies	Repair of motor vehicles	50,228
30-Jun-17	20008951	Samo Agencies	Repair of motor vehicles	49,822
30-Jun-17	20008942	Samo Agencies	Repair of motor vehicles	46,864
30-Jun-17	20008940	Samo Agencies	Repair of motor vehicles	45,356
30-Jun-17	20008938	Samo Agencies	Repair of motor vehicles	45,240
30-Jun-17	20008939	Samo Agencies	Repair of motor vehicles	45,008
30-Jun-17	20008935	Samo Agencies	Repair of motor vehicles	43,384
30-Jun-17	20008936	Samo Agencies	Repair of motor vehicles	40,020
30-Jun-17	20008937	Samo Agencies	Repair of motor vehicles	39,672
30-Jun-17	20008949	Samo Agencies	Repair of motor vehicles	30,160
26/4/2017	3392	Kenya Education Management institute	Full board accommodation on laptop training of 113 participants	1,659,300
29/6/2017	4892	Travel Plaza	Airtickets	398,660
29/6/2017	4891	Silver Africa Tours and safaris	Air-tickets.	268,000
29/6/2017	4889	Travel Plaza	Airtickets	1,304,705
29/6/2017	4842	Travel Plaza	Air-tickets.	138,935
29/6/2017	4735	Freesteem Travel	Airtickets	1,004,138
TOTAL				**7,576,448**

Submission by Accounting Officer

i. The Accounting Officer stated that Samo Agencies was a shortlisted and authorized (approved) garage by Public Works to undertake repair of Government Vehicles in the financial year 2016/2017. During the year, there was an urgent need to repair the vehicles for the purpose of East Africa Secondary School Games and Sports Championship (FEASSSA). In this regard, at the time of the repair this was the only garage accepting a Local Purchase Order to undertake repairs due to a huge pending bill incurred by the Ministry with other garages who were demanding upfront payment before undertaking new repairs. Therefore, the reason as to why the garage was used to do most repairs and paid through supplementary budget before the closure of the financial year 2016/2017 as per the indicated PV dates.
ii. Further, the procurement of tickets from Travel Plaza and Silver Africa Tours & Safaris for Kshs. 398.660.00 and 268,000.00 respectively was done through Request for Quotation to the two lowest bidders (Quotations and Opinion).
iii. Also, in regard to the other three vouchers, various User Departments requested for Officers travelling on official duties to various destinations. Direct Procurement method was used to procure air tickets which were urgent and time bound where direct procurement from the pre-qualified supplier was the only viable method. An opinion approving the same to be processed is attached for your verification.
iv. Finally, he stated that The Public Procurement and Asset Disposal Act, 2015 allows for Direct Procurement of Services in a Public Entity (Government Institution) as per section 103 (e). The amount of Kshs. 1,659,300 was a direct procurement for full board accommodation at the Kenya Education Management Institute (KEMI) being a Government Institute under the Ministry of Education. In addition, this is in line with the Presidential Pronouncement from His Excellency the President encouraging Government Institutions to hold workshops and seminars in Government Institutions to cut costs and save the Government unnecessary expenditure.

Committee Observations and Findings

(i) The Committee observed that the State Department of Basic Education resorted to Direct Procurement (Single Sourcing of Services) method contrary to the provisions Section 93 (1 - 4) of the PPAD Act of 2015;
(ii) The Committee observed that the Accounting Officer did not provide a Pre-Qualification list for procurement for the period 2016/17; and
(iii) The matter remained unresolved.

Committee Recommendations

The Accounting Officer should comply with the Public Finance Management Act, 2012 and Public Procurement and Disposal Act, 2015.

165.2 Maintenance of Lifts without a Valid Contract

The statement of receipts and payments for the year ended 30 June 2017 reflect use of goods and services balance of Kshs.4,843,009,920 which includes a payment of Kshs.596,800 made to a firm in respect of maintenance of lifts. A review of procurement records revealed that the services were rendered on an expired contract which was in force during the period between July 2010 and June 2013. The services were therefore rendered without a valid contract, contrary to Section 139(2) of the Public Procurement and Assets Disposal Act, 2015 which require the Accounting Officer of a procuring entity to approve extension of contract period upon recommendation of an evaluation committee. The state department was therefore in breach of the law and the validity of the expenditure of Kshs.596,800 for the year ended 30 June 2017 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer admitted that M/S AJE Elevator Engineering Company were paid Kshs. 596,800 in respect of maintenance of lifts for the period between July, 2010 and June, 2013 using the 2010-2013 contract.

The Ministry of Lands, Housing and Urban Development is responsible for processing the contracts for lifts in Ministries and State Departments.

The Ministerial Tender Committee meeting No.7/2015-2016 held on Thursday 22nd December, 2015 deliberated on the contract for lifts and approved an extension of maintenance of lifts from 1st July, 2013 to 30th June, 2016 to M/S Aje Elevators Engineering Co. Ltd, P.O. Box 48012-00100, Nairobi.

Further to the above, a new contract had since been put in place and the handing over to a new contractor was done. Attached are the handover minutes in regard to the same.

Committee Observations and Findings

(i) The Committee observed that this was a prior year matter that had already been dealt with in the 2015/2016 Report.
(ii) The Committee marked the matter as resolved.

165.3 Procurement of Sanitary Towels

The statement of receipts and payments for the year ended 30 June 2017 reflects use of goods and services balance of Kshs.4,843,009,920 which includes Kshs.32,315,778 being supply and delivery of sanitary towels. However, scrutiny of procurement records revealed that the state department advertised a tender for supply and delivery of sanitary towels on 8 November 2016. The bids were divided into eight (8) lots and fifty-two (52) bids were received and opened and the preliminary technical and commercial evaluation were carried out and ten (10) bidders proceeded to price comparison.

Examination of the evaluation revealed that, six (6) bidders who quoted higher prices compared to the lowest bidders were awarded the tenders and therefore

Lots	Awarded Bidder	Position in bid	Amount (Kshs.)	Lowest Bid (Kshs.)	Loss (Kshs.)
1	Nexhom Africa	3	23,352,030	21,406,028	1,946,001
2	Konyipad Construction	6	23,826,574	19,915,830	3,910,744
3	Imani Holdings	2	32,111,125	30,173,202	1,937,923
4	Paula Services	3	50,092,455	40,185,590	9,906,864
5	Rossaby Enterprises	2	49,574,576	42,875,309	2 6,699,267
6	Hassib Investments	2	23,952,150	23,179,500	772,650
	TOTAL		**202,908,910**	**177,735,459**	**25,173,451**

The evaluation is contrary to section 80(2) of the Public Procurement and Asset Disposal Act 2015 which require evaluation and comparison of bids be done using procedures and criteria set out in the tender documents. No satisfactory explanation was provided for the above anomaly. In the circumstances, it has not been possible to confirm that the excess expenditure totalling Kshs.25,173,451 for the year ended 30 June 2017 was a proper charge to public funds.

Submission by Accounting Officer

General

The Accounting Officer stated that the overall goal of the Ministry of Education is to provide equal access to quality education to both boys and girls irrespective of their social status. The purchase of sanitary towels was therefore aimed at providing this access through the provision of the towels to girls.

Further, in order to achieve the 30% Preference and Reservation threshold for the Youth, women and persons with disability as required by the Public Procurement and Asset Disposal Act, 2015, the Ministry unbundles the procurement of sanitary pads into Lots.

Specific

The Accounting Officer stated that the Public Procurement and Asset Disposal Act, 2015 Section 80(2) states that the evaluation and comparison shall be done using the procedures and criteria set out in the tender documents and this was adhered to.

In this regard, reference is made to the tender document for the supply and delivery of sanitary towels to public primary and special secondary schools section III. Tender data sheet sub-section 35.2 under criteria for award (contract award) which states that each bidder will be awarded ONE (1) LOT only which was an evaluation criterion used to distribute all the lots to the most responsive bidders by awarding ONE lot each.

The objective of providing sanitary towel to Girls is to ensure the Girls remain in School during the period that sanitary towels are required hence one supplier would not manage to timely distribute the towels to meet the purpose. Timely Distribution capacity and training on use of sanitary towels was a major factor considering that the targeted regions were vast across the country.

Based on the above although Triple N capital was lowest in five (5) lots they could only be awarded one lot, which was the most economically advantageous based on the highest quantity of a given lot. In this case as per the evaluation report, they were awarded lot 8 which had the highest quantity (no. of packets i.e 1,704,204) amounting to Kshs 46,865,610.

This therefore meant Triple N Capital was eliminated from consideration in all the other lots in which they were the lowest (lowest price quoted). This formed the basis of subsequent awarding of the remaining lots to the respective bidders. This explains how the Seven (7) lots were awarded according to the instructions from the bid document which is in line with section 80 (2) of the Public Procurement and Asset Disposal Act, 2015. If Triple N Capital was awarded all the five (5) lots, this would have been against the instructions clearly given in the bidding documents of awarding one bidder one lot.

The Accounting Officer submitted additional documents in support of the procurement process for the Sanitary Towels as listed below: -

1. List of Directors of Konyipad Ltd.
2. Copies of Kenya Bureau of Standards Certificates.
3. Copies of Manufacturers Authorization.
4. List of Targeted Areas and the criteria used to identiFinancial Year them.
5. Specifications of AGPO.
6. The Quotation of the Second lowest bidder.

Committee Observations and Findings

(i) The Committee observed that the evaluation was contrary to section 80(2) of the Public Procurement and Asset Disposal Act 2015 which requires that evaluation and comparison of bids be done using procedures and criteria set out in the tender documents; and

(ii) The matter remains unresolved.

Committee Recommendations

The matter is referred to the Office of the Director of Public Prosecution (ODPP) to consider prosecuting members of the tender committee pursuant to section 176-177 of the Public Procurement and Disposal Act.

165.4 Nugatory Payment on Tyres

The statement of receipts and payments for the year ended 30 June 2017 reflects use of goods and services figure Kshs.4,843,009,920 which includes a payment of Kshs.459,420 in respect of purchase of thirty (30) pcs of tyres size 205/65R16. A physical check of the store revealed that the tyres were still lying in the store and that the state department has no vehicles using this size of tyres. No explanation has been provided for this anomaly and it is not clear why the department procured tyres contrary to the provisions of section 68 (1) of the Public Finance Management Act 2012 which stipulates that the Accounting Officer should ensure that the resources of the respective entity for which he or she is the Accounting Officer are used in a way that is lawful, authorized, effective, efficient, economical and transparent.

Consequently, the validity of expenditure totalling Kshs.459,420 on tyres for the year ended 30 June 2017 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer admitted that the Ministry procured thirty (30) pieces of size 205/65R16 as per the users requisition at a cost of Ksh.459,420.00. He also admitted that at the time of inspection by the Audit team, the tyres were still in store although they had already been issued to the Transport Unit. This is because the vehicles using the tyres GK A 649K, GK A 217H, GK A 943G, GK A 955R, GKA 929G, GK A 934R and GK Z690 were still in the garage undergoing major repairs and the transport unit do not have their own store to keep the tyres hence requested for safe custody of the tyres in the main store. However, the vehicles have already been repaired and the tyres already fitted.

Committee Observations and Findings

(i) The Committee observed that additional supporting documents that had not been submitted during the audit have since been submitted and verified.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

165.5 Payment of Rent without Valid Lease Agreements

The statement of receipts and payments for the year ended 30 June 2017 reflects use of goods and services figure of Kshs.4,843,009,920 which includes payments totalling Kshs.195,654,482 in respect of rentals of produced assets as disclosed in note 6 to the financial statements. The figure of Kshs.195,654,482 also includes Kshs.2,267,560 being rent of office space for various state department offices whose valid and current lease agreements with various landlords and property managers were not availed for audit verification. In addition, it was further noted that there were long outstanding rent balances amounting to Kshs.2,810,560 that had not been included in the approved list of pending bills for the year ended 30 June 2016.

Further, the state department made a payment of Kshs.295,920 and whose supporting documents/invoices were was not availed for audit review. In the circumstances, it was not possible to confirm that the rent paid of Kshs.2,267,560 was in line with the existing agreement and consistent with market rates and therefore the validity of the same could not be ascertained for the year ended 30 June 2017.

Submission by Accounting Officer

The Accounting Officer admitted that as at the time of the audit review lease agreements were not presented to the auditors. The ministry had since provided lease agreements for the following payments

PV.NO.	PAYEE	AMOUNT
5010	FRIENDS COMMUNITY CENTRE OFAFA	295,920.00
1504	FRIENDS COMMUNITY CENTRE OFAFA	295,920.00
4852	KENYA FARMERS ASSOCIATION LIMITED	1,496,320.00
2287	ARNEST G. ANYIRO	57,000.00
2287	ARNEST G. ANYIRO	122,400.00
	TOTAL	**2,267,560.00**

Committee Observations and Findings

(i) The Committee observed that the submission and accompanying documents tabled by the Accounting Officer explaining the validity, accuracy and completeness of payment of rent totalling Kshs.195,654,482 in respect of rentals of produced assets for the year ended 30 June 2017 were satisfactory.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation supporting the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

165.6 Splitting of Tenders on purchase of Computers and Accessories

The statement of receipts and payments further reflects use of goods and services figure of Kshs.4,843,009,920 which includes an expenditure of Kshs.13,272,215 on procurement of goods through request for quotations instead of open tendering as they had exceeded the procurement threshold for quotations as detailed below.

Date	Pv. no.	Payee	Details	Amount (Kshs.)
		Printers		
30-Jun-17	5229	Letimboka enterprises	supply of heavy-duty photocopier	508,500
29-Jun-17	4798	Finnese IT solutions	supply of 25ppm laser jet printers	840,000
29-Jun-17	4870	Joely General supplies	supply of HP LaserJet printers of 45ppm	1,164,900
29-Jun-17	4899	Gerberk solutions	supply of HP laser jet printers of 45ppm	299,995
Sub-total				**2,813,395**
		Computers		
30-Jun-17	5230	Westwood suppliers	supply of core 15 desktops	1,935,000
29-Jun-17	4861	Mivcom Agencies	supply of desktops computers	1,975,700
29-Jun-17	4370	Timcom solutions	supply of desktops computers core i5	1,927,500
29-Jun-17	4899	Gerberk solutions	supply of desktops computers core i5	1,784,720
30-Jun-17	5213	Huvami Enterprises	supply of desktops computers	257,400
Sub-total				**7,880,320**
		Harddisks		
29-Jun-17	4898	Marken Enterprises	supply of 10 hard disks	1,598,000
29-Jun-17	4832	Kathumbi agencies	supply of 1 TB HDD	980,500
Sub-total				**2,578,500**
Grand Total				**13,272,215**

This is contrary to Section 54(1) of the Public Procurement and Asset Disposal Act 2015 which states that no procuring entity may structure procurement as two or more procurements for the purpose of avoiding the use of a procurement procedure except where prescribed.

In the circumstances, it has not been possible to confirm that goods worth Kshs.13,272,213 for the year ended 30 June, 2017 were competitively procured and the state department breached the law.

Submission by Accounting Officer

The Accounting Officer stated that the User Departments raised different requisitions as per their requirements within the financial year. The consolidation for common user items was done at the beginning of the year and the procurement done as a whole. However, the peculiar requisitions came at different times. The request also came with different specifications according to their needs and hence could not be merged. Through the e-procurement, each department is doing their requisition in IFMIS system at different intervals hence you find that an item is procured separately. There was also a rider in the procurement plan for People with Disability (PWD's) allocations. He further stated that in future all common items will be procured centrally or combined.

Committee Observations and Findings

(i) The Committee observed that the procurement method was contrary to Section 54(1) of the Public Procurement and Asset Disposal Act 2015 which states that no procuring entity may structure procurement as two or more procurements for the purpose of avoiding the use of a procurement procedure except where prescribed;
(ii) The Committee also observed that the documents from different bidders were prima-facie evidence of persons with disabilities and the state department ought to have conducted due diligence into the veracity of such documents;
(iii)The matter remained unresolved.

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

166. Obsolete Stores

Examination of stores records revealed that 128 uninterrupted power supply batteries (UPS's) worth Kshs.1,218,176 at the latest market price index issued by the Public Procurement Regulatory Authority have been lying in the store for over four (4) years and have since become obsolete. It is not clear, and management has not explained the circumstances under which the UPSs were procured and never put to use. In the circumstances, it has not been possible to confirm the propriety of expenditure totalling Kshs.1,218,176 and the expenditure may have been wasteful.

Submission by Accounting Officer

The Accounting Officer admitted that there were 128 obsolete UPS lying in the stores at the time of audit review. The above-mentioned UPS were among other items such as furniture and fittings that were collected all over the Education department and taken to stores pending boding**.**

The ministry has been in the process of boding the items and all the other identified obsolete including motor vehicles and idle items. So far, the stores have been identified, valuation for vehicles done and a committee for the disposal of assets has been put in place.

The Chief Mechanical took time before inspection of vehicles was concluded, however the inspection and valuation of vehicles to be disposed is now complete.

He regretted any anomalies and promised to make amends.

Committee Observations and Findings

The Committee observed that the UPSs were procured and never put to use and have been lying in the store for over four (4) years.

Committee Recommendations

The Accounting Officer should ensure that goods are procured upon requisition and as per the procurement plan.

167. Double Payments of School Fees

The statements of receipts and payments for the year ended 30 June, 2017 reflects grants and transfers figure of Kshs.4,255,893 which include payments of Kshs.1,592,277.00 and Kshs.255,500 favor of two secondary schools in respect of school fees for three students respectively. These payments were later paid again vide PV no. 4422 dated 22 June 2017 resulting to double payments.

No satisfactory explanation has been provided for this Anomaly. Consequently, it has not been possible to confirm the validity of expenditure totaling to Kshs.1,857,777 for the year ended 30 June 2017.

Submission by Accounting Officer

The Accounting Officer admitted that the Ministry of Education paid school fees for two students named below at King Barrack Secondary school: -

(i) Damaris Nyambura - Adm no. 0256
(ii) Teddy Mukaria - Adm no. 0257

a) Through payment voucher (PV) no. 2396 dated 20/2/2017 totaling to Kshs225, 500/- for the two students at a cost of Kshs 122,500 each. These payments were made based on the (invoice) fee structure for 2016 which was Kshs 72,000/- per student. The total payment should have been Kshs 144,000 instead of Kshs 225,500 bringing an overpayment of Kshs 81,000/-. The overpayment resulted from an earlier invoice from the school which had an error (he tabled document A&B).
b) The payment of school fees for the same two students through voucher No. 4422 dated 22/6/2017 of Kshs 76,000/- each was based on 2017 (invoice) fee structure (he tabled document C&D attached).
c) i. The Ministry of Education paid 2015/2016 school fees arrears to Michele Nafuna Wamalwa at Gems Cambridge International School (Nairobi) a total of Kshs 1,592,277 through payment voucher no. 2513 dated 27/2/2017 based on the request by the parent and invoices/fees structure presented by the school (he tabled document E attached).
   ii. The Ministry of Education further made payment to Michelle Nafuna Wamalwa at Gems Cambridge International School (Nairobi) a total of Kshs 1,599,277 through payment voucher no. 4422 dated 22/6/2017. This payment was based on an invoice/fee structure of 2016/2017 academic year. The Management has since communicated to the institution and the overpayment shall be utilised during this year.

Committee observations and Findings

(i) The committee observed that there was no explanation for the double payment in favor of the two secondary schools in respect of school fees for three students.
(ii) The Committee observed that only a select few students were beneficiaries of the school fees payment program and that these schemes are being abused;
(iii) The matter remained unresolved.

Committee Recommendation

The Committee recommends immediate suspension of the school fees bursary scheme for children of prominent persons until a clear policy guideline is developed by the Executive and approved by the National Assembly.

168. Transfers to other Government Units

168.1 Special Needs Education Grants

The statement of receipts and payments for the year ended 30 June 2017 reflects transfers to other government units figure of Kshs.31,768,317,355 which includes grants totalling Kshs.459,999,960 made to 180 Special primary Schools vide payment voucher No.70 and Kshs.300,000,000 to 30 special secondary schools vide payment voucher number 69 during the year under review.

However, the State Department did not avail the criteria used to identiFinancial Year the schools and basis of allocating the funds to the 210 schools for audit review. In the circumstances, it was not possible to confirm whether fairness and equity was observed as per the provisions of article 201 of the constitution of Kenya which requires the Public finance system to promote fairness and equitable sharing in the society.

Submission by Accounting Officer

The Accounting Officer admitted that examination of records maintained at the ministry's headquarters indicated that grants totaling Kshs 459,999,960 were made to 180 special primary schools vide payment voucher no. 70 and Kshs 300,000,000 to 30 special secondary schools vide payment voucher no 69 during the financial year under review in the month of March 2017. However, no criteria had been attached in support of how the allocation of the funds to the 210 schools was determined.

The following criteria was followed in allocating the infrastructure grants to the 210 schools
All the existing (30) National special secondary schools were allocated equal amounts of Kshs 10 million each for infrastructure upgrade to expand access and improve the primary to secondary Education transition for learners with disabilities

The special primary schools were allocated grants under two categories: -
(a) 14 special primary schools, two selected from each of seven regions of the country, except Nairobi, were earmarked to be upgraded progressively to be model SNE schools with expanded capacities for enrollment of learners with disabilities. Most of these schools admit learners with disabilities from across the Republic. The schools were allocated equal amounts of kshs 5,322,222.00 each.

166 schools were special or integrated schools and units drawn from all the regions and across the counties covering the various disability categories of learners. These schools were allocated equal amounts of ksh 2,322,222.00 to upgrade infrastructure to create more disability friendly learning environments and expand access for learners across the disability categories and in all 8 regions of the Republic.

Committee Observation and Findings

(i) **The Committee observed that the State Department did not avail the criteria used to identify the schools and basis for allocating the funds to the 210 schools for audit review.**

(ii) **The Committee observed that there were no set guidelines and no set criteria for making the disbursements.**

Committee Recommendations

The Cabinet Secretary should come up with proper guidelines on the criteria of disbursement of the special needs education grants within 3 months after the adoption of this report.

168.2 G-United National Volunteering Programme

168.2.1 Unaccounted for Stipend Payments to Volunteers

The statement of receipts and payments for the year ended 30 June 2017 reflects transfers to other government units' figure of 31,768,317,355 which includes Kshs.49,815,625 disbursed to Kenya Institute of Curriculum Development vide payment voucher No.168 for payment of cohort three (3) volunteers stipend. However, the returns on how the amount of Kshs.49,815,625 was utilized was not availed for audit review.

Further, a payment of Kshs.1,673,600 to Meru Teachers training college vide Payment Voucher No.177 in respect of accommodation for G-united graduates was also not supported with documents indicating the actual number of participants who were accommodated as well as fare reimbursements.

In the circumstances, it has not been possible to confirm the propriety of expenditure totalling Kshs.51,489,225 for the year ended 30 June 2017.

Submission by Accounting Officer

The Accounting Officer stated that the G-united programme pays the monthly stipends for Volunteer Graduates Assistants and Homestays through the Kenya Institute of Curriculum Development (KICD). The Kshs 49,815,625 disbursed vide Voucher No. 168 was meant to pay the monthly stipends for the volunteers and Homestays as follows:

S/No.	Date	Payment Voucher No.	Particulars	Amount
1.	24/10/17	001057	Volunteer Graduate Assistants and homestays stipends for G-United programme for the month of Oct.2017	5,248,010
2.	4/10/17	000862	Payment for VGAs and homestay family stipends for four VGAs who had specific issues on previous disbursements of their monthly stipends	55,530
3.	3/10/17	000861	Replacement of returned EFT.	7,500
4.	8/9/17	000522	Replacement of returned EFT.	15,500
5.	22/9/17	000680	Payment for G-United Programme 3rd cohort VGAs and homestay stipends for the month of Sept. 2017	4,594,830
6.	18/8/17	000251	Payment for G- United Programme 3rd cohort VGAs and homestay stipends for the month of August 2017	4,826,580
7.	29/6/17	003454	Payment for school and homestay family stipends 3rd cohort wave 2	664,350
8.	29/6/17	003453	Payment for VGAs stipends 3rd cohort wave for the month of April, May, and June, 2017.	8,528,400
9.	22/3/17	002126	Payment of volunteers and homestays stipends for G-United Programme for the month of March 2017.	1,056,780
10.	23/2/17	001927	Payment for VGAs and homestay family stipends for G-United for the month of Feb 2017.	1,121,670
11.	6/2/17	001768	Payment for VGAs and homestay family stipends for G-United programme for the month of January 2017	1,121,670
12.	6/1/17	001452	Payment of volunteers and homestay stipends for G-United for the month of December 2016.	1,242,180
13.	7/12/16	00125	Payment of volunteers and homestay stipends for G-United programme for the month of November 2016.	1,242,180

14.	8/11/16	000965	Payment of volunteers stipends or the month of October 2016	895,980
15.	6/10/16	000713	Payment of volunteers stipends and homestay family stipends for G-United programme	1,334,880
16.	5/9/16	000443	Payment of volunteers Graduate Assistants stipends for August 2016	966,000
17.	5/6/2018	003428	Payment for NHIF cover for cohort 4 \volunteer Graduate Assistants (VGAs) for the month of April, May and June 2018 for wave 1and 2, and two months May and June for wave 3	1,716,500
18.	28/6/18	003837	Payment for G-United programme 4th cohort VGAs and homestays stipends for the month of June,2018.	11,099,730
19	2/8/2017	000194	Payment for stipends for VGAs 3rd cohort for July2017	3,207,420
20	2/8/2017	000195	Payment for stipends for VGAs 2nd cohort for July2017	605,640
	TOTAL			**49,557,510.00**

The payments are always authorized by the AIE holder and approved by the Head of Finance at the Ministry before submission to KICD for payment.

Payments of Ksh 1,673,600.00 to Meru Teachers College vide Pv. No. 177 for accommodation was part of the total payment (Kshs. 3,049,600.00) for the training paid to the college. The college was initially paid KShs 1,376,000.00) and the balance of Ksh 1,673,600.00 was paid on the actuals.

Committee Observations and Findings

(i) **The Committee observed that the submission and accompanying documents tabled by the Accounting Officer confirm the propriety of expenditure totalling Kshs.51,489,225 for the year ended 30 June 2017 were satisfactory.**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

168.2.2 Excessive Procurement of Goods for Cohort 2 Programme

Examination of G-united payment records revealed payments totaling Kshs.2,765,000 were made towards procurement of volunteer handbooks and readers for read out sessions booklets for use by cohort 2 volunteers under the national volunteer's mentorship programme. However, the materials procured were beyond the actual number of volunteers deployed under cohort 2 as indicated below;

PV no/cheque no.	Item	No. of Items procured	Cost (Kshs)	Budgeted no. of items	Actual no volunteers	Resultant loss due to excess procurement (Kshs)
60	Volunteer hand book and code of conduct	700	1,305,500.00	350	144	652,750.00
2003795	Readers for read out sessions	1500	1,459,500.00	300	144	1,167,600.00
TOTAL			**2,765,000.00**			**1,820,350.00**

From the above analysis, the ministry incurred nugatory costs amounting totaling Kshs.1,820,350 by engaging in excessive procurement.

In addition, the evaluation committee minutes and the procurement plan revealed that this procurement was reserved for the youth, women and persons with disability. However, the supplier under payment voucher no 60 did not avail the youth access to government procurement opportunities (YAGPO) certificate. In the circumstances, this expenditure of Kshs. 2,765,000 for the year ended 30 June 2017 may not be a proper charge for public funds.

Submission by Accounting Officer

Payments totaling to Kshs 2,765,000.00 for procurement of Volunteer handbooks and Readers Booklets for use by Cohort 2 was done. It is in the design of the programme to procure materials based on the target of the Volunteers for a particular year or Cohort. The materials are procured before the training is done to ensure that they are ready during the residential training of the Volunteers.

In this case, the targeted number of Volunteers was 300 however 158 were trained and deployed for the service. The department procured 5 sets of readers books for each targeted volunteer. These are story books which the volunteers use to read to the learners for the period of 9 months.
As for the volunteer handbooks and code of conduct, these are two different books though procured together. The same was issued to be issued to the target Volunteers.

Therefore, the spending of Kshs 1,820,350.00 was proper based on the training projections of the programme.

The procurement process for this activity was started in the year 2015/2016 where this procurement was categorized as general and not for youth only. However, there was a typo error in the minutes stating that the tender was for YAGPO category. This can be clarified from the tender documents that only requested for 3 items (Tax Compliance Certificate, Pin Certificate and the Registration Certificate) only and the procurement plan for 2015/2016.
The goods were procured in 2015/2016 financial year but were paid as a pending bill in the 2016/2017 financial year.

Committee Observations and Findings

(i) The Committee observed that the submission and accompanying documents tabled by the Accounting Officer explaining why the expenditure of Kshs. 2,765,000.00 for the year ended 30 June 2017 was a proper charge for public funds were satisfactory.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

(i) Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.
(ii) Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

168.2.3 Excessive Procurement of goods for Cohort 3

Examination of G-united payment records revealed payments totaling Ksh.9,619,950 towards procurement of volunteer handbooks and other promotional materials related to the programme for use by cohort 3 volunteers under national volunteer's mentorship programme.

However, available records indicate that 482 volunteers were recruited and posted to various counties under cohort 3 yet the state department procured volunteer handbooks and other promotional materials relating to the programme for 1,100 volunteers as indicated below:

PV no/cheque no.	Item	No. of Items procured	Cost (Kshs)	Budgeted no. of items	Actual no volunteers	Resultant loss due to excess procurement (Kshs)
179	Printing of Guide books (VGA assessment books)	1,100	1,985,500	1,000	482	1,115,4900
	Branded notebooks	1,100	275,000	1,000	482	154,500
	Branded executive pens	1,100	214,500	1,000	482	120,510
161	Printing of volunteers' handbooks	1,100	1,996,500	1,000	482	1,121,670
160	VGA record books	1,100	1,991,000	1,000	482	1,118,580
154	Branded field note books	1,100	1,375,000	1,000	482	772,500
153	Branded polo T- shirts	1,100	1,045,000	1,000	482	587,100
	Branded caps	1,100	605,000	1,000	482	339,900
152	Branded pamphlets	1,150	132,250	1,000	482	76,820
TOTAL			**9,619,750**			**5,407,070**

From the above, the state department incurred nugatory costs amounting to Ksh.5,407,070 by engaging in excessive procurement. In the circumstances, this expenditure of Kshs 5,407,070 for the year ended 30 June 2017 possible may not be proper charge to public funds.

Further, payment voucher No. 188 to Thogoto Teachers Training College of Kshs.4,538,450 in respect of training was not supported by schedules of attendance for the trainees. In the circumstances, it was not possible to confirm if the above expenditure was a proper charge to public funds.

Submission by Accounting Officer

The Accounting Officer stated that payments totaling to Kshs 9,619,750.00 for procurement of Volunteer handbooks and other promotional materials were done for Cohort 3 Volunteers under the National Volunteers Programme.

The training projection and related procurement plans are normally done at the beginning of each financial year. During the financial year 2016/2017, the programme training projection for Cohort 3 was 1,000 volunteers. The procurement of the volunteer handbooks and promotional materials was done for 1,100 however, 585 volunteers turned up for training, 572 completed the training and were deployed, however 482 accepted the offer and took up the service.

Training	Expected Vgas	Those Who Reported	Trained&Deployed
Bondo TTC	200	90	89
Meru TTC	200	120	109
Mosoriot TTC	200	92	92
Shanzu TTC	200	89	88
Thogoto TTC	200	194	194
TOTAL	**1,000**	**585**	**572**

During the residential training, Trainer of Trainers (ToTs), the Secretariat, Hosting training Institutions and officials during the opening day of the training are also branded with promotional materials such as pens, notebooks, polo T-Shirts, caps and pamphlets to create visibility and awareness

In view of the above, the State Department procured the volunteer handbooks and other materials based on the annual work plan and procurement plan for the FINANCIAL YEAR2016/2017, thus no improper charge to the public funds.

Further, Thogoto Teachers Training College was paid Kshs 4,538,450.00 vide Pv. No. 188 for accommodation of Cohort 3 Volunteers. The attached schedules confirm that the expenditure was proper charge for training at the said Institution.
The Schedules of attendance and relevant documents were attached.

Committee Observations and Findings

(i) The Committee observed that the submission and accompanying documents tabled by the Accounting Officer explaining why the Kshs 9,619,750.00 for procurement of Volunteer handbooks and other promotional materials was a proper charge for public funds were satisfactory.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

(i) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

(ii) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**

169 UNRESOLVED PRIOR YEAR MATTERS

Paragraph 169.1 Cash and Bank Balances

169.1.1Bank Reconciliation Statement Recurrent Vote
169.2 Unaccounted for Computers
169.3 Audit of Secondary Schools
169.3.1Rent Arrears
169.3.2Institutional Creditors
169.3.3Land Ownership
169.3.4 Pangani Girls High School

Committee Observation and Findings

The Committee observed that paragraph 169 above was covered in the report for the Financial Year 2015/2016.

DONOR PROJECTS

1. FOOD ASSISTANCE TO PRIMARY AND PRE-PRIMARY SCHOOLS IN ARID AND SEMI ARID AREAS AND DISADVANTAGED URBAN CHILDREN (WORLD FOOD PROGRAMME-WFP) PROJECT NO.200680 FOR THE FINANCIAL YEAR 2016/17.

193 . UNSUPPORTED RECIEPTS 735,096,957

Committee Observation and Findings

The Committee observed that paragraph 193 above was covered in the report for the Financial Year 2015/2016.

194. Unsupported expenditure

Included in the purchase of goods and services balance of Kshs.1,635,814,964 as disclosed in Note 8.5 to the financial statements are payments of grants to semiautonomous government organizations totaling Kshs.1,463,633,486.
However, supporting documents made available for audit review were for expenditures totaling Kshs.1,065,134,336 only. Therefore, documents for expenditure totaling Kshs.398,499,150 were not availed for audit verification.

In the circumstance, it has not possible to confirm the validity of expenditure of Kshs.398,499,150 reported to have been incurred on payment of grants to government organizations during the year under review.

Submission by Accounting Officer

The Accounting Officer stated that the payments had since been availed for audit examination as tabled below:

Payment Voucher No.	Date	Payee	Amount
4894	29/6/17	Pay As Per Attached Schedule	358,214,560.00
3447B	3/5/2017	Global Agro Logistics Limited	40,590,900.00
		TOTAL	**398,805,460.00**

Committee Observations and Findings

(i) The Committee observed that the documents have since been availed and verified and the auditor and the Committee was satisfied; and
(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

195. Unaccounted for District Expenditures

Included in the balance of Kshs.1,635,814,964 as disclosed in Note 8.5 to the financial statements is an amount of Kshs.135,263,603 in respect of Authority to Incur Expenditure Granted to various Districts Treasuries. The balance also includes a sum of Kshs.102,816,445 shown in the Ministry's ledger as hire of transport. However, examination of the Ministry records indicated that only Kshs.15,850,000 was disbursed to the districts Treasuries for hire of transport and Kshs.32,668,697 was used at the Ministry's head office to procure transport for food stuffs supplied to various schools thus leaving unexplained variance of Kshs.54,297,748.

In the circumstances, it has not been possible to confirm the validity of expenditure totaling Kshs.54,297,748 reported to have been incurred on hire of transport services during the year under review.

Submission by Accounting Officer

The Accounting Officer admitted that the figure of Kshs. 54,297,748 included the amount sent to the districts as Authority to incur expenditure but returns had not been received from the district at the time of the audit. He reported that the returns have since been received.

Committee Observations and Findings

(i) The Committee observed that the documents have since been availed and verified and the auditor and the committee was satisfied
(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

196. Unclear Payment

Examination of payment records revealed that the Ministry paid Kshs.348,150 during the year under review to a service provider for services rendered to the Ministry in the 2014/2015 financial year. However, there were no records availed to show the expenditure was reported as a pending bill in the financial year and the one after. In addition, the Ministry paid Kshs.2,996,200 and Kshs.53,230 to two (2) transporters respectively. Although, management explained that these payments related to the 2015/2016 financial year, no evidence was presented to show that these were reported as pending bills in the said financial year.

In the circumstances, it has not been possible to confirm that payments totaling to Kshs.3,397,580 made in the year under review was a proper charge to public resources. Further, it was also noted that another transport services provider was paid Kshs.497,000 to transport food from Nairobi to Garissa. However, examination of the schedule of the transport, payment records revealed that no food stuffs were purchased by World Food Program or the Ministry during the year under review.

In the circumstance, it has not been possible to confirm the validity of additional transport expenditure totalling Kshs.497,000 reported to have been incurred on hire of transport services during the year under review.

Submission by Accounting Officer

The Accounting Officer admitted that the Ministry paid Kshs.348,150 during the year under review to a service provider for services rendered to the Ministry in the 2014/2015 financial year. These were invoices that had not been processed in the financial year and could not have qualified as pending bills. Additionally, the payments of Kshs.2,996,200 and Kshs.53,230 to two (2) transporters for services rendered to the ministry during the 2015/16 financial year had not been processed by the end of the financial year 2015/16 and so could not qualiFinancial Year as pending bills since they were just invoices.

He further admitted that a payment of Kshs 497,000 was made during the financial year 2016/17. The payment was made to M/S Minolta Ltd of box 621 Nairobi vide payment voucher no. 1958 of 23/1/17 for service rendered. The payment is per contract and does not amount to double payment.

Committee Observations and Findings

(i) The Committee observed that the documents have since been availed and verified and the auditor and the Committee was satisfied
(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

197. Prior Years Unresolved Issues - Unreconciled Food Records and Expenditure
199. Unresolved Prior Years' Matters
199.1 Failure to Prepare and Submit for Audit 2013/2014 Financial Statements
199.2 Balance Brought Forward
199.3 Variance in the Financial Statements
200. Unconfirmed/Excluded Expenditure

Committee Observation and Findings

The Committee observed that paragraph 197-200 were prior year issues which were above was covered in the report for the Financial Year 2015/2016.

GOK/UNICEF EDUCATION FOR YOUNG PEOPLE PROGRAMME FOR THE YEAR 2016/17

201. Cash and Cash Equivalents

The statement of financial assets and liabilities as at 30 June 2017 reflects cash and cash equivalent balance of Kshs.2,583,812. However, a recast of the cashbook in the month of August 2016 revealed that the balance carried down was Kshs.9,128,436 instead of Kshs.10,148,436 thus understating the balance by Kshs.1,020,000. This anomaly had not been corrected as at the date of this report. Further, the bank reconciliation statement also reflects payments in bank statements not recorded in cash book amounting to Kshs.505,000 out of which Kshs.503,350 was in respect of outward payment and whose nature has not been disclosed and analysis availed for audit review. In addition, the cash book reflects cash book adjustment figure of Kshs.87,615 in in the month of September 2016 and whose supporting documents were not availed for audit verification. In view of the above, it has not been possible to confirm validity and accuracy of the cash and cash equivalents balance of Kshs.2,583,812 as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer admitted that the cashbook reflected a bank balance of Kshs. 9,128,436 as at 31st August 2016. However, the casted balance is 9,148,436 but not 10,148,436 and the resultant variance is Kshs 20,000 but not Kshs 1,020,000. The cashbook has since been adjusted accordingly and availed for audit review. Additionally, supporting documents for the kshs 87,615 had been provided for audit review.

Committee Observations and Findings

(i) **The Committee observed that the documents have since been availed and verified and the auditor and the Committee was satisfied.**
(ii) **The Committee marked the matter resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

202. Unsupported Expenditure

The statement of receipts and payments for the year ended 30 June 2017 reflects direct payments totalling to Kshs.64,522,372 representing 92.8% of the total expenditure. The supporting documents / analysis for these payments were not availed for audit verification as shown below;

Item	**Unsupported Expenditure**
Child friendly schools	54,575,568
Early childhood development	1,956,603
Education in emergencies	7,990,201
Total	**64,522,372**

In the absence of the supporting documents and analysis, it has not been possible to confirm the validity of expenditure totalling Kshs.64, 522,372 for the year ended 30 June 2017.

Submission by Accounting Officer

The Accounting Officer admitted that the statement of receipts and payments reflected direct payments by UNICEF totaling to Kshs. 64,522,372 for which supporting schedules/analysis showing the makeup of the payments were not availed for audit. This are direct payments executed by UNICEF. The Donor however provides a schedule for payments at the end of the financial year as per the attached**.**

Committee Observations and Findings

(i) The Committee observed that the documents have since been availed and verified and the auditor and the Committee was satisfied.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

203. Unapproved Excess Expenditure

The statement of comparative budget and actual amounts reflects total budgeted expenditure of Kshs.25,000,000 against actual expenditure of Kshs.81,870,515 thus resulting to over expenditure of Kshs.56, 870,515 or 227% of the total budget as shown below:

Category	**Final Budget (Kshs)**	**Actual Comparable** **On comparable basis (Kshs)**	**Variance**	**%**
Early childhood development	5,000,000	19,304,746	-14,304,746	-286
Nomadic Education	5,000,000	54,575,568	-49,575,568	-992
Peace Education	5,000,000	7,990,201	-2,990,201	-60
Early childhood development	5,000,000	0	5,000,000	100
Education in emergencies	5,000,000	0	5,000,000	100
Total	25,000,000	81,870,515	64,522,372	-227

Further, there was no evidence provided to confirm if the excess expenditure was approved accordingly by the National treasury. In the circumstances, the validity of over expenditure of Kshs.56, 870,515 for the year ended 30 June 2017 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted that there was an over expenditure of Kshs.56, 870,515 in the financial year ended 2016/17. As in the case of the previous years this is as a result of UNICEF spending more in direct payments than the amounts allocated in the budget in the execution of their programs.

Committee Observations and Findings

(i) The Committee observed that UNICEF spent more money in direct payments than the amounts allocated in the budget during the execution of their programs;
(ii) The Committee marked the matter as resolved.

Committee Recommendation

The Accounting Officers must ensure that when funding is done by a separate entity who directly procures goods and services, the state department should in turn co-ordinate and reconcile the figures for purposes of reconciling the financial statements for the year under review.

KENYA PRIMARY EDUCATION DEVELOPMENT (PRIEDE) PROJECT

205. OUTSTANDING IMPREST & ADVANCES

The statement of financial assets as at 30 June 2017 reflects outstanding imprests and advances balances of Kshs.158,840,203 in respect of disbursement in form of Authority to Incur Expenditure (AIEs) to various Counties, Kenya National Council (KNEC) and Teachers Service Commission amounting to Kshs.92,195,177, Kshs.23,094,537, Kshs.39,247,492 respectively and imprest to staff amounting Kshs.3,798,497. Although the advances made to the agencies and imprests ought to have been accounted for or surrendered on or before 30th June2017, no evidence of expenditure returns or surrender documents were availed for audit review as at date of report.

In the circumstances, the accuracy and completeness of the financial statements and the validity of expenditure of Kshs.158,840,203 for the year ended 30th June 2017 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted that the advances to KNEC, TSC and counties had outstanding balances and outstanding imprests as at 30th June 2017. However, radical internal control measures have been put in place to ensure that all imprests and advances issued are surrendered on time. All the Imprests have been surrendered copy of the surrender vouchers are attached, and the balance of Kshs.167,100.00 has been recovered from the MOE headquarters officers' payroll.

The unaccounted advanced payment to Teachers Service Commission Kshs.39,247,492 and KNEC Kshs.23,094,537 is to be utilized in the current financial year to implement project activities as captured in the Work Plan and budget 2017/18 because they are part of the implementing agencies. Out of the balances, they have accounted for some expenditure as shown in SOEs attached in the financial year 2017/2018.

The project disburses funds to counties on activity based and counties account the same through submission of statement of expenditure. The counties had fully accounted for the disbursed funds, and had cashbook balance totaling to Kshs.92,195,177 of which after adjusting and reconciling the balance was Kshs.86,653,915.73 M.

Balance as per cashbook	92,195,176.60
Recomputed balances	86,653,915.73
Difference	5,541,260.87

After going through the SOEs and bank reconciliation it was found that an amount of Kshs5,541,260.87 had been wrongly captured by the counties and an adjustment was done in the financial statement for 2017/2018.

The Counties refunded Kshs.77,495,542.45 Out of the outstanding balance of Ksh.86,653,915.73, leaving a balance of Kshs.9,158,374.18 which was submitted as expenditure in 2017/2018 financial year. Attached is a detailed schedule on all the counties expenditure and bank statement confirm the refunds to the Ministry.

Committee Observations and Findings

(i) The Committee observed that no evidence had been submitted to prove that the imprests had been cleared;

(ii) The Committee also observed that the state department had not submitted an amended table of unsurrendered imprest; and

(iii) The matter remained unresolved.

Committee Recommendations

(i) Within three months of the adoption of this report, the Accounting Officer must take action to recover the full amount from the salary of the defaulting officers with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.

(ii) Where the Accounting Officer fails to recover outstanding imprest of Kshs. 3,859,025.00, the Accounting Officer should be surcharged pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.

206. Non-Compliance with Approved Budget

Included in Note 8.7 to the financial statement is expenditures totaling to Kshs.251,637,245 paid to ten consulting firms to train 4,000 schools on the school Improvement Planning (SIP) against budgetary provision of Kshs.200,000,000 resulting to unapproved expenditure of Kshs.51,637,245. The unapproved expenditure of Kshs.51,637,245 was contrary to section3.5 of the project financial manual. The management therefore is in breach its own internal regulations.

Submission by Accounting Officer

The Accounting Officer admitted that they exceeded the approved budget, however according to the project Appraisal Document (PAD) page 40, paragraph 41. The project Coordination Unit was required to seek the services of School Facilitators across the 47 Counties to roll out the SIP programme.

However, after further consultations with MOE Senior Management and the world Bank Team, it was resolved that the design for SIP Implementation to be changed to involve hiring of private firms. Further, after the change of design was approved, the budgetary provision went up to Kshs.251, 637,245.

Due to the change of implementation model, the cost of implementing the activity rose from the KES 200,000,000 to 251,637,245. The additional KES 51,637,245 was sourced from the saving realized from the allocations of activities that were rendered redundant as a result of the change of the implementation model i.e school level training and printing of the School Improvement Plans as well as recruitment and training of school facilitators and other coordination activities at the county level.

Committee Observations and Findings

(i) **The Committee observed that there was change of implementation model leading to the rise in cost of implementing the activity from the KES 200,000,000 to 251,637,245;**
(ii) **The State department did not seek authority from the National Treasury to spend KES 51,637,245.**

Committee Recommendations

The Committee reprimands the Accounting Officer who was in office during the period under review for not following the finance management guidelines.

207. Irregular Procurement of Consultants

During the year under review, the Ministry engaged ten (10) consultants to train the 4,000 schools on school improvement plan (SIP) through consultants Qualification Selection Method of procurement for ten Region in accordance with the provisions of the Public procurement and Asset Disposal Act 2015 and the World Bank Guidelines on selection and employment of Consultants of January 2011 (revised July 2014). Examination of procurement and payment records for the consultancy services revealed that the ten consultants were contracted at a contract sum of Kshs.251,637,245. However, analyse showing how the consultants were evaluated and ranked by the tender evaluation committee was availed for audit review.

Further examination of payment and contract records revealed that on the 28th October 2016 the Ministry contracted a consultant to carry out the school improvement Plan (SIP) training for the key stakeholders in the Mau A region at a contract sum of Kshs.24,721,420. However, the evaluation committee report revealed that only two firms were shortlisted in the region. The Ministry awarded the contract without obtaining prior no objection from the bank as required by the World Bank guidelines on procurement of consultants which stipulates that, if less than three firms are shortlisted the borrower should seek for a no objection from the bank.

In the circumstances the procurement of the consultants was done contrary to the Banks procurement guidelines. The project management was therefore in breach of law and the propriety of expenditure totaling Kshs.251,637,245 could not be a proper charge to public funds for the year ended 30th June, 2017.

Submission by Accounting Officer

The Accounting Officer stated that the consultancy was advertised for the 10 Regions and a common- criteria derived from the TORs was used for all the 10 regions during the evaluations. The approved selection method as provided by the World Bank was selection based on consultant's qualification (CQS). At Request for Proposals stage (RFP), the shortlisted firms were evaluated by using simplified technical proposal (STP). This method did not require a minimum of six shortlisted firms. However, this being a one contract (MOEST/GPE/CQS/19/2015-2016) covering 10 regions, the number of shortlisted firms was more than six firms irrespective of the regions to which they were assigned.

Further, the Project Coordinator sought for a "No objection" from the Bank on certain issues as recommended by the Evaluation Committee for the EOIs for Mau a Region before the exercise was concluded.

The consultancy was advertised for the 10 Regions and a common criteria derived from the TORs was used for all the 10 regions during the evaluations. Evaluation was done by a committee appointed by the Accounting Officers in accordance with section 48(1) of Public Procurement and Asset Disposal Act 2015. It is true that the evaluation report was not availed during the audit. Technical evaluation report for the 10 regions showing strengths and weakness of bidders is now available.

Under the consultant's selection based on qualification (CQS) and the Terms of reference (TOR) there was no provision for scoring since the RFP document issued was for Simplified Technical Proposal. Therefore, ranking of the firms was based on SWOT analysis as shown in the evaluation report.

However, for the committee used separate working documents for the 10 regions to assist in scoring which was not part of the main report

Committee Observations and Findings

(i) The Committee observed that the classification of regions was unclear as there was no standard format or guidelines on the same;
(ii) The Committee also observed that the disbursement of resources to the various regions did not appear to be equitable and fair contrary to Article 201 of the Constitution; and
(iii)The matter remained unresolved.

Committee Recommendations

The Cabinet Secretary should within three (3) months after adoption of this report embark on development of policy guidelines for similar Programmes. The guidelines should address criteria for selection of regions and equitable sharing of resources.

208. Special Account Statements

The statement of receipt and payment for the year ended 30 June 2017 reflects a balance of Kshs.2,458,212,857 under proceeds from domestic and foreign grants which differs with the amount of Kshs.1,415,868,504 and Kshs.976,182,343 both totaling to Kshs.2,392,050,847 reflected in the special accounts' statements. The Management has not explained the resultant difference of Kshs.66,162,010.

Submission by Accounting Officer

The Accounting Officer stated that during the closure of financial year 2015-2016, the MOE transferred an amount of Ksh.66,162,010.00 on 30.06.2016 to PRIEDE account B. They regret that that amount was not captured in the cashbook due to time factor**.** However, this amount was captured in the cashbook in this financial year 2016-2017 as receipt as shown in the audited financial statements 2016-2017. This amount was not reflected in the prior financial statements as at 30.06.2016. In the year 2016-2017 we have received an amount of Kshs1,415,868,504.00 for DA –A and Kshs.976,182,343.00 for DA-B totaling Kshs,2,392,050,847.00 0ur statements of receipts and payments shows an amount of Kshs.2,458,212,857.00 see reconciliation below; -

Date	**Da-A**	**Da-B**	**Total**
19.12.2016	341,315,435.00		341,315,435.00
27.04.2017	194,233,131.00		194,233,131.00
27.04.2017	10,826,888.00		10,826,888.00
11.05.2017	131,063,776.00		131,063,776.00
6.06.2016	309,570,000.00		309,570,000.00
29.12.2016		1,359,483,400.00	1,359,483,400.00
TOTAL			2,392,050,847.00

01.07.2016	Balance from Financial Year 2015-2016	66,162,010.00	66,162,010.00
Balance as per special account			2,458,212,857.00

Committee Observations and Findings

(i) The Committee observed that the amount of Ksh.66,162,010.00 was not captured in the cashbook due to time factor;
(ii) The Committee also observed that the amount was captured in the cashbook in this financial year 2016-2017 as receipted; and
(iii)The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

209. Unresolved Prior Year Matters 2015 – 2016
209.1 Unconfirmed Transfers
209.2 Unsupported Expenditure

The Committee noted that paragraph 209 above was covered in the report for the Financial Year 2015/2016.

11.0. STATE DEPARTMENT OF VOCATIONAL AND TECHNICAL TRAINING

FINANCIAL STATEMENTS FOR VOTE 1064

Dr. Kevit Desai, the Accounting Officer for the State Department of Vocational and Technical Training (Vote 1064) appeared before the committee on 13th August 2019 to adduce evidence on the Audited Financial Statements for the State Department of Vocational and Technical Training (Vote 1064) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Zachary Ooko - Deputy Director**
2. **Ms Kobia Wakamau - Director Administration**
3. **Mr Joseph Nyamora - Assistant Accountant General**
4. **Eng Mwaa Mutinda - Moe**
5. **Mr. Tom W. Mulati - Assistant Director TVET**
6. **Mr. James Nyambune - PTEO**
7. **Ms. Catherine Muiru - Principal Supply Chains Management Officer**
8. **Mr. John K. Tuwei - SADTE**
9. **Mr. Robert Wainaina - Accountant**
10. **Mr John M. Ngang'a - Accountant**
11. **Mr Caven Otuoma - SDVTT**
12. **Mr Bernard Isalambo - DDTE**
13. **Mr Elijah O. Obweri - DDTE**
14. **Dr. Meshack Opwona - Director Procurement**

Basis for Qualified Opinion

170. Cash and Bank Balances

Excluded from the cash and bank balances of Kshs.156,769,047 as at 30 June, 2017 is a payment in the cashbook not in the bank statement amounting to Kshs.600,000 relating to development account which was not reversed in the cashbook as at the date of this report.

In the circumstances, it has not been possible to confirm that cash and bank balance of Kshs.156, 769,047 as at 30 June, 2017 is fairly stated.

Submission by Accounting Officer

The Accounting Officer stated that a figure of ksh 600,000 was in cashbook and not in the bank statement. This was as a result of payment of Jeremiah Nyaga Technical Institute which was in a schedule falling to go through in the IFMIS system but whole amount in the voucher was posted erroneously in the cash book without removing unpaid amount. The amount of ksh 600,000 is now reconciled**.**

Committee Observations and Findings

(i) The Corrective adjustment had been effected in the respective cash book and comparative bank balances in the financial statements;
(ii) The Committee marked the matter as resolved.

171. Under-Collection of AIA

The statement of receipts and payments for the year ended 30 June, 2017 reflects proceeds from foreign borrowing (Appropriation-in-Aid) figure of Kshs.696, 180,311 and which is at variance with the approved estimates figure of Kshs.995, 699,998 resulting in under-collection of AIA of Kshs.299, 519,687 or approximately 30% of the total estimated receipts. No explanation has been given for the under collection of Appropriation-in-Aid of Kshs.299, 519,687 for the year ended 30 June 2017.

Submission by Accounting Officer

The Accounting Officer admitted that the statement of receipts and payments for the year under review the ministry absorbed Ksh. 696,180,311 against an approved amount of Ksh. 995,699,998 which resulted in under collection of proceeds from foreign borrowing (A.I.A) amounting to Ksh. 299,519,687. This under collection was as a result of the delays in the procurement process of the AfDB funded project which requires that the Ministry seeks 'no objection' from the bank at every stage of procurement before contracts are awarded to the successful bidders. These processes led to delays in the time of delivery of goods and services. The Accounting Officer also tabled the Letters of no objection**.**

Committee Observations and Findings

(i) The Committee observed that the balance of Kshs. 299,519,687 relating to Appropriation-in-Aid remains uncollected up to date;
(ii) The Committee observed that documents to show what has been paid so far have not been availed; and
(iii)The matter remains unresolved.

Committee Recommendations

(i) The Accounting Officer should within three months of the adoption of this report, ensure that the outstanding Appropriation-in-Aid of Kshs.299, 519,687 for the year ended 30 June 2017 is collected and fully accounted for; and

(ii) The Accounting Officer should be surcharged for the Appropriation-in-Aid of Kshs.299, 519,687 should he fail to ensure that the same is collected and accounted for.

172. Nugatory Payment

The statement of receipts and payments for the year ended 30 June, 2017 reflects use of goods and services figure of Kshs.3, 497,472,588. This figure includes an amount of Kshs.159,817,204 paid to a clearing and forwarding firm on 29 June, 2017 in respect of interest, storage, delays and court costs on a contract signed in 2011 for the provision of clearance and inland logistics services for the Government of Kenya-China Project. Although the payment of Kshs.159,817,204 was supported by a High Court decree and certificate of order both dated 7 September, 2016, documents availed for audit review indicate that the amount was arrived at after the consent between the clearing firm and the defendant (Ministry).

Further, examination of the decree document reflects a contract sum of Kshs.137, 135,407, while the contract signed on 13 December, 2011 indicates a contract sum of Kshs.59, 954,926. No explanation was availed for audit review on how the contract sum changed from the initial Kshs.59,954,926 to Kshs.137,135,407 and finally to Kshs.159,817,214.

Additionally, it is not clear and the management has not explained the basis of the interest charged at 3% per month (36% per year) instead of 6% per annum of the principal sum as spelt out under Section 26 of the Civil Procedure Act or between 12% -14% per annum usually applied in settlement of court cases. Further, no explanation has been provided as to why the Ministry consented to pay Kshs.159, 817,204 instead of appealing the case considering the huge interest differences. Besides, no judgement has been availed for audit review to support the basis of the payment.

In the circumstances, the expenditure of Kshs.159, 817,204 cannot be confirmed as a proper charge to public funds and value for money could not be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that the then Ministry of Higher Education Science and Technology entered into a contract with Waki Clearing and Forwarding agency on 13th December 2011 at a contract sum of Kshs 59,954,926 or the provision of clearing and forwarding services for training equipment for two Universities Seven Technical Training Institutes and one institute of Technology. The firm was to clear the consignment from the Mombasa port and deliver the same to the above institutions on behalf of the Ministry.

Due to unforeseen delays occasioned by glut at the port of Mombasa, the works started in June 2012. These delays caused an escalation of costs due to the agencies involved (KPA, KRA, Shipping line, the Contractor and the Ministry) With advice, of the Attorney General, the Ministry undertook to negotiate with the contractor for an amicable settlement of the matter. The negotiations did not reach an amicable solution and the contractor engaged the services of a lawyer, who instituted court proceedings culminating to an award of Kshs. 137,135,407 to the contractor by the Milimani Court on 7th September, 2016. Due to lack of a budget line from which this amount was to be levied, the Ministry was unable to pay immediately, thus bringing the total claims to Kshs.159, 817,204 due to the accrued interest.

Committee Observations and Findings

(i) The Committee observed that the Ministry of Higher Education Science and Technology entered into a contract with Waki Clearing and Forwarding agency on 13th December 2011 at a contract sum of Kshs 59,954,926;
(ii) The Committee observed that Waki Clearing and Forwarding agency instituted court proceedings culminating to an award of Kshs. 137,135,407 on 7th September, 2016;
(iii) The Committee observed that the Ministry was unable to pay immediately, thus bringing the total claims to Kshs.159, 817,204 due to the accrued interest;
(iv) The Committee observed that what was provided was not the actual judgment but rather a Decree denoting that the parties in the dispute had consented to a settlement of the matter; and
(v) The matter remains unresolved.

Committee Recommendations

(i) The Accounting Officer should within three months of the adoption of this report forward the relevant document to the Auditor General for audit verification; and
(ii) The Auditor General should with one month of receiving the document under paragraph 1, veriFinancial Year the document and forward a report on the same to the National Assembly.

173. Delay in Completion of Projects

The statement of receipts and payments for the year ended 30 June, 2017 reflects transfers to other government units figure of Kshs.4,329,951,710 which includes Kshs.1,037,244,895 disbursed to various institutions for settlement of claims from various contractors. These claims arose when the Ministry awarded contracts for the construction of additional seventy (70) new technical training institutes across the country at a total contract sum of Kshs.3,821,946,490 for a period of one year.

However, review of the projects' progress report of December 2017 indicates that all the seventy (70) institutions are incomplete, yet the contract period has already lapsed. The project was therefore way behind schedule.

In Addition, The State Department of Vocational and Technical Training had earlier embarked on construction of sixty (60) new institutes in October 2014 at a total contract sum of Kshs.3, 246,940,967.92 and for a contract period of one year. A review of the project progress report dated December 2017 further revealed that twenty-four (24) institutes worth Kshs.1,284,489,490 are still incomplete.

All the above 24 institutions are incomplete despite the fact that the contract period has already lapsed and the Ministry has released its entire contribution totaling Kshs.2, 646,940,968 for the projects.

In the circumstances, it has not been possible to confirm when and if the project will be completed and when the stakeholders will get value for money from the public resources totaling Kshs.5,106,436,447.

Submission by Accounting Officer

The Accounting Officer admitted that Ksh.1,037,244,895 was disbursed in Financial Year 2016/2017 towards construction of 70 new TVCs. By December 2017 all the 70 TVCs were incomplete yet the contract period had elapsed.

He further admitted that in the year 2014, the State Department had embarked on construction of 60TVCs out of which 24 TVCs worth Ksh.1,284,489,490 were still incomplete by December,2017.

The delay in completion of the TVCs were partly due to insecurity in some parts of the country. In addition, the project was being co-financed by NG-CDF experienced delays in the NG-CDF contributions with some of them failing to honor their contribution totally.

However, he reported that there has been progress in the project with 42 of the 70 already complete while others have improved in the level of completion as given in Annex I for the 70 TVCs and Annex II for the 24 (**in bold**) out of the 60 TVCs. Certificates of practical completion were attached.

Committee Observations and Findings

(i) The Committee observed that 24 Technical and Vocational Centres (TVC) are yet to be completed due to various challenges like insecurity in Sigor and inadequate contributions from respective NG-CDF Committees where an undertaking has been made;
(ii) The Committee observed that the state department did not avail certificates of completion for the completed Technical and Vocational Centres; and
(iii) The matter remains unresolved.

Committee Recommendations

The Accounting Officer should within three months of the adoption of this report, ensure that the remaining 24 TVC are completed and forward the completion certificates to the Auditor General for audit verification.

174. Construction of Septic Tanks in nine (9) New Technical Institutes

The statement of receipts and payments for the year ended 30 June, 2017 reflects transfers to other government units figure of Kshs.4,329,951,710 which includes payments of Kshs.39,929,939 to eight (8) technical training institutes vide payment voucher No.115 dated 19 May 2017 towards construction of septic tanks. This project was proceeded by the construction of nine (9) technical institutes in counties with none during the year 2014/2015 at a contract sum of Kshs.487,865,560.

However, available information indicates that the institutes are incomplete while one Chepareria TI has since collapsed. Although the management has explained that a team of experts is carrying out investigation on the cause of the collapsed building, the outcome is unknown. It is not clear and management has not explained why the initial project worth Kshs.487,865,560 has not been completed as at the date of this report. Further, the management has not explained why the construction of septic tanks was not included in the main contract sum.

In the circumstances, it has not been possible to confirm the validity of the expenditure of Kshs.39,929,939 for the year ended 30 June 2017 incurred on construction of septic tanks.

Submission by Accounting Officer

The Accounting Officer stated that in the financial year 2014/2015 the state department undertook to construct 9 Technical Training Institutes in counties. Further, he admitted that septic tanks were not included in the design and main contract sum since the available budget at the time of commencement of the project could only fund the main works. In addition, septic tanks were treated as separate works from main works.

He added that Kimasian, Keiyo Valley, Tharaka, Samburu and Laikipia East TTIs were complete and operational. Tana River, Lamu Mpeketoni and Garbatulla remained incomplete while Chepareria TTI collapsed. He tabled a report from the West Pokot County Works Officer, Project Manager indicating the possible cause of the collapse and the main contractor's response.
Chepareria TTI collapsed and the public works issued a report on the same that concluded that it was caused by poor workmanship, this raised a dispute between the Ministry and the Contractor which escalated and currently in the Attorney General's office.

ANNEX III- CURRENT STATUS OF WORKS AT THE 9 TTIs IN COUNTIES

No	Proposed Name of Institution	Mentoring Institution	Percentage work done
1.	Kimasian TTI	Kaiboi TTI	100% complete and certificate of practical completion issued
2.	Kerio Valley TTI	RVTTI	100% complete and certificate of practical completion issued
3.	TharakaTTI	Meru National Polytechnic	100% complete and certificate of practical completion issued
4.	Samburu TTI	Meru National Polytechnic	100% complete and certificate of practical completion issued
5	Laikipia East TTI	Mathenge TTI	100% complete and certificate of practical completion issued
6	Lamu Mpeketoni TTI	Kenya Coast National Polytechnic	stalled at 65%. Contractor abandoned the site
7	Garbatulla TTI	NEP National Polytechnic	stalled at 45%. Clan animosity and variations delayed works. Works resumed.
8	Tana River TTI	NEP National Polytechnic	100% complete
9	Chepareria TTI	Kitale National Polytechnic	Main building collapsed;

Committee Observations and Findings

(i) The Committee observed that the project has not achieved 100% completion status and that there was need for the ministry to intervene on the three incomplete institutions for the stakeholders to enjoy value for money; and
(ii) The matter remains unresolved.

Committee Recommendations

The Accounting Officer should, within three months of the adoption of this report, submit to the National Assembly, a detailed report highlighting a road map for the progression of the project to 100% completion of the project to ensure that the project achieves value for money.

175. Procurement of Equipment for TTIS – Kenya-China project

The Ministry of Education, Science and Technology State Department of Vocational and Technical Training entered into a contract with AVIC International Holding Corporation for the supply of equipment under Kenya-China project on establishment of Technical and Vocational Training workshops at a total cost of US $ 166,618,659 later revised to US $158,785,183 (Kshs.16,402,509,404) through an addendum dated 25 May 2016. This project proceeded a previously negotiated project Contract No. ATE/KEZ/09M5409 with the same contractor for the supply of equipment to various TVETs at a cost of US $ 133,427,833 (Kshs.13,743,066,799). However, minutes of the meeting on negotiations between vendor and State Department were not availed for audit review.

It was further noted that an essential component of the project, the Government of Kenya was to undertake civil works on construction of 130 Technical Training Institutes. However, a review of the status report dated December 2017 indicates percentage of work done averaged 51% despite the fact the first batch of equipment were delivered in December 2017. The project was therefore behind schedule.

The Ministry did not provide reasons for the delay in project completion. In the circumstances, it has not been possible to confirm if and when the project will be completed and when the stakeholders will obtain the value for their public resources. In addition, it was noted that the on 11 January, 2017 the State Department-VTT paid Kshs.2,440,000,000 to the Principal Secretary-Treasury Deposit account for equipment under Kenya-China Project on establishment of Technical and Vocational Training Workshop in Kenya.

However, no supporting analysis on how the Kshs.2,440,000,000 was utilized was availed for audit review. In the circumstances, it has not been possible to confirm the validity of expenditure of Kshs.2,440,000,000 for the year ended 30 June 2017.

Submission by Accounting Officer

The Accounting Officer stated that the Government of Kenya through the Ministry of Education, Science and Technology entered into a contract agreement number AVIC/KEZ/13M5077 on 5th September 2013 with Avic International Holding Corporation for the supply of equipment under the Kenya/China project on the Establishment of Technical and Vocational Training Workshops at a total cost of USD 284,068,659; this was revised to USD 166,618,659 through Addendum No 1 of the contract**.**

Further, it was worth noting that the figure was further revised to USD 158,785,183 through an addendum No 2 dated 25th May 2016 after the Government of Kenya opted to undertake the Civil works thereby leaving the supply, installation and commissioning of the equipment as well as human capacity building to Avic International Holding Corporation. This is what is currently being implemented by the Ministry of Education. The project was operationalized through a Government to Government agreement.

Further, the Kenya/China Project Phase 2 targets to equip the institutions as soon as the civil construction works is complete so that the stakeholders get value for their resources. According to the work plan, the Kenya/China project phase 2 is supposed to equip the institutions in 6 (six) batches. The project was on time in implementation and the last batch was to be delivered by July 2019 as per the work plan. The complete delivery of all the equipment is to be delivered well before the closure of the contract on 20th March, 2020.

Further, the State department of Vocational and Technical Training has paid Ksh. 2, 440, 000,000 (Two billion, four hundred and forty million only) being a condition precedent to coming to force of the financing agreement**.**

Committee Observations and Findings

(i) **The Committee observed that the minutes of the negotiations between AVIC International and the Government of Kenya had not been availed for Audit review to confirm the terms of the Contract; and**
(ii) **The matter remains unresolved.**

Committee Recommendations
The Accounting Officer, should within three months of the adoption of this report, submit the minutes of the negotiations between AVIC International and the Government of Kenya to the Auditor General for audit verification.

176. Payment of Rent without Valid Lease Agreements

The statement of receipts and payments for the year ended 30 June, 2017 reflects use of goods and service figure of Kshs.3,497,472,558 and which includes payments totaling Kshs.57,244,711 in respect of rentals of produced assets as disclosed in Note 3 to the financial statements. The figure of Kshs.57,244,711 also includes Kshs.55,369,049 being rent of office space for the various departments whose lease agreements with various landlords and property managers were not availed for audit verification. In the circumstances, it has not been possible to confirm that the rent of Kshs.55,369,049 paid was in line with the existing agreement and consistent with market rates.

Submission by Accounting Officer

The Accounting Officer admitted that the state department paid Kshs 55,369,049 being rent of office space for various departments in Teleposta building and ICDC Uchumi House. For Teleposta Towers, the issue arose due to the change of agents for the building from Llyod Masika to Tysons limited who came with a new demand for increased rent; this led to prolonged negotiations before the new lease was agreed upon.

However, as of the date of this report the lease agreement for Teleposta has been signed and matter resolved For the ICDC Uchumi house, the issue arose due to a demand for increased rent which was at variance with the Government valuation office; this led to negotiations that are still ongoing and is expected to be resolved soon.

Committee Observations and Findings

(i) **The Committee observed that the Ministry had entered into an agreement to lease for Teleposta Towers, however the agreement had not been registered at the lands office;**
(ii) **The Committee observed that the negotiations for the Uchumi house lease agreement was still ongoing but not yet concluded; and**
(iii) **The matter remains unresolved.**

Committee Recommendations

(i) **The Accounting Officer, should within three months of the adoption of this report, ensure that the Teleposta Towers Lease Agreement is registered at the lands office; and**
(ii) **The Accounting Officer, should within three months of the adoption of this report, ensure that the ongoing negotiations for the lease of Uchumi House are concluded.**

177. Direct Procurement of Goods and Services

The statement of receipts and payments for the year ended 30 June, 2017 reflects use of goods and services figure of Kshs.3,497,472,558 and which includes payments totalling Kshs.463,883 in respect of air tickets procured from suppliers through direct procurement. No reasons were given for direct procurement as opposed to competitive bidding. In the circumstances, the air tickets may have been overpriced and procurement was not in accordance Section 161 (2) (d) Public Procurement and Assets Disposal Act 2015 on procedure for request for quotations which states that at least three persons shall submit their quotations prior to evaluation.

Submission by Accounting Officer

The Accounting Officer admitted that the statement of receipted payments for FINANCIAL YEAR ended 30th June, 2017 reflected use of goods and services which included payments totaling Kshs. 463,883 in respect of procurement of air tickets procured from suppliers through direct procurement.

The State Department for Vocational and Technical Training (SDVTT) had been newly formed and depended on State Department for University Education and Research for settlement of financial issues. In view of the above the service providers were reluctant to offer VTT services since there was no budgetary allocation, except for M/S Airways Tours and Travel hence the use of direct procurement.

Further he stated that it was important to note that air fares are determined by the airlines and not the air ticketing agents and therefore overpricing was unlikely given that the air ticketing agents are paid commissions for sales per route and not for the cost of the air ticket.

However, the omission of not sending out quotations to suppliers was regretted and the supply chain will in future endeavor to adhere to the law in accordance to section 103(2)(d) of Public Procurement and Assets Disposal Act, 2015.

Committee Observations and findings

(i) **The Committee observed that the quotations to the suppliers were not satisfactory to warrant direct procurement; and**
(ii) **The matter remains unresolved.**

Committee Recommendations

The Accounting Officer must ensure that procurement for the department is conducted in strict adherence to the provisions of the Public Procurement and Asset Disposal Act, No. 33 of 2015.

178. Pending Bills

178.1 Unclear Payments for Equipment for Vocational Training Centres

Examination of payment records for the year under review revealed that the Department paid pending bills for the year 2015/2016 totalling Kshs.8,362,600 relating to procurement of tools and equipment for youth polytechnics. However, scrutiny of the procurement records revealed that purchase of equipment for Youth Polytechnics had not been factored in the procurement plan for the year 2015/2016.

This is contrary to Section 53 (8) of the Public Procurement and Asset Disposal Act 2015 which requires the Accounting Officer not to commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates. In the circumstances, the validity of expenditure of Kshs.8,362,600 on equipment for the year ended 30 June, 2017 could not be confirmed and the State Department therefore is in breach of the law.

Submission by Accounting Officer

The Accounting Officer stated that the Department paid a pending bill amounting to Kshs 8,362,600 relating to purchases of equipment for Youth Polytechnics. In FINANCIAL YEAR 2015/2016 the State Department had a procurement plan: However, the initial procurement plan purchase of tools and equipment were erroneously omitted. However, the tools and equipment were necessary for learning and training of students in Youth Polytechnics hence necessitating the purchase**.**

Committee Observations and Findings

- **(i) The Committee observed that the issue was not well addressed and remains as raised in the report; and**
- **(ii) The matter remains unresolved.**

Committee Recommendations

- **(i) The Accounting Officer, should within three months of the adoption of this report, submit the relevant documents to the Auditor General audit verification; and**
- **(ii) The Accounting Officer and other officers involved in the procurement should be surcharged for the amount of Kshs 8,362,600.00 should they fail to provide the documents for audit.**

178.2 Unauthorized Payment of Pending Bills

Examination of pending bills revealed that during the year under review, the State Department paid Kshs.1,695,000 and Kshs.2,082,336 to Kenya Education Management Institute and Contractors respectively. These two payments were however not included in the approved list of pending bills for the year 2015/2016. No explanation has been provided for this anomaly. In the circumstances, it has not been possible to confirm that expenditure totalling Kshs.3,777,336 was a proper charge to public resources.

179. Transfers to Other Government Units

The statement of receipts and payments for the year ended 30 June, 2017 reflects transfers to other government units figure of Kshs.4,329,951,710 which includes payments totalling Kshs.91,400,000 made to ten (10) Technical Institutes and seven (7) National Polytechnics towards renovation of workshops as summarized below: However, no evidence was availed for audit review showing how the Institutions were identified and amount disbursed to each Institution was arrived at. In the circumstances, it has not been possible to confirm the authenticity of payments totalling Kshs.91,400,000 to the five (5) Technical Institutions and seven (7) National Polytechnics for the year ended 30 June 2017.

Submission by Accounting Officer

The Accounting Officer admitted that during the year under review, the State Department of VTT paid Kshs.1,695,000 and Kshs.2,082,336 to Kenya Education Management Institute and Shawa Suppliers and General Contractors respectively. The two payments were not included in the list of pending bills. The two pending bills had been erroneously omitted in the list of pending bills therefore they were not brought to the attention of the Directorate, by the time the approved list had been submitted to the National Treasury.

The payments were made to KEMI for provision of training and accommodation for trainers in Youth polytechnics and Shawa Suppliers to enable the contractor to hand over the workshops for use by trainees. The payments were necessary to avoid incurring penalty claims from the service providers.

Committee Observations and Findings

(i) The Committee observed that even though the vouchers were found, and the amount settled and that the Accounting Officer acknowledged breach of law, the vouchers had not been presented to the office of the Auditor General for verification; and

(ii) The matter remains unresolved.

Committee Recommendations

(i) The Accounting Officer, should within three months of the adoption of this report, submit the vouchers to the Auditor General for audit verification; and

(ii) The Accounting Officer should be surcharged for the total amount involved should he fail to provide the vouchers to the Auditor General for audit verification.

179. Transfers to Other Government Units

The statement of receipts and payments for the year ended 30 June, 2017 reflects transfers to other government units figure of Kshs.4,329,951,710 which includes payments totalling Kshs.91,400,000 made to ten (10) Technical Institutes and seven (7) National Polytechnics towards renovation of workshops as summarized below:

Disbursement to TTIs and National polytechnics for renovation of workshops

S/No.	County	Institution	Amount
National polytechnics			
1	Nyeri	Nyeri Polytechnic	6,000,000.00
2	Garissa	North Eastern Polytechnic	6,000,000.00
3	Meru	Meru Polytechnic	7,000,000.00
4	Kakamega	Sigalagala Polytechnic	7,000,000.00
5	Kisumu	Kisumu Polytechnic	5,000,000.00
6	Kiambu	Kabete Polytechnic	5,000,000.00
7	Transzoia	Kitale Polytechnic	5,000,000.00
Subtotal			41,000,000.00
TTIS			
1	Kiambu	Thika TTI	4,140,000.00
2	Nairobi	PC Kinyanjui TTI	5,140,000.00
3	Meru	Nkabune TTI	5,140,000.00
4	Kiambu	Kiambu IST	5,140,000.00
5	Bungoma	Katine	5,140,000.00
6	Mandera	Mandera TTI	5,140,000.00
7	Embu	Mukiria TTI	5,140,000.00
8	Bungoma	Musakasa TTI	5,140,000.00
9	Kakamenga	Friends C Kaimosi	5,140,000.00
10	Baringo	Koshim TTI	5,140,000.00
Total			**50,400,000.00**
Grand Total			**91,400,000.00**

However, no evidence was availed for audit review showing how the Institutions were identified and amount disbursed to each Institution was arrived at.

In the circumstances, it has not been possible to confirm the authenticity of payments totalling Kshs.91,400,000 to the five (5) Technical Institutions and seven (7) National Polytechnics for the year ended 30 June 2017.

Submission by Accounting Officer

The Accounting Officer admitted that the State Department disbursed a total of Kshs91,400,000.00 to seven national polytechnics and ten technical training institutes and institutes of technology. The institutions were identified on the basis of being earmarked to receive Chinese equipment. The equipment were bulky and could not be accommodated in the workshops. Kenya-China Project was to deliver equipment to 134 institutions; it was agreed that the equipment should be brought from China in batches of related trade areas.

The first batch was to deliver Mechanical Engineering, Automotive Engineering and Electrical and Electronics; the above 17 institutions were to receive equipment in the above three discipline thus they were the first to benefit from the funds to carry out the renovations of the workshops. A joint site survey comprising officials from the Ministry and the Supplier (Avic International) was conducted to determine the level of renovation required.

The amount disbursed to each institution was based on the level of renovations required to accommodate the equipment. The evidence on the utilization of the funds by the beneficiary institutions has been received from the institutions.

Committee Observations and Findings

The Committee observed that the necessary audit documents to evidence utilization of the funds by the beneficiary institutions had not been submitted to the Auditor General for audit verification.

Committee Recommendations

(i) The Accounting Officer, should within three months of the adoption of this report, ensure that the relevant audit documents in support of the utilization of the funds by the beneficiary institutions are submitted to the Auditor General for audit verification; and
(ii) The Committee reprimands the Accounting Officer for mismanagement and misapplication of public funds in relations this projects and failure to provide documents in time for audit review

Other Matter

180. Budgetary Control and Performance

The State Department for Vocation Training and Technical Training had a total budget of Kshs.8,418,210,938 voted for the financial year 2016/2017 comprising of Kshs.5,888,749,368 for Development and Kshs.2,529,461,570 for Recurrent votes respectively. The budget absorption in the department was as follows: -

Item	Budgeted Allocation 2016/2017	Actual 2016/2017	Under Absorption	Absorption in %
	Kshs	**Kshs**	**Kshs**	
Recurrent	2,529,461,570	2,470,397,010	59,064,560	98%
Development	5,888,749,368	5,378,328,281	510,421,087	91%
Total	**8,418,210,938**	**7,848,725,291**	**569,485,647**	

It has however not been explained why the Department did not fully utilize the budget allocation as at 30 June 2017. Failure to utilize a budget is an indication that some projects and programmes are not carried out as planned hence needs to formulate a budget with priority areas.

180.1 Recurrent Vote

The budget performance analysis for the recurrent budget totalling Kshs.2,529,461,570 is as detailed below:

Item	Budget 2016-2017 Kshs	Actuals 2016-2017 Kshs	Under Absorption Kshs	% Absorption
Use of goods and services	379,266,198	338,406,481	40,859,717	89%
Transfers to Other Government Units	2,130,363,052	2,129,498,529	864,523	99.95%
Acquisition of Assets	19,832,320	2,492,000	17,340,320	13%
Grand Total	**2,529,461,570**	**2,470,397,010**	**59,064,560**	**98%**

The State Department underutilized the budget for acquisition of assets by 87%. The under absorption of the approved budget is an indication of activities not implemented by the State Department which implies non-delivery of goods and services to citizens in the year ended 30 June 2017.

180.2 Development Vote

The budget performance analysis for Development vote budget totalling Kshs.5,888,749,368 was as detailed below:

Item	Budget 2016-2017 Kshs	Actuals 2016-2017 Kshs	Under Expenditure Kshs	% Absorption
Use of goods and services	3,391,251,554	3,159,066,077	232,185,477	93%
Transfers to Other Government Units	2,325,999,370	2,200,453,181	125,546,189	95%
Other grants and transfers	10,000,000	0	10,000,000	0%
Acquisition of Assets	161,498,444	18,809,023	142,689,421	12%
Grand Total	**5,888,749,368**	**5,378,328,281**	**510,421,087**	

The Department underutilized the budget under acquisition of assets and other grants and transfers by 88% and 100% respectively. The under absorption of the approved budget is an indication of activities not implemented by the Ministry which implies non-delivery of goods and services to the citizens during the year under review.

Committee Observation and Findings

The Committee observed that the above paragraphs were for information purposes to the Accounting Officer. The Accounting Officer was directed to take note of the Comments of the Auditor General and make improvements on the same.

12.0. STATE DEPARTMENT OF UNIVERSITY EDUCATION

FINANCIAL STATEMENTS FOR VOTE 1065

Prof. Colletta Suda, the Principal Secretary and Accounting Officer for the State Department of University Education (Vote 1065) appeared before the committee on 10th September 2019 to adduce evidence on the Audited Financial Statements for the State Department of University Education (Vote 1165) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). She was accompanied by the following officials:

1.	**Mr. Robert Asumani Samuel**	**-**	**Assistant Accountant General**
2.	**Mr. James Mwangi Kiburi**	**-**	**Deputy Director Education**
3.	**Mr. Peter Okwanyo**	**-**	**Senior Accountant**
4.	**Ms. Lydia M. Munialo**	**-**	**Assistant Director Supply Chain Management Officer**
5.	**Ms. Victoria Wanyoike**	**-**	**Accountant**
6.	**Mr. Darius Mogaka Ogutu**	**-**	**Director University Education**
7.	**Mr. Samuel Mugambi**	**-**	**Chief Finance Officer**
8.	**Ms. Scholastica Ndambuki**	**-**	**CSC**

Basis for Qualified Opinion

181. Nugatory Payment

The statement of receipts and payments for the year ended 30 June 2017 reflects use of goods and services figure of Kshs.740,922,565 which includes an amount of Kshs.20,790,625 paid to the Principal Secretary (PS) National Treasury who in turn paid for reimbursement of demurrage and storage charges under GoK/African Development Bank Higher Education Science and Technology project.

However, no supporting or accompanying invoices on demurrage and storage charges were availed for audit review. In addition, examination of IFMIS payments details revealed that the payments were paid under 'below the line' expenditure whose ledger was also not availed for audit verification. In addition, available information indicate that the above payment of Kshs.20,790,626 was paid in the previous year in respect of demurrage and storage charges as detailed below. This may amount to double payment of public resources.

Payment Date	Cheque No.	Amount Kshs.
1-Jul-16	2377	1,432,675
1-Jul-16	2379	1,780,798
1-Jul-16	2376	2,222,721
1-Jul-16	2378	15,354,432
Total		**20,790,627**

In the circumstances, it has not been possible to confirm that expenditure of Kshs.20,790,625 paid in the year under review was a proper charge to public resources.

Submission by Accounting Officer

The Accounting Officer submitted that in the financial year 2015/2016, the Ministry intended to reimburse the demurrage and related charges amounting to Kshs. 20,790,626.75 to four suppliers of equipment to universities under the support to Higher Education Science and Technology (HEST) Project funded through a loan from the African Development Fund. The charges arose as a result of the equipment being detained at the port of Mombasa due to delays in payments. The delays to settle these charges was occasioned by changes in the tax regime for donor funded projects introduced through the VAT Act, 2013 and Finance Act, 2014.

The matter on delay in settlement of these charges was raised in paragraph 202 of the Auditor General's report on the financial statements for the year 2015/2016. This has since been resolved as per the recommendations of Public Accounts Committee which was adopted by parliament on 4th June 2019.

The responsibility of paying the demurrage charges lay with the ministry and as such the suppliers sought reimbursement to offset the costs incurred. Copies of invoices for the reimbursements have been verified and confirmed by auditors. IFMIS payment details showed that the payments were made under 'below the line 'expenditure item. The State Department has since availed the ledgers showing that the below the line item was a contra entry and the payment was paid to the right above the line charge item. The journal entries have since been verified and confirmed by auditors.

It was true a transfer of Kshs 20,790,625 was made to The National Treasury as demurrage charges. By the time this transfer was made the paying account belonged to State Department for Higher Education, Science & Technology. This Account was later closed as a result of reorganization of Government which led to the creation of the State Departments of University Education and Vocational and Technical Training. Bank statements confirming the transfer have been verified and confirmed by auditors.

Since the suppliers were foreign firms and needed to be paid in foreign currency the funds were transferred to The National Treasury to effect payments through the payment advice (PA) system. However, while making the transfer to The National Treasury, the amount was inadvertently transferred to the PS, The National Treasury, Exchequer Account instead of the PS the National Treasury, Deposit account.

The State Department wrote to Central Bank of Kenya through The National Treasury in a bid to have the funds transferred to the correct account. We made a follow-up to the National Treasury on this matter and it was confirmed that our request was not successful. The amount still remained unpaid to the suppliers at the beginning of the financial year 2016/2017 and the State Department for University Education was under obligation to pay from its bank Account and this accounted for the payment.

This consequently proves that there was no double payment to the supplier and therefore no loss of public resources.

Committee Observations and Findings

(i) The Committee observed that the submission and accompanying documents tabled by the Accounting Officer confirming whether the contract was procured competitively in compliance with the Public Procurement and Disposal Act, 2015 were availed and verified.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

182. Transfers to Other Government Units

The statement of receipts and payments for the year ended 30 June 2017 reflects transfers to other Government Units figure of Kshs.60,911,006,803 which comprises Kshs.7,844,854,056 and Kshs.53,066,152,748 in respect of development and recurrent grants. The figure of Kshs.7,844,854,056 includes development grants of Kshs.279,846,149 and Kshs.935,078,854 transferred to Kisii and Moi Universities respectively.

However, a review of the records maintained by the Ministry revealed that Kshs.145,703,038 disbursed to Kisii university in respect of ICT theatre was based on Interim certificates covering the period 16 September 2011 to 2 April 2013. However, no supporting information was made available to ascertain that these bills were pending. In addition, Moi University was paid Kshs.33,443,953 in respect of construction of a library annex out of which Kshs.14,163,570 and Kshs.18,227,228 relate to interim certificates dating back to 25 September 2012.

A further amount of Kshs.76,752,911 was disbursed in respect to the proposed construction of School of Public Health, a 2,250-students Hostel Block and sewerage system based on interim certificates issued in the period between 8 March 2010 and 25 September 2012. No satisfactory reasons were provided for delay in settling these long outstanding debts. The Ministry did not provide the policy documents or the University Funding Board minutes to ascertain the actual basis for the disbursements.

In the circumstances, it has not been possible to confirm the authenticity of payments totalling Kshs.279,846,149 and Kshs.935,078,854 made to Kisii University and Moi University respectively including why the payments were made through interim certificates for the year ended 30 June 2017.

Submission by Accounting Officer

The Accounting Officer stated that project funds are transfers to other Government Entities as per the Public Finance Management Act, 2012. Currently, project funds are transferred to specific projects as approved by The National Treasury and The National Assembly, and not by the Universities Fund Board. Section 43(1) (a) of the Public Finance Management Act, 2012 states that, "an Accounting Officer may reallocate funds from authorized use but MAY NOT reallocate funds where: -

(a) The funds are appropriated for transfer to another government entity or person".
Funding of projects to universities is normally spread over the projects life cycle. This depends on the estimated total project costs and the approved development budget in each financial year. The delay was caused by inadequate funding over the period the projects were under implementation.

Kisii University

It was true that during the financial year 2016-2017 Kisii University received development funds amounting to Kshs. 279,846,149 for three projects: ICT Center Kshs. 145,703,038; Lecture Theatres Kshs. 78,962,503 and Hostels Kshs. 55,180,608. The contract sum for the ICT Center was Kshs. 984,000,000 and so far Kshs. 815,198,488 (82.8%) has been spent on the project to date and Kshs. 168,801,512 is outstanding for the project to be completed

Due to inadequate budget allocation it was not possible to settle the interim certificates as and when they were presented for payment by the contractors although the works had already been done. The same interim certificates had not been presented to the Ministry of Education to form part of their pending bills since the budget had already been exhausted. The interim certificates were captured in the university's audited financial statements as outstanding payables due to contractors and consultants.

Extracts of the audited financial statements for the year 2011 to 2017 have been verified and confirmed by auditors.

She reported that the projects are going on and their status is as per the table below:

Kisii University Status of capital projects

S/NO.	**Project Name**	**Contract date**	**Completion date**	**project Cost**	**Cumulative Expenditure**	**Budget 2019/2020**	**Amount required to Complete**	**%age of Completion**
1	Lecture Theatres and Class Rooms	April 2009	Dec 2019	527,303,000	478,549,130	45,201,837	48,753,870	90
2	Hostels	April 2009	Dec 2019	534,600,000	362,889,854	92,988,559	171,710,146	68
3	ICT Centre	April 2009	Dec 2019	984,000,000	815,198,488	141,969,988	168,801,512	83

Moi University

It was true that the University was paid Kshs. 33,443,953 in respect of construction of a Library at Annex Campus and a further amount of Kshs. 76,752,911 in respect of the construction of School of Public Health Dentistry and Nursing (PDN), 2250 Student Hostel Block and Sewerage System. It is also true that the Certificates for the payment were dated 25 September 2012 and March 2010 and 25 September 2012 respectively. We wish to respond as follows:

That the construction of a Library at the Annex Campus and PDN started as in-house project while 2250 Student Hostels was a Government financed project that stalled in 1991 due to lack of funding. Due to pressure for accommodation occasioned by increase in the number of students, the University commenced completion of part of the stalled building.

The projects were undertaken by the university's Development Unit using internally generated revenue (A-I-A). The works were certified by the university architect at the time the expenditures were incurred. Though the valuation certificates were made during the years indicated above, no payments were made by the Ministry as the University had not submitted the valuation certificates for reimbursement of the expenditures incurred. This is because there was no budget allocation for the said projects.

In 2016/2017 financial year the projects were allocated funds in the budget. The University therefore submitted the above certificates for reimbursement. We wish to report that the projects are going on and their status is as per the table below:

Moi University Status of capital projects

S/NO.	Project name	Start Date	Completion Date	Project Cost (Kshs.)	Cumulative Expenditure (Kshs.)	Approved Budget 2019/2020 (Kshs.)	Amount required to complete (Kshs.)	%age of Completion
1	2250 students' hostels	Dec. 2006	Nov. 2022	450,000,000	132,278,000	80,000,000	317,722,000	85
2	PDN - dentistry 2nd floor	Dec. 2013	Feb. 2022	600,000,000	325,470,000	72,500,000	274,530,000	68
3	Library at annex campus	Dec. 2013	Feb. 2020	300,000,000	126,014,000	81,656,000	173,986,000	75

Committee Observations and Findings

(i) The Committee observed that the submission and accompanying documents tabled by the Accounting Officer confirming whether the contract was procured competitively in compliance with the Public Procurement and Disposal Act, 2015 were availed and verified.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

183. Procurement of Contracted Professional Services

The statement of receipts and payments for the year ended 30 June 2017 reflects use of goods and services figure of Kshs.740,922,565. However, examination of the payment vouchers and supporting documents revealed the following anomalies:

183.1 Consultancy Services on Research Funding Guidelines

On 14 March 2017 the state department signed a contract for consultancy services with University of Nairobi Enterprises and Services Limited to develop research funding guidelines at a contract sum of Kshs.9,890,000. However, procurement documents and records showing how the consultant was procured, evaluated and awarded the contract were not availed for audit review. It was therefore not possible to confirm whether the contract was procured competitively in compliance with the Public Procurement and Disposal Act, 2015 and the relevant regulations.

Submission by Accounting Officer

The Accounting Officer submitted that the procurement process for the Consultancy services to develop Research Funding Guidelines for the National Research Fund was done in accordance with the Public Procurement and Assets Disposal Act, 2015. Section 118(1) of this Act states that ''the Accounting Officer of a procuring entity may- (a) request for proposal through advertisement''. A Request for Proposal was done in the Standard Newspaper Advert of 4/11/2016 on page 44. The requests for proposal were received, Evaluation was done and the tender was awarded to the winner.

Owing to the reorganization of the Government which led to the creation of the State Departments of University Education and Vocational and Technical Training, supporting documents for the procurement process could not be easily traced due to sharing of the main registry. The documents have since been verified and confirmed by auditors.

Committee Observations and Findings

(i) The Committee observed that the submission and accompanying documents tabled by the Accounting Officer confirming whether the contract was procured competitively in compliance with the Public Procurement and Disposal Act, 2015 were availed and verified.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

183.2 Consultancy Services on Capacity Building Strategy

The Ministry awarded the tender to develop a regional human resource capacity building strategy for the implementation of the Northern Corridor Integration Projects Jomo Kenyatta University of Science and Technology at a contract sum of Kshs.130,900,310 on 1 September 2016 with the completion date of 21 January 2017. The contract was done through single sourcing. However, neither supporting documents showing how JKUAT was identified nor how the contract sum determined was availed for audit review.

In the circumstances, it has not been possible to confirm whether the contract was procured competitively in compliance with the Public Procurement and Disposal Act, 2015 and relevant regulations.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry awarded the tender to develop a regional human resource capacity building strategy for the implementation of the Northern Corridor Integration Projects to Jomo Kenyatta University Agriculture and Technology at a contract sum of Kshs. 130,900,310 on 1 September 2016 with the completion date of 21 January 2017.

The Ministry of Education (Kenya) placed an international advertisement which was non responsive. Consequently, we sought the services of Jomo Kenyatta University of Agriculture and Technology (JKUAT) as provided for in Section 4(2) (C) of the Public Procurement and Asset Disposal Act, 2015 which states, ‘‘For avoidance of doubt, the following are not procurements or assets disposals with respect to which this Act applies, (c) Acquiring of services provided by government or government department’’

Since Jomo Kenyatta University of Agriculture and Technology is a government department, the process of acquiring this service from her was not procurement as per the above section of the Act.

The contract sum was determined through negotiations held on the Technical and Financial proposals submitted to the Ministry of Education (Kenya) by the Consortium formed by the partner States. Documents supporting this process have since been verified and confirmed by auditors.

Committee Observations and Findings

(i) The Committee observed that the submission and tabled documents showing how the consultant was procured, evaluated and awarded the contract were satisfactory.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

184. Expenditure on Leased Offices

The statement of receipts and payments for the year 30 June 2017 reflects use of goods and services figure of Kshs.740,922,565 which includes payments totalling Kshs.45,769,339 in respect of rentals of produced assets as disclosed in note 5 to the financial statements. The figure of Kshs.45,769,339 also includes Kshs.44,733,297 being of lease for office space and parking whose valid lease agreements and minutes of the Tender Committee approving the lease were not availed for audit verification.
In the circumstances, it has not been possible to confirm that the rent paid of Kshs.44,733,297 was in line with the existing agreement and consistent with market rates and that the contract was valid.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that lease agreements to support rental of produced assets in the amount of Kshs. 44,733,297 were not availed to auditors during the period under review. Lease agreements by Government departments are guided by advice given by the State Department for Public Works and valuation by the Ministry of Lands.

The State Department occupies rented space in Telposta Towers and Utalii house. The lease agreements were not availed to auditors because they had lapsed and negotiations for renewal was still going on in the period under review. The landlords in both cases of Utalii house and Telposta were reluctant in accepting the terms offered by the Government valuer which resulted in a stalemate after lengthy and protracted negotiations. While the Utalii house landlord finally ceded to the terms offered, in the case of Telposta, it had to take the intervention of the Solicitor General to resolve the stalemate.

In the meantime, to avoid eviction and denial of services to our officers, we continued to pay rent using the old rates. The matter was finally resolved. The lease agreements have been verified and confirmed by auditors.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer confirming that the rent paid of Kshs.44,733,297 was in line with the existing agreement were satisfactory.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

185. Failure to Surrender Temporary Imprests

The statement of assets and liabilities as at 30 June 2017 reflects accounts receivables balance of Kshs.230,008.00 which includes imprest of Kshs.32,418.00 and which had not been surrendered as at 30 June 2017. This is contrary to the requirements of Section 71(2) of the Public Finance Management Act, 2012, and Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015 which require that imprest should be surrendered or accounted for within 7 working days after returning to duty station. In the circumstance, the state department is in breach of the law.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of assets and liabilities as at 30 June 2017 reflects accounts receivables balance of Kshs. 230,008 which includes imprest of Kshs. 32,418 and which had not been surrendered as at 30 June 2017. We confirm that the imprests were surrendered in the financial year 2017/2018. The State Department has also taken measures to ensure that all imprests are surrendered in accordance with the Public Finance Management Act, 2012.

The surrender documents have been verified and confirmed by auditors.

Committee Observations and Findings

(i) The Committee observed that the temporary imprest of Kshs.32,418.00 had since been surrendered; and
(ii) The Committee marked the matter as resolved.

186. Unsupported Balance

The statement of assets and liabilities as at 30 June 2017 reflects a balance of Kshs.48,129,092 under prior year adjustments which includes district suspense figure of Kshs.5,259,494 and whose nature, supporting documents and analysis was not was explained and availed for audit review. In the circumstance, it has not been possible to confirm the accuracy and completeness prior year adjustment balance of Kshs.48,129,092 as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of assets and liabilities as at 30 June 2017 reflects a balance of Kshs. 48,129,092 under prior year adjustments which includes district suspense figure of Kshs. 5,259,494.

The balance of Kshs. 48,129,092 relates to vote 1062 State Department of Higher Education Science and Technology which has since been closed. The balance was adopted from the audited financial statements of 2015/2016.

A disclosure on how the amount was absorbed was disclosed in note 14 of the financial statements for 2016/2017 and is analyzed below:

14. Prior Year Adjustments

Description of the error	**2016 – 2017**	**2015 – 2016**
	Kshs	**Kshs**
Adjustments on bank account balances	(114,885,089)	
Adjustments on cash in hand	(802,053)	
Adjustments on payables	(6,132,476)	
Adjustments on receivables	73,690,526	
Others (*speciFinancial Year*)		
	(48,129,092)	

The prior year adjustment relates to the following;

District Suspense – TAKEN OVER BY SDVTT	5,259,494
Salary advances- RECOVERED DURING THE YEAR 2016/2017	185,222
Central Bank of Kenya ,100000212667. -TAKEN OVER BY SDVTT	73,690,526
Central Bank of Kenya ,10000209895. -RECOVERED BY EXCHEQUER	2,008,351
Central Bank of Kenya ,1000209817.RECOVERED BY EXCHEQUER	39,186,212
Cash in hand – Held in domestic currency-TAKEN OVER BY SDVTT	802,053
Contractors retention-TAKEN OVER BY SDVTT	(73,690,526)

Kshs. 5,259,494 relates to district balances of AIEs issued in the financial year 2015/2016 which was disclosed to the Audited financial statements for this year.
Table 1 below is an analysis of these balances:

Table1: Summary of AIE's issued and outstanding balance as at 30th June 2016.

S/NO.	COUNTY NAME	AIE NOs AND AMOUNT (KSHS)	TOTAL AMOUNT (KSHS)	AMOUNT ACCOUNTED FOR (Kshs)	OUTSTANDING BALANCE AS OF 30TH JUNE, 2016 (Kshs)
1.	KISUMU	A 400973 - 3,462,160.00 A 814145 - 3,465,730.00	6,927,890.00	6,908,937.00	18,951.00
2.	UASIN GISHU	A 400968 - 3,170,018.00 A 814144 - 2,674,515.00	5,844,533.00	5,844,486.00	46.00
3.	KAKAMEGA	A 400980 - 3,465,732.00 A 400990 - 3,371,087.00	6,836,819.00	6,829,281.00	7,536.00
4.	NYERI	A 400976 - 3,264,303.00 A 400993 - 3,273,354.00	6,537,657.00	6,533,431.90	4,223.10
5.	TRANS NZOIA	A 400975 - 3,264,303.00 A 400994 - 3,221,659.00	6,485,962.00	5,766,617.00	719,343.00
6.	KERICHO	A 400971 - 2,624,878.00 A 400991 - 2,884,515.00	5,509,393.00	4,217,775.00	1,291,616.00
7.	ISIOLO	A 400972 - 3,170,018.00 A 400989 - 3,371,087.00	6,541,105.00	6,541,096.00	9.00
8.	EMBU	A 400966 - 3,170,018.00 A 400987 - 3,465,730.00	6,635,747.00	5,815,416.00	820,331.00
9.	BUSIA	A 400974 - 3,170,018.00 A 814146 - 3,170,016.00	6,340,034.00	6,339,676.00	358.00

10.	NAKURU	A 400969 - 3,170,018.00 A 400992 - 3,465,730.00	6,635,748.00	6,622,183.00	13,565.00
11.	MOMBASA	A 400967 - 3,075,375.00 A 814147 - 2,809,302.00	5,884,677.00	4,919,512.00	965,156.00
12.	KISII	- 3,371,089.00 A 814148 - 2,532,819.00	5,903,908.00	4,610,821.00	1,293,087.00
13.	GARISSA	- 3,465,732.00 A 400988 - 2,561,748.00	6,027,480.00	5,902,207.00	125,273.00
	Total		**82,110,953**	**76,851,438.9**	**5,259,494.1**

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer confirming the accuracy and completeness prior year adjustment balance of Kshs.48,129,092 as at 30 June 2017 were satisfactory.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

187. Pending Bills

As disclosed in Annex 4 of the financial statements, the State Department of University had pending bills totalling Kshs.347,139,946 which were not settled in 2016/2017 but were carried forward to 2017/2018. Out of Kshs.347,139,946, bills amounting to Kshs.3,281,460 relate to the Development Vote while the balance of Kshs.343,858,486 relate to Recurrent Vote. Had the bills been settled and the expenditure accounted for in 2016/2017, the financial statements for the year ended 30 June 2017 would have reflected a deficit (excess vote) of Kshs.104,464,746 instead of the surplus (under-expenditure) of Kshs.242,675,199 reflected for the year ended 30 June 2017.

This is contrary to Section 53 (8) of the Public Procurement and Asset Disposal Act, 2015 which requires that Accounting Officer shall not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that bills of Kshs. 347,139,946 were not settled and had they appeared in the payments there could have been a cash deficit. It is also true that not the whole Exchequer was funded and had it been, there would be no deficit. The State Department had the budget for the above pending bills, but it did not receive the Exchequer to settle them.

She noted that the State Department's approved budget for the financial year 2016/2017 was 73,560,180,417 and Kshs. 71,188,660,334 (97%) was utilized, leaving a balance of Kshs. 2,371,520,083 (3%) not utilized. Expenditure totaling to 347,139,946 reported as pending bills was within the budget since there was this unutilized balance. The pending bills have since been settled, verified and confirmed by the auditors.

Committee Observations and Findings

(i) The Committee observed that the said pending bills had an impact in the budget allocation for the following financial year;
(ii) The Committee also observed that the pending bills have since been settled, verified and confirmed by the auditors; and
(iii)The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills exist, they should form a first charge in the subsequent year's budget thereby impending smooth implementation of the subsequent budget.

188. Unresolved Prior Year Matters

188.1 Inaccuracies in Cash and Cash Equivalents

As reported in 2015/2016, the statement of financial assets for the year ended 30 June 2016 reflected Kshs.114,885,090 being the bank balance against the combined Development, Recurrent and Deposits cashbooks bank balances amounting to Kshs.86,562,980, resulting into unexplained difference of Kshs.28,322,109 as detailed below:

A/c No	Account Name	Cashbook Balance Kshs.	Financial Statement Balance Kshs.	Variance Kshs.
100209817	Development A/c	5,979,096	39,186,212	33,207,116
1000209895	Recurrent A/c	8,666,183	2,008,351	(6,657,832)
1000212667	Deposit A/c	71,917,700	73,690,526	1,772,826
Total		**86,562,980**	**114,885,089**	**28,322,109**

Further, the bank reconciliation statement for the deposits bank account reflected unpresented cheques amounts of Kshs.43,862,799 yet the same had cleared by 30 June 2017. No explanation was given for the anomaly. In the circumstances the accuracy and completeness of the cash and cash equivalents balance of Kshs.115,687,142 as at 30 June 2017 could not be confirmed.

188.2 Unsupported Expenditure on China Equipment Containers

As reported in 2015/2016 audit report, the statement of receipts and payments for the year ended 30 June 2016 reflected Kshs.51,411,624,073 under transfers to other Government Units which includes Kshs.38,597,824 paid vide PV No.18 of 16 March, 2016 in respect of provision of clearance and inland logistics services for Government of Kenya on China Project equipment whose supporting documents were not availed for audit review. A review of the matter in December 2017 revealed that the position remains the same.

In the circumstances, it was not possible to confirm the validity of expenditure totalling Kshs.38,597,824.

188.3 Unsupported School Fees Expenditure

As previously reported, the statement of receipts and payments for the year ended 30 June 2016 reflected other grants and transfers figure of Kshs.212,635,290 which includes an amount of Kshs.5,242,496 paid vide payment voucher no. 795 dated 28 October 2015 in favour of the Principal Secretary - Ministry of Foreign Affairs towards payment for maintenance of two students while studying in Australia. However, and as previously reported no documentation supporting the payment of Kshs.5,242,496 were availed for audit review as at the date of audit.

In the circumstances, it was not possible to ascertain the validity of this expenditure totalling Kshs.5,242,496 for the year ended 30 June 2017.

188.4 Accrued Interest of Delayed payment to Contractor - North Rift Technical

Training Institute As reported in 2015/2016 audit report, the statement of receipts and payments for the year ended 30 June 2016 reflected a figure of Kshs.51,411,624,073 under acquisition of assets which includes an amount of Kshs.17,240,000 paid to a contractor vide payment voucher no 004 dated 26 February 2016 towards construction of the North Rift Technical Training Institute. However, scrutiny of the supporting documents for Kshs.17,240,000 revealed that Kshs.990,000 was in respect of interest accrued due to delayed payment by the Ministry.

Further, information available indicate that the Institute is incomplete and that the contract period lapsed on 12 November 2013. A review of the matter in December 2017 revealed that the position has so far not changed.

In the circumstances, the stakeholders may not have obtained the value for their resources in this project.

188.5 Procurement of Equipment for North Rift Technical Training Institute

As previously reported, the Ministry signed a contract for the supply of electrical and electronic engineering equipment to the North Rift Technical Training Institute at a contract sum of USD 2,547,258.62 (equivalent to Kshs.233,209,933) on 29 January 2015. The payment records available at the Ministry indicate that Kshs.128,798,592 was paid during the year under review being final 50% of the invoice and effected vide payment voucher no 119 dated 30 June 2016. This expenditure is included in purchase of specialized plant, equipment and machinery balance of Kshs.185,152,868 under note 9 to the financial statements.

However, available information indicate that the Institute was not complete and as a result, the electronic and electrical engineering equipment procured were instead taken to Baringo Technical Training Institute. A review of the status in December 2017 revealed that North Rift Technical Training Institute was 65% complete.

It is not clear and the state department has not explained when and if the Institute will be completed and when the stake holders will get the value for their resources.

188.6 Mentorship Programme and Construction of New Technical Training Institutes

As reported in 2015/2016 audit report, the Ministry initiated project for construction of sixty (60) and a further seventy (70) new technical training institutes (TTI's) across the Country in order to enhance technical training. In order to oversee these constructions, a number of existing institutions were appointed by the Ministry to mentor the new institutes. The statement of receipts and payments reflects total expenditure of Kshs.51,411,624,073 under transfers to other Government units under which the above expenditure was charged.

A review of financial and contractual records as well as physical verification of these projects revealed the following unsatisfactory matters:

188.6.1 Construction of the Proposed Kakrao Technical Training Institute

Records examined at Rongo University College indicated that, a contract was signed on 24 October 2014 between the College and a local contractor for the construction of the proposed Kakrao TTI at a contract sum of Kshs.48,720,833 for a contract period of 52 weeks ending on 14 October 2015.

A review of the matter in December 2017, revealed that the project was still incomplete and it is not clear when and if the contractor would resume work on site. In the circumstances, the stakeholders may not obtain value for their resources worth Kshs.48,720,833 if this project is not completed and put into intended use.

188.6.2 Construction of the Proposed Nyakach Technical Training Institute

The Ministry through Kisumu Polytechnic awarded a tender for the construction of Nyakach Technical Training Institute at a contract sum of Kshs.55,068,238 for a contract period of 52 weeks which was to end on 23 August 2015. The contract was later revised to Kshs.60,593,120 due to extra works not included in the original design. A physical examination of the project on 30 January 2017, revealed that Kshs.24,921,350 or 41% of the contract sum had been paid to the contractor while records from the clerk of works revealed that the works were at 55% completion level and an extra seventy nine (79) weeks or 152% of the time had lapsed since the project commenced.

However, no tender minutes approving extension of the project duration beyond 23 August, 2015 was availed for audit review. It was therefore not clear why the works were way behind schedule despite the Ministry and Constituency Development Fund disbursing a total of Kshs.60,593,120 as at 30 June 2017.

Under the circumstances, stakeholders may not realize the value for their resources to the tune of Kshs.60,593,120, if this project is not completed and put to intended use.

188.6.3 Construction of the Proposed Riamo Technical Training Institute

As reported in 2015/2016, available information revealed that on 5 November 2014, the Ministry, through Kisii National Polytechnic entered into a contract for construction of Riamo Technical Training Institute at a contract sum of Kshs.48,627,833 for a period of 52 weeks ending October 2015. A review of payment records revealed that the contractor had been paid a sum of Kshs.10,835,059 as at 28 January 2016.

Further scrutiny of the records revealed that on 16 February 2016, the main contractor subcontracted the works, when the level of completion was at 24%. The agreement was signed by both parties before an advocate on 16 February, 2016. The terms of agreement were as detailed below:

(i) The subcontractor was to supply all necessary materials and complete the works.
(ii) The main contractor to be paid only 10% of all the certified amounts while the subcontractor was to get 90% and paid directly to its account.
However, the following unsatisfactory matters were noted; a) The agreement between the contractor and sub-contractor did not involve Kisii National Polytechnic or its appointed representative.

b) Certificate No. 5 raised by the project manager still bore the name of the main contractor as the payee. Thus, it would appear the project supervisor was not part of the agreement.
c) The contract period as well as the performance bond had since expired and there was no evidence presented to show approval for contract extension.
No plausible reasons had been given for the above anomalies. In addition, examination of records revealed that the contract sum was varied by Kshs.2,752,219 from Kshs.48,627,833 to Kshs.51,380,052, while no tender minutes and supporting analysis to confirm that the variation was approved by the management of Kisii National polytechnic were availed for audit review. A review of the status in December 2017 indicates that the status remained unchanged.
In the circumstances, the stakeholders may not realize value for their resources worth Kshs.10,835,059 if this project is not completed and put to intended use.

188.6.4 Construction of the Proposed Taveta Technical Training Institute

As previously reported, Coast Institute of Technology awarded a contract for the construction of twin workshop on 8 September 2014 to a contractor for a period of fifty-two (52) weeks at a contract sum of Kshs.46,441,290. However, examination of payment vouchers revealed that the first and the second certificates for Kshs14,290,446 and Kshs.9,715,584.40 respectively were paid without deducting withholding tax at the rate of 3% both totalling Kshs.720,181 as required in the section 5f(ii) of third schedule of the income tax Act of 2014.

A review of the status in December 2017 indicate that the matter remains unchanged. In the circumstances the institute risks penalties from the Kenya Revenue Authority for not complying with law.

188.6.5 Construction of the Proposed Kaloleni Technical Training Institute

As reported in 2015/2016, records availed at Kenya Coast National Polytechnic indicated that on 27 March, 2015 the institution entered into a contract for construction of the proposed Kaloleni Technical Training Institute at a contract sum of Kshs.49,535,280 and a contract for a period of 52 weeks. However, available information indicated that additional works on septic tank were included and the project period was extended to 4 July, 2016. As at September 2016, the project was approximately 45% complete while Kshs.23,342,163 or about 47% of contract sum had been paid to the contractor.

Further, no site house was seen on the project site yet it had been provided for in the bill of quantities. Besides, no evidence to show that the contract period was approved for extension beyond 4 July 2016 was availed for audit review.

The Ministry did not provide satisfactory explanation for the delay in project completion and why the site house was not erected. In the circumstances, stakeholders may not realize value for their resources worth Kshs.23,342,163 if this project is not completed and put to intended use. In addition, the general conditions of the contract requires that the winning tenderer is to provide a duly executed performance bond of 5 % of the contract value at the time of the contract signing, which is to remain valid during the duration of the contract. However, no performance bond was availed for audit review. A review of the status in December 2017 revealed that the status remains unchanged.

In the circumstances, the institute risk suffering financial loss in the event the contractor fails to execute the contract as contracted.

188.6.6 Construction of the Proposed Lamu East Technical Training Institute

As previously reported, records available at Kenya Coast National Polytechnic indicated that on 31 October 2014 the Institution awarded and signed a contract for construction of the proposed Lamu East Technical Training Institute with a contractor at a contract sum of Kshs.54,841,082 and for a period of 52 weeks. A review of the project status in December 2017, revealed that the project was still incomplete while Kshs.38,079,615 or 72% of the contract price has already been paid to the contractor.

No evidence to show effort being made by the state department to revive the project was availed for audit review. The project was therefore way behind schedule and it is not clear if and when it will be completed. In the circumstances, the project's stakeholders may not realize value for their resources worth Kshs.38,079,615 if this project is not completed and put to intended use.

188.6.7 Land Ownership

As reported in 2015/2016 audit report, a review of Ministry records relating to the new sixty (60) technical training institutes revealed that the Director, TVET through a letter Ref no.MST/DTE/6/5/VOL.V dated 12 November 2014 directed all the mentoring institutions for the new technical training institutes not to commence any construction works before title deeds for the sites are submitted by the area members of parliament. The title deeds were to be among documents expected to be handed over to the appointed principals. It was however, established that twenty-five (25) sampled new institutes stand on land that did not have title deeds as proof of ownership contrary to the Ministry's directives. A review of the status in December 2017 revealed that the status remains the same as no title documents were availed for audit review.

In the circumstances, the ownership of the land acquired for construction of sixty (60) new TTIs could not be ascertained as at the date of this report.

188.6.8 Delay in Construction Works

As previously reported, available records at various Technical Training Institutes indicated that tenders for the proposed erection and completion of twin workshops, classrooms and office blocks were awarded on various dates in 2014 for a period of fifty-two (52) weeks. However, a review of the status in December 2017 indicate that eight (8) Institutes with a total contract sum of Kshs.428,075,604 had an amount totalling Kshs.294,864,837 already paid to the various contractors for projects which were still behind schedule as tabulated below.

Institution	**Contract Sum (Kshs)**	**Amount Paid (Kshs)**	**% Paid Vs Contract Sum**
Mirera TTI	49,235,785	36,721,324	74.58%
Koibatek TTI	52,318,715	41,274,498	78.89%
Kipipiri TTI	55,094,423	48,849,366	88.66%
Mathioya TTI	52,777,934	36,916,095	69.95%
Kaelo TTI	55,102,270	8,397,450	15.24%

Mathira TTI	57,369,957	28,343,767	49.41%
Laikipia North	52,332,676	43,978,328	84.04%
Muraga TTI	53,843,844	50,384,010	93.57%
Total	**428,075,604**	**294,864,838**	

No evidence of extension of contract period and renewal of expired performance bonds was availed for audit review. In the circumstances, the stakeholders may not realize value for their resources of Kshs.294,864,837 if these projects are not completed and put to intended use.

188.6.9 Borehole Drilling Project at the Coast Institute of Technology

As reported in 2015/2016, examination of records maintained at Coast Institute of Technology revealed that the Institute awarded a contract for borehole drilling to a Company at a contract price of Kshs.3,936,450 on 10th March, 2015. The Institute paid Kshs.3,929,000 and a further Kshs.170,000 for the four rolls of electric wire cables that was used to supply electricity to the borehole all totalling Kshs.4,099,000. The resulting extra payment of Kshs.162,550 was not in the bill of quantities and was therefore not approved.

A review of the borehole status in December 2017 revealed that it has not been put to use since the water was unfit for human consumption as confirmed by the Government chemist.

In the circumstances, it has not been possible to confirm the validity of expenditure totaling Kshs.4,099,000 incurred in drilling the borehole.

188.6.10 Construction of Perimeter Wall

As previously reported, available records at Coast Institute of Technology revealed that the Institute awarded a contract for construction of a perimeter wall at a contract price of Kshs.24,519,639 for a period of twenty-five (25) weeks ending on 24 September 2015. The bill of quantities prepared in February 2015 indicate that the Engineer's estimate was Kshs.27,26,962.

A review of the project in December 2017 revealed that the project was incomplete while the performance bond of Kshs.1,225,928 which had expired on 25 March 2016 and had not been renewed as at the date of this report. Further, the contract price had been varied by Kshs.222,940 without approval of the tender committee.

Under the circumstances, the stakeholders may not have realized the value for their resources of Kshs.24,519,639 in this project.

Submission by Accounting Officer

The Accounting Officer submitted that Paragraph 188 relates to unresolved prior year matters which were responded to the State Department for Vocational and Technical Training in our responses to audit queries for 2015/2016 financial year which were resolved as per the PAC report adopted by the National Assembly on 4th June, 2019.

Committee Observation and Findings

The Committee observed that the matter was covered in the financial year 2015/2016.

DONOR FUNDED PROJECTS

SUPPORT TO TECHNICAL, VOCATIONAL EDUCATION AND TRAINING FOR RELEVANT SKILLS DEVELOPMENT (GOK/ADB TVET PHASE II) PROJECT - LOAN NO.2100150033295

Basis for Qualified Opinion

189. Inaccuracies in the Financial Statements

The statement of receipts and payments for the year ended 30 June 2017 reflects total payments of Kshs.236,934,330 which differ with Development Appropriation Account figure of Kshs.237,903,561 by an unexplained/unreconciled variance of Kshs.969,231.

In the circumstances, the accuracy and completeness of the financial statements for the could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that Paragraph 189 relates to the State Department for Vocational and Technical Training.

Committee Observations and Findings

The Committee observed that Paragraph 189 relates to the State Department for Vocational and Technical Training.

190. Construction of Wajir Technical Training Institute

The Project entered into a contract for construction of a Mechanical Engineering Workshop at Wajir TTI at a contract price of Kshs.82,315,014.35 on 23 March, 2012 for a period of 52 weeks under GOK/ADB phase I.

However, payment records under phase II indicates that Kshs.6,256,145 was paid vide voucher No. 86A dated 27 March 2017. A review of the project status on 24 October 2016 revealed that the extension of the contract period had been made twice with the practical completion and handing over expected on 31 January 2017. Further, the performance bond had expired on 6 May 2017 and had not been renewed hence exposing the Project to risk of financial loss in case of non-performance. Evidence of a further extension of the contract period beyond 31 January 2017 was not availed for audit review.

It is not clear and the management has not explained if the project will ever be completed and when the stakeholders will get the value for money from the public resources.

Submission by Accounting Officer

Paragraph 190 relates to the State Department for Vocational and Technical Training.

SUPPORT TO ENHANCEMENT OF QUALITY AND RELEVANCE IN HIGHER EDUCATION, SCIENCE AND TECHNOLOGY PROJECT ID No.P-KE-IAD-001- LOAN NO.2100150027993

Basis for Qualified Opinion

191. Purchase of Goods and Services

As previously reported, the Ministry entered into supply contracts with various suppliers for supply of engineering equipment to selected Public Universities. According to the contracts, the suppliers were to be paid an advance payment of 20% upon signing of contracts and submission of a bank guarantee of an equivalent amount. A further 60% of the contract sum was payable upon shipment of the equipment and submission of shipping documents and a final payment of 20% was payable upon receipt and acceptance of the equipment. As at 30 June 2017 the cumulative amount on purchase of goods and services was Kshs.2,888,007,583.

However, the following omissions were noted:

191.1 Equipment not delivered

As was the case in the previous year, audit verification revealed that equipment worth Kshs.47,244,172 were not delivered to three universities despite being paid for as detailed in the table below:

Name of the University	Contract number	Equipment type	Quantity of components	Amount USD	Equivalent amount in Kshs
South Eastern Kenya University	ICB/MOHEST/ HEST/17/20132014	Engineering-electrical Equipment	12	USD 19,716	2,044,154.88
	ICB/MOHEST/ HEST/07/20122013	Engineering/ Mechanical Equipment	7	USD 36,036	3,736,212.48
Technical University of Mombasa	ICB/MOHEST/ HEST/09/20122013	Electrical Engineering Equipment	4	-	33,304,230
Meru University	ICB/MOHEST/ HEST/16/20122013	Applied Sciences Equipment	7	USD 78,699.60	8,159,574.53
TOTAL					**47,244,171.89**

It is not clear when and if the equipment will be delivered in order for stakeholders to get value for public resources and that the validity of Kshs.47,244,172 paid for goods not delivered could not be confirmed for the year ended 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true audit verification revealed that equipment worth Kshs 47,244,171.89 was not delivered to the universities despite having been paid for as per the terms and conditions of the contract. The progress achieved on delivery of the equipment since the date of the last audit is as per the details in the table below: -

Name of University	Contract	Equipment Type	Qty	Amount in USD	Amount In KES	Remarks on Status of Implementation
South Eastern Kenya University	ICB/MOHEST /17/2013-2014	Electrical option	12	**19,716**	**2,044,154.88**	**Three (3) items worth USD 3,365.92 (Kshs 348,978.60)** have been delivered but not yet accepted by the inspection and acceptance committee due to missing accessories. The remaining **nine (9) items worth USD 16,350.09 (Kshs 1,695,177.30)** have not yet been supplied. Due to the delays by the supplier to address the recommendations of the inspection and acceptance Committee, the State Department sought the intervention of the Office of the Attorney General on the delivery of the 12 items. The office of the Attorney General has given notice to the concerned supplier of the intention to initiate arbitration proceedings between the two parties
South Eastern Kenya University	ICB/MOHEST /07/2012-2013	Mechanical option	7	**36,036**	**3,736,212.48**	**One (1) item** worth **USD 1,092 (Kshs 113, 218.50)** was delivered but was not accepted by the inspection and acceptance committee

Name of University	Contract	Equipment Type	Qty	Amount in USD	Amount In KES	Remarks on Status of Implementation
						as it has not been installed. The remaining **six (6)** items have not been supplied. The State Department has sought the intervention of the Office of the Attorney General on all the **seven (7) items**. The office of the Attorney General has given notice to the concerned supplier of the intention to initiate arbitration proceedings between the two parties
Technical University of Mombasa	ICB/MOHEST /09/2012-2013	Electrical And Electronics Engineering	4	**-**	**33,304,230**	The **four (4) items** were Delivered, inspected and accepted in April 2019.
Meru University	ICB/MOHEST /16/2012-2013	Applied Science Equipment – Mathematics	7	**78,699.30**	**8,519,574.53**	The 7 items have been supplied but have not been accepted by the inspection and acceptance Committee Due to the delays by the supplier in addressing issues raised by the inspection and acceptance committee, the State Department sought the intervention of the Office of the Attorney General. The office of the Attorney General has given notice to the concerned supplier of

Name of University	Contract	Equipment Type	Qty	Amount in USD	Amount In KES	Remarks on Status of Implementation
						the intention to initiate arbitration proceedings between the two parties
					47,244,171.89	

191.2 Equipment Installation

Equipment worth Kshs.222,464,621 supplied to four (4) universities;
Mombasa on 22 March 2015, 11 November 2016, 30 November 2016 and 18 November 2015 respectively had not been installed as at 24 October 2017. Information obtained from the Universities management showed that there was no particular designed and fully insulated space/room where the equipment could be installed while some of the equipment required necessary accessories to be installed.

Although the contracts were signed way back in 2013, no satisfactory explanations were provided as to why the required space had not been identified or constructed in preparation for supply of the equipment and why the delivery of the necessary accessories had delayed. The details are as follows:-

Name of the University	Contract number	Equipment type	Quantity of components	Amount USD/£	Equivalent amount in Kshs
Masinde Muliro University	ICB/MOHEST/12/2012-2013	NMR Spectrometer	1	USD 459,134.94	1 47,603,110.58
Meru University	ICB/MOHEST/HEST/15/20132014	Mechanical Engineering Equipment	19	£ 68,760.58	9,340,437.19
	ICB/MOHEST/HEST/17/20122013	Civil Engineering Equipment	250	USD 754,257	78,201,365.76
Southern Eastern Kenya University	ICB/MOHEST/HEST/18/20132014	Agricultural Engineering Equipment	14	USD 54,025.84	5,601,399.09

	ICB/MOHEST/HEST/07/20122013	Engineering/ Mechanical Equipment	48	USD 388,752	40,305,807.36
	ICB/MOHEST/HEST/08/20122013	Engineering/ Textile Equipment	3	USD 249,984.00	25,918,341.12
Technical University of Mombasa	ICB/MOHEST/HEST/10/20122013	Automotive Engineering Equipment	14	Kshs 15 494,160.00	15,494,160.00
TOTAL					**222,464,621.10**

It is therefore not clear if and when the equipment will be installed in order for the stakeholders to get value for money from public resources worth Kshs.222,464,621.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the equipment supplied to four Universities of Masinde Muliro, Meru University, South Eastern Kenya University and Technical University of Mombasa had not been installed as at 24 October, 2017. Our response to this query is that the installation of the equipment has been going on since the date of the last audit. The details of the progress achieved are as indicated in the table below:-

NAME OF UNIVERSITY	CONTRACT	EQUIPMENT TYPE	QTY	AMOUNT IN KES	REMARKS ON STATUS OF IMPLEMENTATION
Masinde Muliro University of science and Technology	ICB/MOHEST/12/2012-2013	Numerical Magnetic Resonance (NMR)	1	**USD 439,134.94** **KES 47,603,110.58**	The Machine was installed, commissioned and accepted by the inspection and Acceptance committee in April, 2018. **(see Appendix 191.2A**

NAME OF UNIVERSITY	CONTRACT	EQUIPMENT TYPE	QTY	AMOUNT IN KES	REMARKS ON STATUS OF IMPLEMENTATION
Meru University	ICB/MOHEST /15/2013-2014	Mechanical Engineering	19	**GBP 68,760.58** **KES 9,340,437.19**	Thirteen **(13) items** of the equipment worth **£33,543.35** (**Ksh4,557,199.53**) were installed inspected and accepted by the inspection and acceptance Committee. **(See Appendix 191.2B1)** The University also constructed and provided the foundry workshop and the installation of the **six (6)** remaining items worth **£35,217.23 (Kshs.8,896,484.87)** is currently in progress. (**Appendix 191. 2B2)**
Meru University	ICB/MOHEST /17/2012-2013	Civil Engineering	250	**USD 754,257** **KES 78,201,365.76**	**146** items worth **USD 295,208.13 (Kshs.30,607,178.92**) were installed, inspected and accepted by the inspection and acceptance committee. The remaining 104 items worth **USD 459,048.87 (Ksh. 47,594,186.84)** have not been accepted by the inspection and acceptance committee because they lacked some accessories. The State Department has sought the intervention of the Office of the Attorney General on these remaining 104 items.

NAME OF UNIVERSITY	CONTRACT	EQUIPMENT TYPE	QTY	AMOUNT IN KES	REMARKS ON STATUS OF IMPLEMENTATION
					The office of the Attorney General has given notice to the concerned supplier of the intention to initiate arbitration proceedings between the two parties
South Eastern Kenya University	ICB/MOHEST /18/2013-2014	Agricultural Engineering and Processing	14	**USD 54,025.84 KES 5,601,399.09**	All the **14 items** were installed, commissioned and accepted **See Appendix 191.2D**
South Eastern Kenya University	ICB/MOHEST /07/2012-2013	Mechanical Option	48	**USD 388,752 KES 40,305,807.36**	**Two (2)** items worth **USD 92,820 (Kshs. 9,623,577.60)** have been installed, inspected and accepted by the inspection and acceptance committee in **August, 2019. (see Appendix 191.2E1)** The **Forty-six (46)** remaining items worth **USD 295,932 Ksh.30,682,229.77**) have not been accepted by the inspection and acceptance committee as they lack some accessories. The State Department has sought the intervention of the Office of the Attorney General on these remaining **46 items**. The office of the Attorney General has given notice to the concerned supplier of the intention to initiate arbitration proceedings between the two parties

NAME OF UNIVERSITY	CONTRACT	EQUIPMENT TYPE	QTY	AMOUNT IN KES	REMARKS ON STATUS OF IMPLEMENTATION
South Eastern Kenya University	ICB/MOHEST /08/2012-2013	Textiles Option	3	**USD 249,984 KES 25,918,341.12**	**One (1)** item worth **USD 2,688.00 (Kshs. 278,691.84)** has been installed inspected and accepted by inspection and acceptance committee in **August, 2019.** The remaining **two (2) items worth USD 247,296.00 (Kshs. 25,639,649.29**) have not been accepted by the inspection and acceptance committee because they lack some accessories. The State Department has sought the intervention of the Office of the Attorney General on these remaining **2 items**. The office of the Attorney General has given notice to the concerned supplier of the intention to initiate arbitration proceedings between the two parties
Technical University of Mombasa	ICB/MOHEST /10/2012-2013	Automotive and Mechanical Engineering	14	KES 15,494,160.00	All the **14** equipmen**t** were installed, inspected and accepted by the inspection and acceptance committee in **June, 2017** and the rest in **20th April, 2018**

191.3 Equipment not as per User Specification

Equipment delivered to Meru University, South Eastern Kenya University and Technical University of Kenya valued at Kshs.215,035,132 were found not to meet user specification, hence were rejected by the respective inspection and acceptance committees. However, this equipment had not been replaced as at 24 October 2017. In some cases, the equipment could not be used as they lacked essential accessories to operate. Details of the equipment are as shown below:

Name of the University	Contract number	Equipment type	Quantity of components	Amount USD/£	Equivalent amount in Kshs
Meru University	ICB/MOHEST/ HEST/15/2013 - 2014	Mechanical Engineering Equipment	2	£ 27,462.11	3,730,453.02
	ICB/MOHEST/ HEST/16/2012 - 2013 - Physics	Applied Sciences Equipment	311	USD 221,216.32	22,935,708.06
	ICB/MOHEST/ HEST/16/2012 - 2013- Chemistry	Applied Sciences Equipment	48	USD 179,199.24	18,579,377.20
South Eastern Kenya University	ICB/MOHEST/ HEST/17/2013 - 2014	Engineering & Electrical Equipment	65	USD 236,539.77	65 24,524,443.35
	ICB/MOHEST/ HEST/18/2013 - 2014	Agricultural Engineering Equipment	79	USD 248,556.79	25,770,367.99
	ICB/MOHEST/ HEST/07/2012 - 2013	Mechanical Engineering Equipment	33	USD 413,540.38	42,875,866.60
	ICB/MOHEST/ HEST/08/2012 - 2013	Engineering /Textile Equipment	25	USD 558,439.72	57,899,030.17
Technical University of Mombasa	ICB/MOHEST/ HEST/11/2012 - 2013	Building Engineering Equipment	9	USD 180,554.45	18,719,885.38
TOTAL					**215,035,131.77**

In the circumstances, the propriety of expenditure totalling Kshs.215,035,131.77 on the equipment could not be ascertained as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that audit verification revealed that Equipment worth Kshs. 215,035,131.77 delivered to Meru University, South Eastern Kenya University and Technical University of Mombasa were found not to meet user specifications, hence they were rejected by the inspection and acceptance committee. The suppliers have been replacing the missing parts and accessories in the 3 universities. The progress achieved so far is as per the details in the table below: -

NAME OF UNIVERSITY	CONTRACT	EQUIPMENT TYPE	QTY	AMOUNT IN KES	REMARKS ON STATUS OF IMPLEMENTATION
Meru University of Science and Technology	ICB/MOHEST/15/2013-2014	Mechanical Engineering	2	**GBP 27,462.11 KES 3,730,453.62**	The missing accessories for the two (2) items were delivered, installed, inspected and accepted in April, 2018. The equipment is in use.
Meru University of Science and Technology	ICB/MOHEST/16/2012-2013	Applied Sciences – Physics	311	**USD 221,216.32 KES 22,935,708.62**	The Supplier replaced **141** items worth **USD 118,409.6 (Kshs. 12,276,707.33)** which was inspected and accepted by inspection and acceptance committee in **June,** and **August 2019** respectively. The remaining **170** items **worth USD 102,806.72 (Kshs. 10,659,000.73)** have not been replaced. The State Department has sought the intervention of the Office of the Attorney General on the remaining **170 items. (see Appendix 191.3 B2)**

NAME OF UNIVERSITY	CONTRACT	EQUIPMENT TYPE	QTY	AMOUNT IN KES	REMARKS ON STATUS OF IMPLEMENTATION
					The office of the Attorney General has given notice to the concerned supplier of the intention to initiate arbitration proceedings between the two parties
Meru University of Science and Technology	ICB/MOHEST /16/2012-2013	Applied Sciences-Chemistry	48	**USD 179,199.24 KES 18,579,577.20**	The supplier has since replaced **35 items** worth **USD 55,786.02 (Kshs. 5,783,894.55)** which were inspected and accepted in **April 2019**. The remaining **13 items** worth **USD 123,413.22 (Kshs. 12,795,482.65)** have been supplied but not yet accepted by the inspection and acceptance committee. The State Department has sought the intervention of the Office of the Attorney General on the remaining **13 items** The office of the Attorney General has given notice to the concerned supplier of the intention to initiate arbitration proceedings between the two parties
South Eastern Kenya University	ICB/MOHEST /17/2013-2014	Electrical option	65	**USD 236,539.72 KES 24,524,443.45**	The supplier replaced **thirteen (13) items worth USD 18,627.60 (Kshs.**

NAME OF UNIVERSITY	CONTRACT	EQUIPMENT TYPE	QTY	AMOUNT IN KES	REMARKS ON STATUS OF IMPLEMENTATION
					1,931,309.57) which were inspected and accepted. The remaining **52 items** worth **USD 217,912.12 (Kshs.22,593,128.61)** have not been accepted by the inspection and acceptance committee. The State Department has sought the intervention of the Office of the Attorney General on these remaining **52** items. The office of the Attorney General has given notice to the concerned supplier of the intention to initiate arbitration proceedings between the two parties
South Eastern Kenya University	ICB/MOHEST /18/2013-2014	Agricultural Engineering and Processing	79	**USD 248,556.79 KES 25,770,367.99**	All the **79 items** were replaced, inspected and accepted
South Eastern Kenya University	ICB/MOHEST /07/2012-2013	Mechanical option	33	**USD 413,540.38 KES 42,875,866.60**	Nine (9) items worth **USD 95,169.98** (**Kshs.9,867,223.53)** have been installed inspected and accepted by inspection and acceptance committee in August, 2019 The State Department has sought the intervention of the Office of the Attorney General on the remaining 24 items worth **USD 318,370.40 (Ksh33,008,643.08).**

NAME OF UNIVERSITY	CONTRACT	EQUIPMENT TYPE	QTY	AMOUNT IN KES	REMARKS ON STATUS OF IMPLEMENTATION
					The office of the Attorney General has given notice to the concerned supplier of the intention to initiate arbitration proceedings between the two parties
South Eastern Kenya University	ICB/MOHEST /08/2012-2013	Textile Engineering option	25	**USD 558,439.72 KES 57,899,030.17**	Accessories for the **nine (9) items** worth **USD 80,155.16 (Kshs. 8,310,486.99)** were replaced inspected and accepted in **April, 2019.** The remaining **16 items worth USD 478,284.56 (Kshs. 49,588,543.19**) have not been accepted by the inspection and acceptance committee because they lack some accessories. The State Department has sought the intervention of the Office of the Attorney General on the remaining The office of the Attorney General has given notice to the concerned supplier of the intention to initiate arbitration proceedings between the two parties
Technical University of Mombasa	ICB/MOHEST /11/2012-2013	Civil and Building Engineering	9	**USD 180,554.45 KES 18,719,885.38**	The State Department sought the intervention of the Office of the Attorney General on the **9 items** on 23/11/2018 since the supplier had delayed in addressing the

NAME OF UNIVERSITY	CONTRACT	EQUIPMENT TYPE	QTY	AMOUNT IN KES	REMARKS ON STATUS OF IMPLEMENTATION
					recommendations of the inspection and acceptance committee. The AG wrote to the supplier on the issue and the supplier returned to site to address the anomalies noted by the inspection and acceptance committee. The supplier has so far supplied accessories to **five (5)** items worth **USD 47,582.94 (Kshs. 4,933,399.22)** Which have been inspected and accepted by the inspection and acceptance committee. The supplier is working on the **four (4)** remaining **items worth USD 132,971.5 (Kshs. 13,786,485.12**) to complete the contract.

Since the conclusion of the Audit of 2016/2017, the State Department has been following up with the suppliers to complete deliveries of goods as per the contract. The State Department has held meetings with the suppliers together with Vice Chancellors of the respective Universities with a view to fast tracking the completion of the contract. During the meetings, the suppliers gave commitments to fulfill their contractual obligations by certain dates which most of them did not do.

In the last meeting with suppliers held on 2nd July, 2019, the State Department gave the suppliers up to 31st July, 2019 to complete all their obligations failing which the Ministry would forward the matter to the Office of the Attorney General for necessary action. Upon the expiry of the abovementioned deadline, the State Department sought the intervention of the Office of the Attorney General on the matter.

The Office of the Attorney General has given notice to the concerned suppliers of the intention to initiate arbitration proceedings between the two parties namely: The Ministry of Education on one hand and the concerned supplier in each contract on expiry of fourteen (14) days from the date of the letters as per clause 6.2 of the General Conditions of the Contract and the Arbitration Act 1995 Cap 49 of the Laws of Kenya**.**

Committee Observations and Findings on Paragraph 191

(i) The Committee observed that some suppliers had not fulfilled their contractual obligations (delivery and/or installation of various equipment) by the due dates;
(ii) The Committee observed that the State Department had sought the intervention of the Office of the Attorney General on the matter;
(iii) The Committee observed that the Accounting Officer subsequently availed to the Committee additional documents including performance bonds and bank guarantees which were verified and found satisfactory.

Committee Recommendations on paragraph 191

1. **Within three (3) months upon adoption of this report the Attorney General should avail to the National Assembly his opinion and advice in respect of the non-performing contracts.**
2. **Within three (3) months upon adoption of this report, and subject to the advice of the Attorney general, the Accounting Officer should recover any payments made to the contractors for undelivered equipment.**

192. Prior year unresolved matters

192.1 Faulty/Obsolete Equipment

As previously reported, equipment delivered to Technical University of Kenya valued at Kshs.73,147,827 were found to be obsolete and not usable upon assessment by the University. Some of the equipment could not be used as they lacked essential accessories to operate while others were damaged during the process of testing. Details of the equipment are as shown below:

Equipment	Quantity	Total Cost (Kshs)	Remarks
Remarks Sheer testing machine	1	3,510,922	Faulty-broke during testing
Universal testing machine	1	8,477,381	Inferior specification (100Kns) as opposed to desired specification (1000Kns)
Hydraulic bending machine	1	16,889,579	Lack basic accessories including threads
Automatic absorption spectrophometry	1	2,698,158	
Spectroscopy experiment kit	1	60,470	Not working
Realtime PCR	1	602,659	Does not meet specification – not real time
Digital analogue differential (Oscilloscopes)	110	5,270,284	Items obsolete
Arbitrary waveform generator	20	26,222,452	Items obsolete
Test and measure (multimetres)	10	4,305,488	Items obsolete
Bench power supplies 32V	1	5 1,536,576	Malfunctioned and not usable
Digital storage Oscilloccupes	4	3,573,858	Items obsolete
Total			**73,147,827**

Submission by Accounting Officer

The Accounting Officer submitted that Paragraph 192 relates to prior year (2015/2016), unresolved maters which were responded to in September, 2018 and have since been resolved as per the Public Accounts Committee's report adopted by the National Assembly on 4th June, 2019.

194. Unsupported Expenditure

Included in the purchase of goods and services balance of Kshs.1,635,814,964 as disclosed in Note 8.5 to the financial statements are payments of grants to semiautonomous government organizations totaling Kshs.1,463,633,486.

However, supporting documents made available for audit review were for expenditures totaling Kshs.1,065,134,336 only. Therefore, documents for expenditure totaling Kshs.398,499,150 were not availed for audit verification.

In the circumstance, it has not been possible to confirm the validity of expenditure of Kshs.398,499,150 reported to have been incurred on payment of grants to government organizations during the year under review.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Included in the purchase of goods and services balance of Kshs.1,635,814,964 and as disclosed in Note 8.5 to the financial statements are payments of grants to semi-autonomous government organizations totaling Kshs.1,463,633,486.

However, supporting documents made available for audit review were for expenditures totaling Kshs.1,065,134,336 only. Therefore, documents for expenditure totaling Kshs.398,499,150 were not availed for audit verification. The payments have since been availed for audit examination.

Committee Observations and Findings

- **(i) The submission and accompanying documents tabled by the Accounting Officer confirming the validity of expenditure of Kshs.398,499,150 reported to have been incurred on payment of grants to government organizations during the year under review were satisfactory.**
- **(ii) The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

13.0. MINISTRY OF HEALTH

FINANCIAL STATEMENTS FOR VOTE 1081

Ms. Susan Mochache, the Principal Secretary and Accounting Officer for the Ministry of Health (Vote 1081) appeared before the committee on 12th March 2019 to adduce evidence on the Audited Financial Statements for the Ministry of Health (Vote 1181) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). She was accompanied by the following officials: She was accompanied by the following officials:

1. **Mr. Joseph Moraga - Chief Finance Officer**
2. **Mr. Morangá Morekwa - Undersecretary**
3. **Dr. Izak Odongo - Head of Curatuve Services**
4. **Dr. Manasse Bocha - Chief Clinical Officer**
5. **Mr. Mutua Kiilu - Head of Rehabilitative Services**
6. **Mrs. Margaret Kariuki - Head of Accounting Unit**
7. **Mr. Joseph Kiraita - Deputy Head of Accounting Unit**
8. **Mr. Joel Sego - Accountant**
9. **Ms. Rebecca Mutua - Accountant**
10. **Mr. Dixon Lugonzo - Procurement Officer**
11. **Mr. Ibrahim Abdi - Parliamentary Liaison Officer**

Basis for Qualified Opinion

210. Un-surrendered Old Deposits Balances from former Ministries

As previously reported, included in the statement of assets and liabilities as at 30 June, 2017 is cash and cash equivalent balance of Kshs. 103,136,706. Further information revealed that deposits totaling Kshs. 10,956,114,687 that were held in former Ministries of Medical Services and Ministry of Public Health and Sanitation which merged to form Ministry of Health were never transferred to the new deposit account contrary to Treasury Circular No.AG/CONF.17/01/65 of September, 2013 which required deposits in former Ministries to be analyzed and transferred to new account. Consequently, management is in breach of Treasury Circular No.AG/CONF/17/01/65 of 2013 for failing to transfer the deposits of Kshs. 10,956,114,687 to the new deposit account.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that an amount of Kshs.10, 956,114,687 is accumulated balances of former Ministries of Medical Services and Public Health and Sanitation that is still outstanding. The surrendered deposit balances relate to old balances of the former Ministries of Public Health and Sanitation and Medical Services. The Ministry has since analyzed and reconciled the two books of accounts; and we wish to report that the actual balance in the books is Ksh.44,484,475.75 as per attached statement of accounts and the same have been submitted to The National Treasury for concurrence and subsequent clearance by the Office of the Auditor General.

Committee Observations and Findings

(i) **The Committee observed that Kshs 10,956,114,687 was an accumulated balance of former Ministries of Medical Services and Public Health and Sanitation that is still outstanding. The Ministry has since analyzed and reconciled the two books of accounts reducing the actual balance in the books to Ksh.44,484,475.75;**

(ii) **The matter remains unresolved.**

Committee Recommendations

(i) **The Accounting Officer should liaise with the National Treasury and agree on the most appropriate approach to deal with the matter and report to the National Assembly within three months of adoption of this report.**

(ii) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

211. Bank Reconciliation – Recurrent Account

The statement of assets and liabilities as at 30 June 2017 reflects cash and cash equivalent balance of Kshs. 103,136,706. Included in this amount, is recurrent account balance of Kshs. 64,353,351. Further scrutiny of the bank reconciliation statement for the recurrent cash book as at 30 June 2017 revealed payments in cash book not recorded in the bank statement totaling Kshs. 11,362,254 out of which Kshs. 2,007,668 had not been captured in the bank statement as at the time of audit in March 2018. No reason has been given for the inordinate delay in getting the same captured in bank statement.

Consequently, it has not been possible to determine the accuracy of Kshs. 2,007,668 included in the cash and cash equivalent balance of Kshs. 103,136,706 in the statement of financial assets and liabilities as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of assets and liabilities as at 30 June 2017 reflects cash and cash equivalent balance of Kshs. 103,136,706.
It is further true that included in the bank reconciliation for recurrent account is an amount of Kshs 2,007,668 out of the reconciling items in respect of receipts in cashbook not in bank statement amounting to Ksh. Kshs.11, 362,254.

This amount was subsequently cleared in the reconciliation in the month of July 2017 and therefore did not form part of un-reconcilling items in the financial year2017/2018.

Committee Observations and Findings

(i) The Committee observed that, the issue was addressed.
(ii) The explanation by the Accounting Officer was satisfactory; and
(iii)The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officer must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68 (2k) of the PFM Act 2012.

212. Imprest and Advances

The statement of financial assets and liabilities as at 30 June 2017 reflects outstanding imprest and advances totaling Kshs. 11,406,952. Included in the imprest balance is an amount of Kshs.10,535,336 which ought to have been accounted for on or before 30 June 2017 but which was still outstanding as at the time of audit in February, 2018.
In the circumstance, it has not been possible to confirm the validity and accuracy of the accounts receivables balance of Kshs.11,406,952 and the propriety of the same as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of assets and liabilities as at 30 June 2017 reflected outstanding imprest and advances totaling Kshs.11, 406,952. However, a total of Kshs 8,820,911 has since been surrendered with the balance being recovered from the officers' salaries.

Committee Observations and Findings

(i) The Committee observed that the issue is partly resolved as the Ministry indicated the clearance is in progress;
(ii) The Committee observed that the Accounting Officer failed to recover outstanding imprest within 7 days pursuant to the provisions of Regulation 93(7) of the PFM (National Government) Regulation 2015.

Committee Recommendation

(i) Within three months of the adoption of this report, the Accounting Officer must take action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.

(ii) Where the accounting officer fails to recover outstanding imprest of Kshs 8,820,911.00, the Accounting Officer should be surcharged pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.

213. Compensation of Employees

The statement of receipts and payments for the year ended 30 June 2017 reflects compensation to employees of Kshs. 5,221,516,247. Included in the basic salaries and wages of permanent and temporary employees in note 6 to the financial statements is expenditure amounting to Kshs. 6,204,018 whose payment vouchers and other related supporting records were not availed for audit review. Further, a review of the monthly payroll and supporting documentation, revealed that basic salaries and wages of permanent and temporary employees as disclosed in Note 6 to the financial statements omitted an amount of Kshs.14,000,922 in arriving at the gross amounts in the financial statements.

In the circumstance, it has not been possible to confirm the accuracy of the expenditure of Kshs. 20,254,940 included in the compensation of employees of Kshs. 5,221,516,247 in the statement of receipts and payments for the year ended 30 June 2017.

213.1 Unsupported payments

Included in the basic salaries and wages of permanent and temporary employees in note 6 to the financial statements is expenditure amounting to Kshs. 6,204,018 whose payment vouchers and other related supporting records were not availed for audit review.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the amount of Ksh. 6,204,017.00 relates to payments made to staff as commuted leave days and salaries/honoraria paid directly to staff (not via IPPD) as per the attached analysis. Payment vouchers for the same have now been availed for audit verification.

Committee Observations and Findings

(i) The Committee observed that Kshs. 6,204,018 was not supported by vouchers and other related supporting records for audit review.
(ii) The Committee observed that the supporting documents were later provided and verified.
(iii)The Committee marked the matter as resolved.

Committee Recommendation

The Accounting should always ensure that documents are availed for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 which gives the Auditor-Genral powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities.

213.2. Deductions omitted from the financial statements

A review of the monthly payroll and supporting documentation revealed that basic salaries and wages of permanent and temporary employees as disclosed in note 6 to the financial statements omitted an amount of Kshs. 14,000,922 in arriving at the gross amount in the financial statements.

In the circumstances, it has not been possible to confirm the expenditure of Kshs. 20,254,940 included in the compensation of employees of Kshs. 5,221,516,247 in the statement of receipts and payments for the year ended 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that the information from Human Resource Department explains the variation of Ksh. 14,000,921.50 as deferred salary liability relating to staff under disciplinary cases as per the monthly IPPD summaries.

Committee Observations and Findings

- **(i) The Committee observed that an amount of Kshs. 14,000,922 was omitted in arriving at the gross amount in the financial statements.**
- **(ii) The Committee observed that the supporting documents were later provided and verified; and**
- **(iii) The explanation by the Accounting Officer was satisfactory; and**
- **(iv) The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officer must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

214. Acquisition of Assets

The statement of receipts and payments for the year ended 30 June 2017 includes expenditure on acquisition of assets of Kshs. 365,431,957 out of which payment vouchers and other related supporting records amounting to Kshs. 68,190,154 were not availed for audit review. In addition, the particulars of the specific assets the expenditure relate to were not provided.

Consequently, it has not been possible to ascertain the propriety of Kshs. 68,190,154 included in the acquisition of assets figure of Kshs.365,431,957 in the statement of receipts and payments for the year ended 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the acquisition of assets figure in the Financial Statements is Kshs.365, 431,957 out of which Kshs.68, 190,154.15 was not supported during the audit verification. They have since provided support documents/payment vouchers for review.

Committee Observations and Findings

(i) The committee observed that the payment vouchers and other related supporting records amounting to Kshs. 68,190,154 were not availed for audit review.
(ii) The committee observed that supporting documents were later provided and verified.
(iii) The explanation by the Accounting Officer was satisfactory; and
(iv) The Committee marked the matter as resolved.

Committee Recommendation

Accounting Officer must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

215. Emergency Relief and Refugee Assistance

The statement of receipts and payments for the year ended 30 June 2017 includes expenditure on other grants and transfers amounting to Kshs.228,139,231. Included in this balance is Kshs.195,652,052 which relates to emergency relief and refugee assistance as disclosed in note 9 to the financial statements. Payment vouchers and other related supporting documents amounting to Kshs.85,287,027 in respect of emergency relief and refugee assistance were not availed for audit review.

Consequently, it has not been possible to ascertain the propriety of Kshs.85,287,027 in respect of the emergency relief and refugee assistance included in other grants and transfers of Kshs.228,139,231 in the statement of receipts and payments for the year ended 30 June 2017.

Submission by Accounting Officer

The Accounting Officer reported that documents supporting expenditure amounting to Kshs. 85,287,027 in respect of emergency relief and refugee assistance have now been availed for audit verification.

Committee Observations and Findings

(i) **Payment vouchers and other related supporting documents amounting to Kshs.85,287,027 in respect of emergency relief and refugee assistance were not availed for audit review.**
(ii) **The Committee observed that the supporting documents were later provided and verified;**
(iii) **The explanation by the Accounting Officer was satisfactory;**
(iv) **The Committee marked the matter as resolved.**

Committee Recommendation

Accounting Officer must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68 (2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68 (2k) of the PFM Act 2012.

216. Deductions omitted from the Financial Statements

A review of the monthly payroll and supporting documentation, revealed that basic salaries and wages of permanent and temporary employees as disclosed in note 6 to the financial statements omitted an amount of Kshs.14,000,922 in arriving at the gross amounts in the financial statements. In the circumstance, it has not been possible to confirm the expenditure of Kshs.20,254,940 included in the compensation of employees of Kshs.5,221,516,247 in the statement of receipts and payments for the year ended 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that information from Human Resource Department explains the variation of Ksh. 14,000,921.50 as deferred salary liability relating to staff under disciplinary cases as per the monthly IPPD summaries.

Committee Observations and Findings

(i) The explanation by the Accounting Officer was satisfactory;
(ii) The Committee marked the matter as resolved.

Committee recommendations

Accounting Officers must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

Errors in the Financial Statements

The statement of receipts and payments for the year ended 30 June 2017 reflects various expenditure items amounting to Kshs.73,225,828 which were charged to wrong accounts and thus contravening Section 99 (1) of the Public Finance (National Government) Regulations 2015.

Component in the financial statements	Note in the financial statement	Item	Specific details	Wrong account charged	Correct account for the item	Amount Kshs
Use of Goods and Services	Note 7	Rental of produced assets	Commodities	Rental of produced assets	Specialized materials and supplies	19,025,840
Use of Goods and Services	Note 7	Rental of produced assets	Assets	Rental of produced assets	Acquisition of Assets	3,440,277
Acquisition of assets	Note 11	Acquisition of assets	Chemicals and reagents	Acquisition of assets	Specialized materials and Supplies	11,221,395
Acquisition of assets	Note 11	Acquisition of assets	Antivirus license	Acquisition of assets	Routine maintenance-other assets	951,500
Acquisition of assets	Note 11	Acquisition of assets	Stationeries	Acquisition of assets	Office and General Supplies and services	606,500

Other Grants and Transfers	Note 9	Emergency relief and Refugee Assistance	Supplies	Emergency relief and Refugee Assistance	Use of goods and services	26,197,337
Use of Goods and Services	Note 7	Office and General Supplies	Supplies	Office and General Supplies	Foreign travel and subsistence	1,400,400
Use of Goods and Services	Note 7	Office and General Supplies	Supplies	Office and General Supplies	specialized materials and services	1,248,200
Use of Goods and Services	Note 7	Office and General Supplies	Domestic travel	Office and General Supplies	Domestic travel and subsistence	1,524,405
Use of Goods and Services	Note 7	Office and General Supplies	Fuel	Office and General Supplies	Fuel and other lubricants	892,000
Use of Goods and Services	Note 7	Office and General Supplies	Conference	Office and General Supplies	Hospitality supplies and services	484,000
Use of Goods and Services	Note 7	Office and General Supplies	Allowances	Other grants and transfers	Domestic travel and subsistence	854,000
Use of Goods and Services	Note 7	Hospitality supplies and services	Internal Quality Auditors	Hospitality supplies and services	Domestic travel and subsistence	197,500
Use of Goods and Services	Note 7	Office and general supplies and services	Hospitality	Office and general supplies and services	Hospitality supplies and services	739,298
Use of Goods and Services	Note 7	Office and general supplies and services	Security	Office and general supplies and services	Utilities supplies and services	3,445,200
Use of Goods and Services	Note 7	Office and general supplies and services	Travel	Office and general supplies and services	Domestic travel and subsistence	997,976
			Total			**73,225,828**

Due to the above errors, it has not been possible to determine the accuracy and validity of payments totaling Kshs. 73,225,828 under statements of receipts and payments for the year ended 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that they regret the erroneous charges that came as a result of re-cording of a number of expenditure items of the Ministry which posed a lot of challenges during processing of payments, especially for new officers who were not familiar with the changes in item codes.

He reported that we have since corrected the above transactions by transferring the expenditure to the correct charge items since the budget for the relevant items in consideration was sufficiently available, see attached journals.

Committee Observations and Findings

(i) **The Committee observed that the Regulation 97 (2&3) of the PFM (National Government) Regulations 2015 provides for timelines and circumstances under which errors in the financial statements can be adjusted; and**
(ii) **The Committee observed that the errors have since been corrected by transferring the expenditure to the correct charge items since the budget for the relevant items in consideration was sufficiently available.**

Committee Recommendation

The Accounting Officer must at all times ensure that any errors in the financial statements including miss-postings or misclassifications impacting on fair presentation of financial statements that may be noticed after 30th June each year are corrected within the timelines provided for in Regulation 97 of the PFM (National Government) Regulations, 2015.

217. Proposed Upgrading of Othaya District Hospital

As previously reported, the Ministry awarded a contract for the upgrading of facilities at Othaya District Hospital to M/S Jaswant Singh and Brothers at a price of Kshs.436,300,798.80 which was later revised to Kshs.501,745,918.50. The initial completion period was 85 weeks but was extended to 123 weeks with new completion date being 25 October 2012. A status report dated 21 February, 2014 indicates cumulative payments of Kshs.501,745,917.70 representing 99.9% of

the revised contract sum of Kshs.501,574,917.70. At the time, 192 weeks had elapsed out of contract period of 123 weeks.
Despite this apparent overpayment, the following works were outstanding:

a) Floor tilling and grouting
b) Wall tilling
c) Window glazing
d) Window stays and fasteners
e) Ceiling
f) Fixing of door leaves, locks, and glazing
g) Internal and external painting
h) Ramp and staircase finishes
i) Worktop and counter finishes
j) Road drainage
k) Medical gas installation

An inspection of the project carried out on November 2015 revealed that the contractor and subcontractors were not on site. Although it indicated that the project had been terminated on a mutual agreement no documentary evidence was made available for audit verification. Further, no evidence was provided that the performance guarantee had been recalled and discharged against uncompleted works.

Further information shows that the Directorate gave an estimate for completion of outstanding works as Kshs.272,500,000. Though the Ministry put a request to National Treasury for funding, Treasury responded by advising that health was a devolved function and therefore Nyeri County should take over. Further information also reveal that Lunao Enterprises was given a new contract to complete the remaining works at a contract sum of Kshs. 141,959,487.

The total expenditure for the construction of the hospital had accumulated to Kshs.578,542,747 by 30 June 2016. In addition, the Ministry reported an expenditure of Kshs**.**145,154,150 during the year 2016/2017 for construction of Othaya District hospital which accumulated to Kshs.723,696,897 by 30 June 2017 and which when compared against the initial contract value of Kshs.436,300,798 gives rise to a variation of Kshs.287,396,099 which is about 66%. No project progress reports have been availed for audit review.
Consequently, it has not been possible to ascertain whether the Government obtained value for money for the expenditure of Kshs. 723,696,897.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the cummulative expenditure on the project rose to Kshs. 578,542,747 as at 30 June 2016 which is 33% above the contract sum of Kshs. 436,300,798. It is also true that there was a 10% reduction in scope of work.

It worth noting that the contract variation was informed by incomplete quantification of works at the design stage. Evidence of this is the project financial appriasal report by the State Department for Public Works which shows that works captured in the Bill of Quantities amounted to Kshs. 408,033,463.80 while the actual work done before termination of contract was 578,371,743.97.

Kshs. 501,574,915.25 was paid within the revised contract sum . 501,745,918.50 while Kshs. 76,796,828.72 was a direct payment made on the basis of the remeasurement of works and final project account of submitted to the Ministry on 30th April 2014 by the State Department for Public Works (project managers). The reduction of scope of works was approved by the Ministerial Tender Committee on the advise of the State Department for Public Works. MTC communication to State Department fo Public Works dated 29th November 2012. He continued that it was true that there were Outstanding works despite the payment of Kshs. 578,542,747.

The outstanding works were not included in the financial appraisal report. as it covered work already done by the contractors and not the full scope of works. The amount was computed to inform termination of contract as further progress on implementtion of the project could not be made. With the termination of the contract, outstanding works were to be undertaken as a new contract and the State Department for Public Works gave an estimate of Kshs. 272, 500.00.

Evidence oF mutual termination of contract

Evidence of mutual termination of the contract consists of the following documents:

- Legal opinion by Attorney General (App.VIII-c)
- Extract from minutes of the Ministerial Tender Committee that adjudicated the termination by mutual consent (App.VIII-d)
- Letter of MTC communication to the reponsible department (App.VIII-e)

This documentation on termination was availed for audit review.

Contract for Kshs. 141,959,487

The Accounting Officer submitted that it was true that Lunao Enterprises was awarded a of Kshs. 141,959,487 to partially address the outstanding works to make the hospital operational. The constract was not for full completion of the hospital but for partial completion to enable utilization of parts of the new hospital (outpatient services and limited inpatient services). As rightly observed in the query, this was a new contract different from the initial one which was terminated by mutual consent. The new contract sum cannot therefore be loaded onto the eralier contract for the purpose of calculating variation. The amount was not fully utilized anyway as the contract commenced on 14/05/2015 close to end of the financial year and only Kshs. 20 million of the available funding was utilized.

Value for money for the expenditure of Kshs. 578,542,747

The competent authority for determining value for money for public construction projects is the State Department for Public Works. The following summary extracted from the remeasurement and Final Account submitted to the Ministry on 30th April 2014 by the State Department for Public Works indicates there was value for money:

Totals as per Bill of Quantities (Kshs.)	Total Remeasurement of work done – Final Account (Kshs.)	Amount Paid Todate (Kshs.)	Amount now due for payment (Kshs.)
408,033,463.80	578,371,743.97	501,574,915.25	76,796,828.72

The financial appriasal report is attached

In addition, all payment certificates for the project originated from the State Department for Public Works and have justifications to show value for money.

However, the Ministry is of the view that technical management of the project could have been done in a better manner and has continued to engage the National Treasury and the State Department for Public Works to translate the project to service delivery for Kenyans.
Further we have written to the State Department for Public Works to provide us with technical information on the following (App.VIII-f):

- Reasons why the hospital could not be constructed to completion with the original contract sum of Kshs. 436,300,798.80;
- Their professional assessment of the value of the hospital as built (excluding the cost of equipment bought separately by the Ministry of Health).

Recall of performance bond

The performance bond of the initial contractor could not be recalled and discharged against the uncompleted works because termination of the project was by mutual consent as recommended by the Attorney General. Recall of performance bond becomes applicable if the Ministry cancels the contract for breach on the part of the contractor.

Current Status of the Project

- The project was completed and handed over to the Ministry of Health in March 2018;
- Thereafter, we engaged Nyeri County to operationalize the facility as a level 4 hospital but they responded that they have no capacity to run it in terms of human and financial resources. Subsequently the Governor wrote to the Cabinet Secretary releasing the project to the Ministry for operationalization as a national referral hospital
- Currently recruitment is ongoing for skeleton staff from within the service to operationalize the hospital. We are awaiting approval of workload analysis from Department of public Service Management to commence recruitment of 630 staff whose funds are already available in the budget.

  The Ministry is working on an RRI to make sure we operationalize the hospital at the soonest date possible.

Committee Observations and Findings

(i) The Committee observed that the National Government has taken over the running of the hospital due to lack of capacity.
(ii) The matter remains unresolved.

Committee Recommendation

Within three (3) months after tabling and adoption of this report, the Auditor-General undertake a comprehensive performance audit on the project to evaluate, whether the citizen has gotten value for money in the project and submit the report to Parliament for tabling and debate as provided for in Section 36 (2) of the Public Audit Act, 2015.

218. Long Outstanding County Debts

As previously reported, during 2013-2014 financial year, the ministry paid on behalf of county government salaries totaling Kshs. 19,208,279,767 which were to be recovered in the same financial year. Documents and information available indicate that the ministry only recovered Kshs. 14,837,973,349 during 2013-2014 financial year leaving a balance of Kshs.4,370,306,417 which has remained outstanding to date and which has not been disclosed in the financial statements for the year ended 30 June 2017 as detailed below:

No.	County	Total Per County	Payment By The County	Unpaid Balance As At 30 June 2017
1	Baringo	436,539,829.10	203,160,522.20	233,379,306.90
2	Bomet	149,939,229.60	109,228,726.00	40,710,503.60
3	Bungoma	542,025,991.90	169,903,393.00	372,122,598.90
4	Busia	345,973,625.30	70,000,000.00	275,973,625.30
5	Embu	524,931,828.35	-	524,931,828.35
6	Garissa	292,081,393.65	62,762,901.00	229,318,492.65
7	Homa Bay	394,803,166.65	129,949,868.00	264,853,298.65
8	Isiolo	194,420,151.70	113,038,625.00	81,381,526.70
9	Kajiado	294,670,326.80	130,287,385.60	164,382,941.20
10	Kakamega	713,869,101.55	337,034,472.00	376,834,629.55
11	Keiyo Marakwet	324,977,919.40	295,200,241.85	29,777,677.55
12	Kericho	422,131,230.95	251,000,000.00	171,131,230.95
13	Kiambu	1,089,527,249.25	784,583,345.55	304,943,903.70
14	Kilifi	397,785,611.10	239,951,406.50	157,834,204.60
15	Kirinyaga	334,363,914.90	-	334,363,914.90
16	Kisii	582,690,519.80	366,131,142.30	216,559,377.50
17	Kisumu	709,470,408.35	357,612,798.00	351,857,619.35
18	Kitui	391,677,717.55	391,677,717.55	-
19	Kwale	231,334,998.40	231,334,998.40	-
20	Laikipia	266,319,861.50	-	266,319,861.50
21	Lamu	113,266,122.30	52,101,739.85	61,164,382.45
22	Machakos	591,362,875.90	169,654,816.00	421,708,059.90
23	Makueni	406,610,823.65	145,828,399.40	260,782,424.25
24	Mandera	90,891,533.85	90,891,534.30	(0.45)
25	Marsabit	183,407,716.40	141,430,190.70	41,977,525.70
26	Meru	576,851,358.20	576,851,358.20	-

27	Migori	276,885,532.30	110,382,633.00	166,502,899.30
28	Mombasa	682,711,688.50	-	682,711,688.50
29	Muranga	436,763,132.55	150,000,000.00	286,763,132.55
30	Nairobi County	1,650,432,382.40	200,000,000.00	1,450,432,382.40
31	Nakuru	1,120,516,449.95	240,000,000.00	880,516,449.95
32	Nandi	316,123,713.30	-	316,123,713.30
33	Narok	272,498,842.10	125,275,446.35	147,223,395.75
34	Nyamira	211,470,903.45	96,202,703.00	115,268,200.45
35	Nyandarua	374,637,572.10	118,933,341.00	255,704,231.10
36	Nyeri	744,981,628.25	-	744,981,628.25
37	Samburu	137,563,770.75	137,563,773.20	(2.45)
38	Siaya	271,951,370.10	-	271,951,370.10
39	Taita Taveta	233,302,146.50	184,390,145.75	48,912,000.75
40	Tana River	121,374,420.60	56,306,932.00	65,067,488.60
41	Tharaka	270,821,606.00	-	270,821,606.00
42	Trans Nzoia	371,743,295.85	331,620,768.10	40,122,527.75
43	Turkana	155,882,042.75	87,372,822.00	68,509,220.75
44	Uasin Gishu	410,059,769.25	188,495,201.60	221,564,567.65
45	Vihiga	209,312,955.10	93,376,410.75	115,936,544.35
46	Wajir	126,188,330.75	126,188,330.75	-
47	West Pokot	211,133,707.20	172,249,260.40	38,884,446.80
	Total For County's	**19,208,279,765.85**	**7,837,973,349.30**	**11,370,306,416.55**
	Recoveries from The National Treasury		**7,000,000,000.00**	**7,000,000,000.00**
	Total	**19,208,279,765.85**	**14,837,973,349.30**	**4,370,306,416.55**

The ministry has not explained why the amount has remained outstanding and why it has not been disclosed in the financial statements.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry paid Ksh. 19,208,279,767 on behalf of county government salaries which were meant to be recovered the same financial year 2013/14.

During the financial year 2013/14, the Ministry managed to recover Ksh. 14,837,973,349 leaving a balance of Ksh. 4,370,306,417 which has remained outstanding as accounts receivables in the annexure to the financial reports for the financial year 2015/16.

He reported that the ministry restated the Reports and Financial statements for the year ended 2015/16 to reflect the true state of affairs of accounts receivables.
However, in view of the remaining balance of Ksh.4, 370,306,417, the Ministry is working in liaison with the National Treasury with a view of recovering from the respective counties through their annual allocations.

Committee Observations and Findings

- **(i) The Committee observed that the explanation by the Accounting Officer that the Ministry is in liaison with the National Treasury with a view of recovering the Ksh. 4,370,306,417 outstanding not surrendered by Counties was reasonable.**
- **(ii) The matter remains unresolved.**

Committee Recommendations

- **(i) Within three months of the adoption of this report, the Accounting Officer should liaise with the National Treasury with a view of recovering the Ksh.4,370,306,417 outstanding pursuant to the provisions of sections 168 (2)(l) of the Public Finance Management Act, 2012; and**
- **(ii) Within three (3) months of the adoption of this report, the Cabinet Secretary, National Treasury follow up this matter and report back to the National Assembly on the steps taken to recover the money owed by the listed County Governments.**

219. Irregular Payment on Portable Clinics

As previously reported, the Ministerial Tender Committee awarded the contract for Supply of Portable Medical Clinics to an Investments company vide Ministerial Tender Committee minutes No.MOH/MTC/.37/2014-2015 held on 29 June, 2015 to supply one hundred (100) portable medical clinics at Kshs.10,000,000 each totalling to Kshs.1 billion. On 17 July 2015, the contract to Supply, Install, Commission and Hand over was signed between the Investment company and the Ministry.

The contract period was to be from the date of signing of the contract to the end of financial year 2015-2016 and has since elapsed despite the fact that the contract has not been executed. During the 2015-2016 financial year, the Ministry paid Kshs.800,000,000 for portable clinics but before installing, commissioning and handing over thus contravening the contractual agreement. Further, information available indicates that the containers were stored in government premises in Mombasa despite the fact that ownership has not passed to the Government.

Consequently, it has not been possible to determine whether the Government obtained value for money for the expenditure of Kshs. 800,000,000.

Submission by Accounting Officer

The Accounting Officer submitted that the health component of the slum upgrading program\ was conceptualized by the Government in 2013/14 to improve the health status of underprivileged citizens who live in informal settlements. It was envisaged that the proposed portable medical clinics would be offering primary health care services especially maternity services which is a key result area for the Government. Subsequently, the project was placed under the Ministry of Health for implementation and categorized as a Priority Project

The initial plan was to construct or upgrade health facilities in informal settlements using expanded polystyrene (EPS) panels which is significantly cheaper than conventional construction methods. However due to challenges of obtaining land in the informal settlements, the approach was changed to placement of portable medical clinics which require less space and can be placed temporarily in open spaces in the informal settlements

Contract period elapsed before agreement was executed

This project was conceived as a partnership between the Ministry of Health and benefitting County Governments. The National Government was to procure the portable medical clinics while the benefitting County Governments were expected to contribute through site preparations, staffing, commodity supply and operations and maintenance.

However, during the exercise to map the slums to receive the clinics, the County Governments insisted on full National Government support for the project including payment of staff salaries and supply of commodities for the initial 2 years. The Ministry had to address these emerging demands by Counties first in order to clear the way for the supplier to install the clinics. Addressing the demands had budgetary implications and more delay resulted as the Ministry looked for funds to address the demands.

He submitted that it was important to distinguish between the activities of "site preparation" and "installation of the clinics". Site preparation entails casting of slabs on which the clinic and waiting bay canopies would be mounted; servicing of site with utilities – water, electricity; external sanitation facilities and bulk water storage. This is the responsibility of the client and the estimated cost is 1.5 million per site based on the experience in Nairobi County where 20 sites were prepared;

Installation of the clinic entails placement of the clinic on the prepared slabs, mounting of patient waiting canopies, assembling and testing of medical equipment, fixing and testing of furniture and non- medical equipment such as air conditioners, connection to water and electricity brought to site by client and fixing of small overhead water tank supplied with the clinic. This is the responsibility of the supplier and the cost is covered in the contract sum.

Ministry paid Kshs. 800,000,000 for portable clinics before installing, commissioning and handing over thus contravening the contractual agreement. The supplier executed a large part of the contract as the clinics were supplied as per specifications. While we acknowledge that there was no provision for part execution of the contract and hence partial payment, it is worth noting that the supplier was not at fault for the incomplete execution of the contract.

The Ministry encountered challenges implementing project components initially assigned to Counties and thus could not avail ready sites for the supplier to install the clinics. Since the Supplier was not at fault, the Ministry could not withhold all payment as this would have made the supplier to seek legal redress to the detriment of the Ministry-thus partial payment was in the best interest of the Government. The supplier remains committed to installation of the clinics; as a demonstration of that commitment, the supplier installed 11 clinics in Nairobi in December 2016. Containers were stored in Government premises in Mombasa despite the fact that ownership has not passed to the Government.

Following the clearance of the clinics from the Port of Mombasa, the Ministry inspected all of them to confirm that they contained the required equipment, furniture and fittings in the right quantities and quality. Even though this was not a requirement under the contract, delivery notes were subsequently endorsed for all the clinics. The clinics therefore belong to the Ministry of Health and even practically the supplier cannot remove them from the NYS depot without clearance by the Ministry. In the event that the clinics were in the sole custody of the supplier, a huge storage bill would have been pushed to the Ministry. Value for money for the expenditure of Kshs. 800,000,000.

Under the contract agreement, the supplier was to supply, install, commission and handover the 100 Clinics at a cost of Kshs 1 billion.

Project Justification (initial concept)

(i) The slum areas in Nairobi, Mombasa and Kisumu have large underserved populations that urgently require health services, especially the maternity services. However, as implementation progressed, it was realized that there were slums in other towns and more Counties were subsequently brought on board;

(ii) Cheaper building technology could be leveraged to reduce construction costs. In this regard, construction using the cheaper expanded polystyrene (EPS) panels was targeted. Through a benchmarking assessment of construction work at Ruai Police Station, it was established that using the EPS technology was cheaper by about 15% compared to conventional technology;

(iii) The time taken to construct the facilities using the EPS technology is much shorter compared to conventional building.

Portable clinics versus Construction

No	Container clinic	Construction clinic
1.	Require minimal space and can be placed in chief's camps, schools, temporary sites	Construction usually takes place in owned land
2.	Take less time to establish	Take longer to construct
3.	Customizable – easy partitioning, can use solar or mains power etc	Limited flexibility
4.	Can be relocated	Not movable
5.	Less expensive	Standard building costs apply

Conclusion

- Preparation of 20 sites in Nairobi was completed in quarter 1 of 2016/17 F/Y;
- As at end of December 2016, 11 clinics were installed in Nairobi in areas considered secure – in chief's camps in the slum areas;
- A total of 89 clinics are still at the NYS Miritini depot;
- The 11 clinics in Nairobi are facing challenges in regard to security and availability of health workers.
- The Supplier of the Clinics, MS Estama Investments, has been paid Kshs. 800 million out of the contract sum of Kshs. 1 billion; This money should not go to waste but the process of installing the remaining 89 clinics should be completed to serve more deserving and disadvantaged Kenyans.
- The Ministry is redesigning the business model of the clinics to fit them under UHC for operationalization.
- The project objective is noble at it targets the poor and underserved Kenyans;

- Continued delay in installation of the clinics denies critical services to Kenyans and amounts to waste of public resources.

Committee Observations and Findings

(i) **The Committee observed that as reported in the previous report, the submission of the Accounting Officer advancing reasons relating to the project justification as well as the cost of Portable clinics versus Constructed Clinics did not address the audit query satisfactorily;**

(ii) **The Committee observed that the matter has taken inordinately long under active investigation by the EACC.**

Committee Recommendations

Within three (3) months after tabling and adoption of this report, the Auditor-General undertake a comprehensive performance audit on the project to evaluate, whether the citizen has gotten value for money in the project and submit the report to Parliament for tabling and debate as provided for in Section 36 (2) of the Public Audit Act, 2015.

220. Pending Bills

Records maintained by the Ministry of Health indicate that bills totaling Kshs. 250,187,749 were not settled during the year 2016/2017 but were instead carried forward to 2017/2018. Had the bills been paid and the expenditure charged to the account for 2016/2017 the statement of receipts and payments for the year would have reflected a deficit of Kshs. 180,365,136 instead of a surplus of Kshs. 69,822,613.

Further, pending bills amounting to Kshs. 75,820,676 relate to the year 2015/2016 (Kshs. 65,685,624) and 2014/2015 (Kshs. 10,135,052) which ought to have been cleared/paid as a priority in compliance with the Treasury Circular ref: No./DGIPE/A/1/10 of 18 December 2015 which requires all pending bills to be paid as a priority in the following financial year before payments for the financial year are made. Consequently, the Ministry failed to comply with the Treasury Circular of ref: No./DGIPE/A/10 of 18 December 2015 on priority payments of pending bills.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry reported Pending bills amounting to Ksh. 250,187,749.40 for financial year 2016/17. It was also true that the Ministry reported a surplus of Ksh 69,822,613 in the financial year under review. However, the total budget for the Ministry in the financial year 2016/17 amounted to Ksh. 63,011,427,545 comprising of

Development Vote Ksh. 31,252,294,683 and Recurrent Vote-Kshs. 31,759,132,862 versus a combined expenditure of Ksh. 56,698,361,159.

The Ministry did not receive the full exchequer for the Ministry's' Recurrent and Development vote, the Appropriation In Aid (AIA) both Donor and recurrent thus leading to the pending bills. From the foregoing, the Ministry had exchequer underfunding of Ksh. 6,313,066,386 which would have covered the pending bills of Ksh. 250,187,749.40 and still remain with un utilized budget of Ksh. 6,062,878,636.60, therefore no possibility of a deficit of Kshs 180,365,136

Committee Observations and Findings

(i) The Committee observed that the submission by the Accounting Officer that the Ministry did not receive the full exchequer for the Ministry's' Recurrent and Development vote, the Appropriation-In Aid both Donor and recurrent thus leading to the pending bill was compelling; and
(ii) The Committee marked the matter as resolved.

Committee Recommendation

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills are available, they should form a first charge in the subsequent budgets.

Other Matter

221. Budget Absorption

The Ministry of Health had an approved total budget of Kshs.71,434,320,022 voted for the financial year 2015/2016 comprising of Kshs.35,737,009,339 for recurrent vote and Kshs.35,697,310,683 for development vote with an overall budget absorption of 79% as summarized below:

Item	Budget Allocation 2016/2017 (Kshs)	Actual 2015/2016 (Kshs)	Under Absorption (Kshs)	Absorption rate in (%)
Recurrent	35,737,009,339	30,343,689,889	5,393,319,450	85
Development	35,697,310,683	26,339,720,127	9,357,590,556	74
Total	**71,434,320,022**	**56,683,410,016**	**14,750,910,006**	**79**

Although the recurrent budget absorption and utilization rate was above three quarters i.e. 85%, the budget utilization rate for the Development budget was lower i.e. 74%. The implication of this is that more than quarter of the budgeted development programmes may not have been implemented. In this regard, there is need for the Accounting Officer to refocus the budgetary process with a view to focusing on priority areas in health infrastructure to boost the health services for the citizens of Kenya.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry did not absorb the development budget in full. This was due to delays in approval and release of the supplementary budget and exchequer under issues by the National Treasury. The auto-creation of purchase orders and system problems in processing of payments through e- Procurement also posed a challenge.

A significant portion of the development budget is donor support, the non or late submission of expenditure returns by the development partners led to expenditures not being captured in the IFMIS system thus the under expenditure in those expense items and under collection in A.I.A.
He also reported that late approval of development partners' work plans was due to timing difference in financial year ends with that of the Ministry's.

The Semi-Autonomous units retain their A-I-A collections even though disbursement to Sagas is net of A-I-A and Non- remittance of Expenditure returns by the spending entities/donors.

Committee Observations and Findings

The Committee observed that the above paragraph was for information purposes for the Accounting Officer.

Committee Recommendation

The Accounting Officer should ensure that the Ministry prepares a realistic budget and annual implemenation work plan to increase the levels of absoprtion. Further, there is need for timely release of exhequer by the National Tresaury to reduce low absorption of development funds

222. Recurrent Vote

The ministry recurrent budget for the year ended 30 June 2017 was Kshs.Kshs.35,737,009,339 against actual expenditure of Kshs.30,343,689,889 resulting to under absorption of Kshs.5,393,319,450 as detailed below;

Item	Budget (Kshs)	Actual (Kshs)	Under Absorption (Kshs)	(%) Under Expenditure
Compensation of Employees	5,928,263,701	5,221,516,247	706,747,454	12
Use of goods and services	2,092,857,648	1,420,610,289	672,247,359	32
Transfers to Other Government Units	27,242,054,277	23,304,163,426	3,937,890,851	14
Other grants and transfers	249,375,913	228,139,231	21,236,682	9
Social Security Benefits	100,000,000	100,000,000	-	0
Acquisition of Assets	124,457,800	69,260,696	55,197,104	44
Total	**35,737,009,339**	**30,343,689,889**	**5,393,319,450**	**15**

From the above analysis, it is evident that the Ministry under-spent on some budget lines with transfer to other government units leading with the highest amount of unutilized allocation of Kshs.3,937,890,851. This is an indication of idle funds not put to proper use for services delivery. The management may have over budgeted on recurrent expenditure and therefore need for a more realistic budget for better delivery of services to the citizens.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry did not absorb the recurrent budget in full, the highest being unutilized allocation on transfers to other government entities of Kshs 3,937,890,851.

The Semi-Autonomous units retain their A-I-A collections even though disbursement to Sagas is net of A-I-A and Non- remittance of Expenditure returns by the spending entities/donors.

Committee Observations and Findings

The Committee observed that the above paragraph was for information purposes for the Accounting Officer.

14.0. STATE DEPARTMENT OF INFRASTRUCTURE

FINANCIAL STATEMENTS FOR VOTE 1091

Prof. Paul Mwangi Maringa, the Principal Secretary and Accounting Officer for the State Department of Infrastructure (Vote 1091) appeared before the committee on 16th April 2019 to adduce evidence on the Audited Financial Statements for the State Department of Infrastructure (Vote 1091) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1.	**Ms. Sophie W. Mwengashi**	**-**	**Assistant Accountant General**
2.	**Eng. James M. Kungu**	**-**	**Chief Engineer (Roads)**
3.	**Mr. Rashif Mohamed**	**-**	**Finance Director**
4.	**Eng. Wilfred Oginga**	**-**	**Deputy Director Kenya Urban Roads Authority**
5.	**Eng. Charles M.**	**-**	**CECM**
6.	**Eng. Peter M. Mundiria**	**-**	**Director General**
7.	**Eng. Luka K. Kimeli**	**-**	**Ag. Director General**
8.	**Eng. Maurice D. Ndeda**	**-**	**Deputy Chief Engineer (Materials)**
9.	**Mr. Philip Wahirui**	**-**	**Chief Finance Officer**
10.	**Mr. Nathan Soita**	**-**	**Head of Procurement**

Basis for Adverse Opinion

243. Inaccuracies in the Financial Statements

243.1 Variances between the Financial Statements and the Trial Balance

A comparison between the financial statements and the supporting trial balance revealed total positive variances of Kshs.120,591,704,974 and negative variances totaling Kshs.224,059,394,058 which were not explained or reconciled as shown hereunder: The accuracy and correctness of the Department's financial statements for the year ended 30 June 2017 could, therefore, not be confirmed.

Submission by Accounting Officer

Component	Financial/ Statements Balance (a)	Trial Balance (b)	Variance((ab)	Remarks	*Audit Remarks*
Positive	Kshs.	Kshs	Kshs		
Transfer from other Govt. Units	42,431,534,913	40,762,534,913	1,669,000,000	The Department had not posted receipts from Kenya Roads Board amounting to Kshs 1,669,000,000 to the General Ledger. This has since been posted and the Trial Balance figure and Financial Statements balance now tie at Kshs 42,431,534,913.	*Management response has been verified and accepted.* *Issue resolved*
Transfer to other Govt. agencies	42,933,784,911	39,267,059,530	3,666,725,381	The Development Vote for the Department included Equalization Fund for Kshs 3,666,725,381. This was not budgeted under the Department's vote hence was not captured in the Trial Balance. Treasury had released the Exchequer under our Vote.	*Management response has been verified and accepted.* *Issue resolved*

Development bank accounts	1,808,362,271	111,547,311,279	113,355,673,550	The cash book bank balances were used to prepare the Financial Statements. The auto bank reconciliation that is in progress and subsequent updates has reduced the bank balance to Kshs (58,763,587,869) as shown in recent generated Trial Balance.	*IFMIS auto reconciliation still on going Issue not resolved*
Deposits items	214,648,553	184,793,689	29,854,864	The cash book balances were used to prepare the Financial Statements. The conclusion of auto bank reconciliation will rectiFinancial Year IFMIS bank balance. (the Cash Book bank balance was compared to General Deposits Item (Net))	*IFMIS auto reconciliation still on going Issue not resolved*
Imprests	1,523,889	-5,315,546	6,839,435	The outstanding Imprest is as per actual Imprest register list. The posting of incomplete transactions relating to surrenders of Imprest is underway, which will reconcile the two sets of records. (IFMIS shows a credit balance that should be reconciled)	*IFMIS auto reconciliation still on going Issue not resolved*
Suspense &clearance acc.	1,215,183,092	648,428,652	1,863,611,744	This is a historical figure carried forward from Financial Year 2015/2016 and is under scrutiny with a view to making necessary adjustments to reconcile the two sets of records.	*IFMIS auto reconciliation still on going Issue not resolved*
Total	**88,605,037,629**	**31,986,667,345**	**120,591,704,**		

Committee Observations anf Findings

The Committee observed that the State Department had made good progress to resolve the issues.

Commitete Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

243.2 In addition, the suspense clearance account balance of Kshs.1,215,183,092 has not been investigated and it is not clear the effects the figure may have on the financial statements.

Submission by Accounting Officer

The Accounting Officer submitted that a Clearance Account figure of Kshs 1,104,260,165 was carried forward from the Financial Year 2015/2016 and is under scrutiny with a view to making necessary adjustments to reconcile the two sets of records.

Committee Observations and Findings

- **(i) The Committee observed that the issue is still being investigated.**
- **(ii) The matter remains unresolved.**

Committee Recommendations

Within three months after the adoption of this report, the Accounting Officer should clear the clearance Account figure of Kshs 1,104,260,165.

243.3 Difference between the Financial Statements and IFMIS Generated Report

The financial statements submitted for audit also differed with IFMIS generated Report as shown below:

Component	Financial statements (Kshs)	IFMIS report (Kshs)	Difference (Kshs)
Receipts	157,650,386,160	155,981,386,160	1,669,000,000
Payments	155,755,000,347	152,088,585,415	3,666,414,932
Financial Assets	3,291,849,366	118,012,641,435	(114,720,792,069)
Financial Liabilities	214,648,553	113,868,266,672	(113,653,618,119)
Opening Balance	1,257,006,515	227,008,298	1,029,998,217

Submission by Accounting Officer

Component	Financial Statement	Trial Balance	Comments/ Remarks
Receipts	157,650,386,160	155,981,386,160	The Department had not posted receipts from Kenya Roads Board amounting to Kshs 1,669,000,000 to the General Ledger. This has since been posted and the IFMIS Statement of Receipts and Payments now tie at Kshs157,650,386,160**.**
Payments	155,755,000,347	152,088,585,415	The difference of Kshs 3,666,414,932 is due to: (i)**Add**: Compensation of employees not captured Kshs 20,652 (ii)**Add:** Transfers to Other Govt. Units (Equalization Fund not budgeted in the Department's Vote) Kshs 3,666,725,381**)** and (iii)**Less:** Acquisition of Assets (Research and Feasibility Studies) (Kshs 331,100)
Financial Assets	3,291,849,366	118,12,641,435	This is subject to drill down on IFMIS expenditure item for corrective action

Committee Observations and Findings

(i) **The Committee observed that the IFMIS auto reconciliations are on-going.**
(ii) **The matter remains unresolved**

Commitete Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

244. Statement of Financial Assets and Liabilities

The statement of financial assets and liabilities reflects a net financial assets balance of Kshs. 3,077,200,813. A review of the statement and the supporting schedules for the balances therein revealed the following discrepancies: -

244.1 Accounts Receivables and Suspense Account

The statement of financial assets and liabilities shows receivables balance of Kshs. 1,216.853,632 as at 30th June, 2017. Included in the balance is district suspense of Kshs. 110,922,927 and amount of Kshs. 1,104,260,165 described as clearance accounts which were not supported. In addition, management has not carried out any investigations on the cause of the suspense and clearance accounts. In the circumstances, the correctness and the accuracy of receivables balance of Kshs. 1,216,853,632 as at 30th June, 2017 could therefore not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the District Suspense of Ksh. 110,943,730 supported by attached schedule, has been adjusted downwards by Kshs. 34,068,433.05 unspent monies returned by various regional offices. The Journal voucher no. 22371154 passing the adjustment is attached. The balance of Kshs. 75,141,750 is being investigated.

Committee Observations and Findings

(i) The statement of financial assets and liabilities showed receivables balance of Kshs. 1,216.853,632 as at 30th June, 2017 which included district suspense of Kshs. 110,922,927 and amount of Kshs. 1,104,260,165 described as clearance accounts which were not supported; and
(ii) The un-cleared balance of Kshs. 75,141,750 is being investigated. The Committee therefore marked the matter pending clearance and provision of supporting documents to the Auditor- General

Committee Recommendations

(i) The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;

(ii) The Accounting Officer should within three (3) months of tabling and adoption of this report ensure that the books are fully reconciled and all the un-cleared balances including the Kshs. 75,141,750 is fully reconciled and supporting documents submitted to the auditor for review.

244.2 Accounts Payables - Deposits and Retention

The statement of financial assets and liabilities further shows accounts payables balance of Kshs. 214,648,553 which is disclosed in Note No. 13 as deposits. The schedule in support of this balance was not availed for audit. Consequently, the validity and accuracy of the accounts payable balance of Kshs. 214,648,553 could not be confirmed.

Submission by Accounting Officer

The accounts payable of Kshs. 214,648,553 disclosed in Note 13 as deposits is supported by a schedule as shown in Annex VI.

Committee Observations and Findings

(i) The Committee observed that the schedules supporting Kshs. 214,648,553 have since been provided and verified.

(ii) The Committee marked the matter as resolved.

245 Pending Accounts Payable

Note No.17.1 to the Financial Statements reflects pending accounts payable for the year of Kshs. 2,501,700. This amount differs with the supporting schedule availed for audit verification which had a balance of Kshs. 5,013,942. The resultant difference of Kshs. 2,365,592 was not explained or reconciled. Further, had the pending accounts payable been paid, the surplus reported in the statement of receipts and payments of Kshs. 1,895,385,813 would have been reduced by the same amount.

Submission by Accounting Officer

The Accounting Officer submitted that the pending accounts payable of Kshs 2,501,700 disclosed in Note 17 as Supply of goods is supported by a schedule in the Financial Statements as *Annex 1.*

Committee Observations and Findings

The Committee observed that a schedule of Kshs. 5,013,942 has not been supported by the management. Further, the committee observed that the issue will be followed up in the next audit.

Committee Recommendations

(i) The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;
(ii) The Accounting Officer should within three (3) months of tabling and adoption of this report ensure that the books are fully reconciled and all the differences including Kshs. 2,365,592 is fully reconciled and supporting documents submitted to the auditor for review.

246 Proposed Replacement of 3 No. Lifts at Works Building

The contract for above works was awarded on 30th October, 2016 at a contract sum of Kshs. 34,876,996. The works commenced on 6th January, 2017 and were to be completed by 5th January, 2018. A review of the procurement process and project implementation records revealed the following matters: -

246.1 Tender Evaluation

Lack of Clarity in Technical Criteria

The first item in technical evaluation criteria was 'compliance with technical specification' which had a total of 40 marks. A review of the items under this heading showed there was lack of clarity on the technical specifications as follows: -

Duplication was noted in item Nos. 7.0 and 14.0 where in 7.0 the criterion was 'complete F12 form' with a score of 5 marks while in 14.0 it read 'Form 12 complete' 3 Marks unsigned 1 Mark.

It was not clear why this repetition was deemed necessary and why different score was allocated on the same item.

There was vagueness in some items e.g. 1.0, 2.0, 4.0, 7.0, 8.0, 13.0 &14.0, where some bidders got fraction of total marks without explaining how the fractions were arrived at.

Item 4.0 required a lift rating of 1000kg/13 persons. The maximum score under this item was 3 marks but the winning bidder, got 1 out of three marks. This means that the bidder did not meet the requisite criteria for the lifts required. It was not clear how the bidder ended up being awarded while the lift capacity did not fit the specifications. The bid document for the winning bidder availed for audit did not have attachments. It was therefore not possible to confirm if they were fairly evaluated.

Paragraph 16(5) of legal notice 106 of June 2013 requires that each member of the evaluation committee evaluate independently prior to sharing his scores with the other members. Paragraph 16(8) further states that the evaluation report shall include scores awarded by each evaluator. Individual scores sheets were not availed for verification. It was therefore not possible to confirm if evaluation was done in conformity with above provisions of the Procurement Act.

Submission by Accounting Officer

The Accounting Officer submitted that:

a) Under Item 7.0 the Technical evaluation item was "complete F12 for (5 marks) while under item 14.0 the technical evaluation item was "Form I2 (complete 3 marks)".
   F12 was information to be supplied by the tenders while form I2 was technical schedule of items to be supplied.
   The two items referred to different requirements and consequently there was no repetition. The evaluation report that clearly shows the two items has been availed to the Auditor.
b) The technical requirements queried by the Auditor were as follows: -

1.0	–	Lift Drive Motor type and size (KW VVF) 1.5 marks
2.0	–	Lift machine type Gearless 1.5 marks
4.0	–	Lift capacity/kg/No. of passengers/1000 kg/13 persons – 3 marks
7.0	–	Complete F12 form (5 marks)
8.0	–	Brochure (2 marks)
13.0	–	Shaft size 1980*2030 (3 marks)
14.0	–	Form I2 (complete 3 marks) Unsigned 1 mark)

The above analysis shows that there was clarity in the evaluation items. As detailed in the evaluation criteria, against every evaluation item, the maximum marks to be awarded for some items were fractions. Consequently, the scoring would also be fraction based. All the bidders were evaluated using the set evaluation fraction scores for some items.

c) Item 4.0 required a lift rating of 1000 kg/13 people. It was a requirement for the bidders to indicate both the lift weight carrying capacity and also in terms of number of people. The winning bidder indicated the weight carrying capacity but did not indicate the number of persons to be carried. Since it was a requirement in the bid document, the bidder could not get full marks. However, the overriding principle for the evaluation was the weight carrying capacity and not the number of persons to be carried. The winning bidder satisfied all the technical specifications as set out in the bid document and evaluation criteria. The bid document for the winning bidder had the brochure attachments as required.
d) Each Evaluation Committee Member evaluated the bids independently prior to sharing his scores with other members. The independent scoring sheets have been availed to the Auditor for verification.
e) The individual score sheets for each evaluator have since been availed to the Auditor.

Committee Observations and Findings

(i) The Committee observed that the response was not satisfactory. It has not been explained as to why there was repetitions.
(ii) The matter remains unresolved.

Committee Recommendatins

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

246.2 Award Price above Engineers Estimate

The contract was awarded at a contract price of Kshs. 34,876,996 while the engineer's estimate was Kshs. 28,574,500. The award price was therefore Kshs. 6,302,496 or 22 percent more than the engineer's estimate. It was also observed that the awarded bidder was the highest of the five bids submitted. The second ranked bidder in technical evaluation stage, had quoted an amount of Kshs. 20,995,000 which was Kshs. 13,881,995 lower than the awarded price and no satisfactory explanation was provided.

Submission by Accounting Officer

The Accounting Officer submitted that the evaluation criteria had a pass mark of 70 percent. Only one bidder got the 70 percent mark. The evaluation criteria had several stages which the lowest bidder did not satisFinancial Year.

Committee Observations and Findings

- **(i) The Committee observed that there was no satisfactory explanation provided to explain why the second ranked bidder in technical evaluation stage who had quoted an amount of Kshs. 20,995,000 which was Kshs. 13,881,995 lower than the awarded price and no.**
- **(ii) The matter remains unresolved.**

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

246.3 Notification to Unsuccessful Bidders

Paragraph 19(2) of legal notice 106 requires the procuring entity to notiFinancial Year unsuccessful tenderers in writing and in the same letter provide reasons as to why they were not successful. A review of notification to the unsuccessful bidders dated 31 October 2016 shows that the management did not give the reasons as to why each bidder was unsuccessful as required.

In the circumstances it has not been possible to confirm that the Department obtained value for money in incurring Kshs. 34,876,996.

Submission by Accounting Officer

The Accounting Officer submitted that the bidders were notified of the tender outcome pursuant to section 87(3) of PPAD Act. In addition, all unsuccessful bidders were notified that they had fourteen (14) days from the date of notification to make any appeal in case they were aggrieved and none of them filed the application for review. Copies of notification have been availed to the Auditors.

Committee Observations and Findings

- **(i) The Committee observed that although the unsuccessful bidders were notified, reasons as to why they were unsuccessful were not communicated to them.**

(ii) The matter remains unresolved.

247. Unresolved Prior Year Matters

The following matters which were discussed in the FINANCIAL YEAR 2015/2016 audit report remained unresolved as at 30 June 2017.

Submission by Accounting Officer

The unresolved prior year matters were discussed by the Public Accounts Committee during our appearance for the 2014/2015 and 2015/2016 accounts. The Audit Report for 2016/2017 had however been issued by the time the State Department was appearing before the Public Accounts Committee. The unresolved prior year matters are from paragraph 247.1 to 247.2. Based on the discussion on the said paragraphs in previous appearances before PAC and the recommendations thereafter, I submit that the issues raised therein have been addressed.

247.1.1 Statement of Assets

a) Cash and Cash Equivalents

The statement of assets reflects a bank balance of Kshs. 327,071,125. However, the supporting cashbooks for this balance reflect a balance of Kshs. 300,800,231 resulting to unexplained net difference of Kshs. 26,270,894 as summarized below:

Account No.	Account Name	Statements of Assets	Cash Book	Difference
1000209925	Recurrent	519,666	27,650,575	-27,130,909
1000209844	Development	72,925,351	301	72,925,050
1000212535	Deposits	250,713,023	240,597,922	10,115,101
1000231157	KTSSP Project	2,213,085	3,296,956	-1,083,871
1138520586	NUTRIP project	0	28,554,477	-28,554,477
	CBK-165	700,000	700,000	0
TOTAL		327,071,125	300,800,231	26,270,894

b) Accounts Payables - Deposits and Retentions

The statement of assets and liabilities reflects an accounts payables balance of Kshs.250,713,023 which is however disclosed under Note 13 to the financial statements as deposits. A review of the balance and the related records revealed the following anomalies:

(i) Lack of Supporting Documents

Management did not avail details on the composition of Kshs.250,713,023 reflected as payables as at 30 June 2016. Further, examination of the deposit cash book showed that it had a balance of Kshs.240,597,922 as at 30 June 2016 resulting to a variance of Kshs.10,115,101.

Submission by Accounting Officer

It was true that details on the composition of Kshs.250,713,023 reflected as payables were not availed for audit verification. Further, audit examination of the Deposit cash book showed that it had a balance of Kshs.240,597,922 as opposed to the reported balance of Kshs.250,713,023 resulting in a variance of Kshs.10,115,101.

A Reconciliation of Deposit Bank Balance to the Deposit Cash Book Balance is attached to reconcile the difference of KShs.10,115,101.

(ii) Un-explained Reduction of Payables

A comparison of payables balance for the year and that of the previous year showed that the payable balance reduced from Kshs.33,212,868,865 in 2014/15 to Kshs.250,713,023 in 2015/16 financial year representing a reduction by Kshs.32,962,155,842. However, the change in the balance was not explained.

Submission by Accounting Officer

It was true that a comparison of the payables balance for the year under review and that of the previous year showed that the payable balance reduced by Kshs.32,962,155,842. The amount of Kshs.33,212,868,865 was System Generated Liabilities as described in the Trial Balance. The amount of Kshs.250,713,023 in 2015/16 financial year is the deposit bank balance.

The mispostings corrected in IFMIS in the year 2014/2015 and the subsequent revision of Financial Statement confirms the reduction of the System Required Liability to Kshs.13,007,903,985.

c) Account Receivables

The statement of assets and liabilities for the year reflects a balance of Kshs.1,180,648,413 in respect of receivables which are analyzed in Note 12 to the financial statements as follows:

Item	Amount Kshs.
Salary Advance	740,359
Government impresss	506,139
District Suspense	75,141,750
Clearance accounts	1,104,260,165
Total	**1,180,648,413**

Review of supporting documents and schedules revealed the following matters:

i. Clearance Accounts

Included in accounts receivables balance of Kshs.1,180,648,413 is an amount of Kshs.1,104,260,165 described as clearance accounts. The management did not provide supporting documents for the total balance of Kshs.1,104,260,165.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that included in the balance of Kshs.1,180,648,413 is an amount of Kshs.1,104,260,165 described as Clearance Accounts. The management did not provide documents to support the total balance of Kshs.1,104,260,165. The Management is reconciling the 2015/2016 Financial Statements to resolve this outstanding issue.

ii. Government Imprest

The financial statements shows a figure of Kshs.506,139 on Government imprests. However, examination of the imprest register and schedules in support of the financial statements, revealed that the imprest amount outstanding at the close of the year was Kshs.972,569. The outstanding imprest balance is therefore understated by Kshs.466,430.

In the circumstances, it has not been possible to confirm the accuracy of the Government imprests' balance.

Submission by Accounting Officer

The Accounting Officer it was true that the Financial Statements show a figure of Kshs.506,139 on Government Imprests while the Imprests register and schedules presented in support of the Financial Statements, revealed that the total amount of Imprests outstanding at close of the year was Kshs.972,569. All outstanding Imprests had been accounted for and Financial Statements will be revised accordingly.

247.1.2 Bank Reconciliation Statements

A review of the bank reconciliation statements availed in support of the bank balance of Kshs.327,071,125 as at 30 June 2016, revealed the following unsatisfactory matters:

a) Recurrent Bank Account

(i) Stale Cheques

The reconciliation statement for recurrent bank account shows Kshs.3,524,991,742 as payments in cash book not recorded in bank statement. Included in this amount is a total of Kshs.20,410,250 comprising of cheques which have been outstanding for more than six months and are unlikely to be cleared by the bank. Management did not explain why these payments had remained outstanding for so long.

Submission by Accounting Officer

It was true that as at 30 June, 2016 included as payments in cash book not recorded in bank statement was an amount of Kshs.20,410,250 comprising of cheques which are outstanding for more than six months.

However, these are not stale cheques but cashbook entries on transfer of funds to clients who had not submitted proper bank accounts or had not been defined in the IFMIS. However, the matter has since been cleared and evidence availed to the Auditor.

(ii) Receipts in Bank Statement Not Recorded in Cash Book

The reconciliation statement also shows an amount of Kshs.11,045,760 as receipts in bank statement not recorded in cash book. However, no information or documents were availed to confirm the nature of these receipts and any efforts to resolve the outstanding balances.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Reconciliation Statement also shows an amount of Kshs.11,045,760.05 as receipts in bank statement not recorded in Cash Book. However, most are not returned cheques but rather surrenders of unspent funds or remittances of Appropriation–in–Aid from the districts/sub counties to the Department’s CBK Bank account. However, the matter has since been cleared and evidence availed to the Auditor.

(iii) Payment in Bank statements not recorded in Cash Book

The bank reconciliation statement shows an amount of Kshs.36,559,281 as payments in the bank statement not yet recorded in the cash book. Included in this amount are items totaling Kshs.19,543,471 which have been outstanding for more than six months. Management has not provided information on these have not been resolved.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Reconciliation Statement also shows an amount of Kshs.19,543,471 as payment in bank statement not recorded in cashbook. Most of the outstanding reconciliation issues were posted in the cashbook during the subsequent month of July 2016. However, the matter has since been cleared and evidence availed to the Auditor.

(iv) Receipts in Cash Book not recorded in Bank Statement

The statement also shows a balance of Kshs.83,050,078 as receipts in cash book not recorded in the bank statement which includes a total of Kshs.365,425 described as cash book under casts. Cash book adjustments are by nature not reconciling items since they are passed to correct errors. Therefore, the validity of this balance could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement also shows a balance of Kshs.83,050,077.85 for receipts in Cash Book not recorded in bank statement which included a total of Kshs.365,425.15 described as cashbook under casts.

The overcast of Kshs.365,425.15 has been corrected by way of payment voucher to correct the anomaly

b) Development Bank Account

The bank reconciliation statement for the above account shows amount of Kshs.5,955,908,818 as payment in cashbook not yet recorded in the bank statement. Review of the supporting schedule for this balance showed an item described as Treasury unspent balance amounting to Kshs.72,925,351 which was, however, not analyzed. The balance above also includes an amount of Kshs.247,500 dated 29 June 2016 described as cashbook under-cast which should not appear as a reconciling item.

In the circumstances the accuracy and correctness of the bank balance of Kshs.327,071,125 as at 30 June 2016 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Bank Reconciliation Statement for the above account shows amount of Kshs.5,955,908,818.25 as payment in the cashbook not yet recorded in the bank statement. Further the supporting schedule for this balance showed an item described as Treasury Unspent balance amounting to Kshs.72,925,350.75, It is also true that the balance also includes an amount of Kshs.247,500/- dated 29th June,2016 described as cashbook under-cast.

The Treasury Unspent Balance amounting to Kshs.72,925,350.75 was the unspent Exchequer for financial year 2015-2016 surrendered to the National Treasury on 22nd July 2016 as shown on the Bank Statement.

247.1.3 Pending Bills

Note 15 to the financial statements shows that the Department had outstanding bills totaling Kshs.122,496,227 as at 30 June 2016. The management did not explain the reason for committing the Department's resources in excess of the funds available.

Submission by Accounting Officer

It was true that the Department had outstanding bills totaling Kshs.122,496,227 as at 30 June 2016. The pending bills were mainly due to non-receipt of all the budgeted Exchequer. I however, wish to notiFinancial Year the Committee that all these bills were subsequently paid in the Financial Year 2016/2017.

247.2 Inaccuracies in the financial statements for the year ended 30 June 2015

The financial statements for the year ended 30 June 2015 had the following inaccuracies:

247.2.1 Accounts Receivables

Included in the receivables balance of negative Kshs.41,992,571,850 was a credit (Negative) balance of Kshs.41,994,231,622 as summarized below whose details or supporting documents were not availed for audit:

Suspense & clearance	12,326,945.80
Differences	-42,006,558,567.85
	-41,994,231,622.05

As a result of this discrepancy, it was not possible to confirm the accuracy and correctness of account receivables of negative Kshs.41,992,571,850 as at 30 June 2015 and why receivables had a credit (negative) balance.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that receivables balance had a negative balance of Kshs.41,992,571,850 as at 30th June, 2015. The analysis of the Suspense and Clearance balance (District Suspense) of Kshs.12,326,945.80 is supported by the Trial balance as at 30th June, 2015.

However, following reconciliation of the IFMIS Accounts Receivable, the figure have since reduced to Kshs.13,032,217,150 as shown in the Revised financial statements that were submitted to the Auditor.

247.2.2 Accounts Payable and Deposits

The statement of assets and liabilities disclosed an account payables balance of Kshs.33,212,868,865 made up of deposits, other liabilities and system required liabilities of Kshs.264,258,608, negative Kshs.30,827,757 and Kshs.32,979,438,014 respectively. The Accounting Officer explained that the deposit amount of Kshs.264,258,608 represents the bank balance on the deposit account. However, the Deposit Account cash book balance as at 30 June 2015 was Kshs.265,118,800 resulting to unexplained difference of Kshs.860,192.

Further, the negative Kshs.30,827,757 representing other liabilities and Kshs.32,979,438,014 representing system required liabilities were not analyzed. In addition, the Department had not disclosed pending bills as at 30 June 2015 for recurrent and development vote amounting to Kshs.57,651,140 and Kshs.30,265,963 for the two accounts respectively.

In the circumstances, the accuracy and correctness of the accounts payable balance of Kshs.33,212,868,865 as at 30 June 2015 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that they are agreement with the Auditor's observation and wish to respond as follows: -

That the Deposits balance of Kshs.264,258,608.00 disclosed in the Statement of Financial Position was an error which has been amended as shown in the revised Financial Statements.

Other Liabilities and System Required Liabilities respectively are IFMIS generated. Following reconciliations and adjustments in IFMIS, this has reduced to Kshs.13,032,217,150 as shown in the revised Trial Balance.

It is also true the Ministry inadvertently did not disclose the pending bills as at 30th June, 2015. The Pending bills schedule amounting to Kshs.57,651,140

247.2.3 Cash and Cash Equivalents

The statement also reflected total cash and cash equivalents of Kshs.75,237,260,707 as at 30 June 2015 while all supporting records and documents showed total cash and cash equivalents balance of Kshs.389,670,252. The variance of Kshs.74,847,590,455 had not been reconciled or explained and therefore the accuracy of total cash and cash equivalents was doubtful.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the Financial Statements as at 30th June, 2015 reflected a variance of Kshs.74,847,590,454.95 in the Cash and Cash Equivalents and the Statement of Cash Flows.

The variance of Kshs.74,847,590,455 and Statement of Cash Flows variance of Kshs.8,747,882,993.25 was as a result of non-reconciliation of the IFMIS generated Cash in Hand. This has now been reconciled of which Cash and Cash Equivalent has reduced to Kshs.273,971,829 as shown in the revised Financial Statements.

The IFMIS generated Cash in Hand of Nil balance as shown in the Trial Balance is now reconciled to the revised Financial Statement.

247.2.4 Bank Balances

Included in total cash and cash equivalents balance of Kshs.75,237,260,707 was bank a balance of Kshs.267,935,814 composed of Kshs.266,632,602 and Kshs.1,303,212 for deposits and Kenya Transport Sector Support Project (KTSSP) bank balance respectively.

However, the cash books and the supporting bank reconciliations reflected a bank balance of Kshs.389,670,252. Apparently, the bank balance of Kshs.267,935,814 excluded Kshs.121,139,158 and Kshs.2,109,083 in respect of recurrent and development bank balance respectively. In addition, the deposit account cash book showed a balance of Kshs.265,118,800 resulting to a difference of Kshs.1,513,802. The bank balance was therefore understated by Kshs.123,248,240.

Submission by Accouting Officer

The Accounting Officer submitted that it was true that the bank balance of Kshs.267,935,814 excluded Kshs.121,139,158 and Kshs.2,109,083 in respect of Recurrent and Development Bank Account balances respectively and that Deposit Account showed a difference of Kshs.1,513,802. The accoiunting officer stated that as indicated above, the correct balance of Deposits is Ksh.266,632,602.30 as shown in Cash Book extract the earlier omitted balances for Recurrent and Development bank account for Kshs.121,139,157.70 and Ksh.2,109,082.60 respectively will be included in the Revised Financial Statements.

247.2.5 Cash Balance

The statement of assets and liabilities further reflected cash balance of Kshs.74,969,324,893 which was, however, not analyzed. In addition, the board of survey confirmed that there was no cash balance as at 30 June 2015.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.75,237,260,707 as at 30 June 2015 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the Cash Balance of Kshs.74,969,324,893.25 was not analyzed and that the board of survey confirmed there was no cash balance as at 30th June, 2015.

The figure of Kshs.74,969,324,893.25 was IFMIS generated which has since been reduced to Nil balance as shown in the Trial Balance.

247.2.6 Net Increase in Cash and Cash Equivalents

The cash flow statement for the year ended 30 June 2015 showed net increase in cash and cash equivalents of Kshs.8,747,882,993. However, addition of cash flows from all activities revealed that there was actually a net decrease in cash and cash equivalents of the same amount.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that there was actually a net decrease in Cash and Cash Equivalent of Kshs.8,747,882,993. Following revision of the Financial Statements, the Net increase in cash and cash equivalent has now reduced to Kshs.31,819,992.

247.2.7 Cash and Cash Equivalents

The statement of cash flows also reflected Kshs.8,747,882,993 as balance of cash and cash equivalents as at 30 June 2015, while the statement of financial position reflected Kshs.75,237,260,707 despite the fact that the audited cash and cash equivalent was Kshs.389,670,252. The discrepancies between the above three similar accounts was not been explained or reconciled.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the cash flow reflected Kshs.8,747,882,993 as balance of cash and cash equivalent as at 30th June, 2015. Since the revision of the financial statements, balance of cash and cash equivalent is revised to Kshs.273,971,829 which is equivalent to the financial position figure.

247.2.8 Transfers to other Government Agencies

The statement of receipts and payments for the year ended 30 June 2015 showed an amount of Kshs.84,478,361,622 on account of transfer to other governments agencies comprising Kshs.23,409,273,292 and Kshs.61,069,088,329 relating to recurrent vote and development vote respectively. However, examination of the supporting documents for development vote showed a balance of Kshs.61,614,881,791 as follows: -

Journal vouchers (Direct payment)	29,818,825,898.60
Payment vouchers-	31,796,055,892.10
Total	**61,614,881,790.70**

The variance of Kshs.545,793,411 between the balance of Kshs.61,069,088,329 shown in the financial statements and that of Kshs.61,614,881,740 reflected in the supporting documents was not explained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Statement of Receipts and Payments for the year ended 30th June, 2015 showed a variation of Kshs.545,793,461 between the Financial Statements and that of the supporting documents.

The variation has been noted and that the Financial Statements will be amended to Kshs.61,614,881,740 as per supporting documents.

247.2.9 Transfer from Other Government Entities

The statement of receipts and payments reflected an amount of Kshs.22,446,501,146 as having been received from Kenya Roads Board. However, review of the records from Kenya Roads Board showed that amount of Kshs.25,036,325,644 was remitted to the Ministry for onward disbursement to Roads Authorities, resulting in unaccounted for transfers of Kshs.2,589,824,498.

Submission by Accounting Officer

The Ministry received an amount of Kshs.23,460,744,032 from Kenya Roads Board. However, the approved budget for the year was Kshs.22,446,501,146. Due to budgetary limitation, the Ministry returned Kshs.1,014,242,886.00 to Kenya Roads Board for re-voting in the subsequent year on 3rd July, 2015.

Due to timing differences, Kshs.884,208,451 in respect of funds released by Kenya Roads Board for Financial Year 2013-2014 was received by the Ministry in 2014-2015.

Further Kshs.2,399,594,965 from Kenya Roads Board was received after closure of 2014/15 Financial Year and thereby accounted for in the subsequent Financial year. The difference between the two sets of records is mainly due to the different accounting methods of Cash Accounting for the Central Government and Accrual Accounting for the Parastatals.

Submission by Accoiunting Officer

The Accounting Officer submitted that it was true that during the year under review Regional Officers of Materials Department collected AIA amounting to Kshs.14,568,050 and only Kshs.5,641,950.00 was reflected in the Headquarter books leaving Kshs.8,926,100.00 still in the field District Accountants Bank accounts.

He stated that Collections of AIA in the Region Offices was being submitted to District Treasuries. The collected amounts were accounted for through the District Accounting System. The details and evidence of remittance.

of the collections at the District Treasuries have been availed to the Auditors.

All the AIA collected was accounted for under various accounts as analyzed in the detailed schedule attached amounting to Ksh.25,212,375.15

247.2.10 Appropriation In Aid (AIA) Collected from Regional Offices

During the year 2014/2015, it was observed that the regional offices of Materials Department collected AIA amounting to Kshs.14,568,050 which was not disclosed in the statement of receipts and payments for the year. Management did not provide a satisfactory explanation on whereabouts of these funds.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Statement of Receipts and Payments differed from the total of journals by Kshs.2,794,085,323. However, the figure for Kshs.27,541,044,073 included journals supporting proceeds from foreign borrowing (loans) and foreign grants.

247.2.11 Proceeds from Foreign Borrowing

The statement of receipts and payments further reflects Kshs.24,746,958,750 in respect of proceeds from foreign borrowing, which differed from the total of journal entries of Kshs.27,541,044,073 resulting to understatement of Kshs.2,794,085,323. The correctness and accuracy of the statement of receipts and payments for the year ended 30 June 2015 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the Statement of Receipts and Payments differed from the total of journals by Kshs.2,794,085,323. However, the figure for Kshs.27,541,044,073 included journals supporting proceeds from foreign borrowing (loans) and foreign grants.

247.2.12 Proceeds from Foreign Grants

The statement of receipts and payments showed an amount of Kshs. 5,030,114,823 as receipts from foreign grant. However, the supporting schedule and the ledger showed an amount of Kshs. 3,861,475,171 resulting to unexplained difference of Kshs. 1,168,639,652.

Submission by Accounting Ofifcer

The Accounting Officer submitted that it wa true the support schedule reflected an amount of Kshs.3,861,475,171 as receipts from Foreign Grant. The actual amount was Kshs.5,071,638,899.75 as shown in *Annex XVII* indicated in the Revised Financial Statements for Financial Year 2014/2015.

247.2.13 Consultancy Services for Prospecting and Mapping of Road Construction Materials Sources

The Department entered into two consultancy contracts of Kshs.78,340,020 and Kshs.51,500,126 on 9 May 2014 for hardstone materials and natural materials respectively as follows:

(i) Contract No. CME/002/Rd/2013-2014 for consultancy services for prospecting and mapping sources of hardstone materials for road construction in Embu, Meru, Kitui, Machakos, Makueni and Tharaka Nithi Counties was awarded on 9 May 2014 for a contract sum of Kshs.78,340,020. The contract was to commence on 26 May 2014 for fifteen months.

(ii) Another Contract No. CME/001/Rd/2013-2014 for consultancy services for prospecting and mapping sources of natural materilas/gravel for road construction in Machakos, Makueni and Tharaka Nithi Counties was awarded on 9 May 2014 for a contract sum of Kshs.51,500,126. The contract was also to commence on 26 May 2014 and last for fifteen months.

Examination of development vote estimates showed that the two projects were not allocated any funds in the financial year 2014-15. It was noted that the two consultancies covered the same geographical area. It was not explained why they were not packaged as one consultancy contract.

(iii) Value for Money

Further, there was no evidence on how the results of prospecting and mapping under the two consultancies were applied and whether the public obtained value for money.

247.2.14 Contract No.490/04 (Road 2000) Improvement and Gravelling of Athi Market Kigucha Market Road D482

On 30 September 2002, the Ministry entered into a contract at a sum of Kshs.20,940,180 for improvement and gravelling of Road D482. The Contract commenced on 25 October 2002 with completion date of 24 April 2003 (6months).

The following were observed:

i. The contract was terminated on 22 February 2005 more than two years after the deadline of contract period of 24 April 2003.
ii. No extension of time had been granted to the contractor despite several requests and no liquidated damages were demanded from the contractor.
iii. Initial contract sum was Kshs.20,940,180 but the contractor was to be paid a total of Kshs.63,655,269 made up of an arbitration award of Kshs.55,235,910 and the sum of Kshs.8,419,359 paid before the contract was terminated.
iv. The contractor did not complete the road works as the contract was terminated.
v. The arbitrator in awarding the damages noted that the termination of the project did not follow the procedures laid out in the contract agreement.
vi. A review of the issue during the year under audit revealed that as at 30 June 2017, the principal amount of Kshs.55,235,910 had been fully settled by the Department as follows:

DATE	**Payment Voucher Number**	**Amount Kshs.**
28.10.2013	001267	3,300,000
17.01.2014	002389	3,300,000
03.07.2014	FT 14184J40N2	12,326,000
15.09.2014	000241	11,000,000
27.01.2015	002124	10,500,000
22.10.2015	002022	10,100,000
30.06.2015	004529	3,000,000
10.03.2017	001187	1,709,909
Total		**55,235,909**

A review of the legal file in the year further showed that on 19 December, 2016 the Contractor wrote to the Solicitor General vide a letter Ref.No:TCM/MRUB/90B claiming accrued interest of Kshs.17,721,427 for late settlement of above amount. This will further increase the costs related to above contract.

vii. In addition, as the initial contract sum was Kshs.20,940,180, the extra expenditure of Kshs.42,715,089 is a nugatory expenditure and should not have been a charge to public funds.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the Department entered into two (2) Consultancy Contracts of Kshs.78,340,020 and Kshs.51,500,126 on 9th May, 2014 for Prospecting and Mapping Sources of hard stone materials for road construction in Embu, Meru, Kitui, Machakos, Makueni and Tharaka Nithi Counties for hard stone materials and natural materials as summarized below:-

No	Counties Covered	Consultant	Contract sum
1.	Embu, Meru, Kitui, Machakos, Makueni and Tharaka/Nithi Counties	C. M. Kamau & Associates	78,340,020.00
2.	Machakos, Makueni and Tharaka/Nithi Counties	Norken International Limited	51,500,125.60
	Total		**129,840,145.60**

The Contracts were procured through Open Tender

The Accounting Officer responded to the specific issues raised by the Auditor as follows: -

Budgetary Allocation

The Contracts were to be implemented in three (3) financial years in accordance with Materials Testing & Research Division (MTRD) Strategic Plan 2013-2017, Procurement Plans and Budgetary Allocations under Vote D1091, Head 1091000500 (Materials Department) and the item on Research, Feasibility Studies, Project Preparation and Design as indicated below: -

Financial Year	Item	Description	Approved Estimates (Kshs.)
2013/2014	3111400	Research, Feasibility Studies, Project Preparation and Design, Project	71,668,800
2014/2015	3111400	Research, Feasibility Studies, Project Preparation and Design, Project	78,464,400
2015/2016	3111400	Research, Feasibility Studies, Project Preparation and Design, Project	93,150,000

Duplication of Scope

The two Contracts overlapped in three Counties, but the Scope of Services was different as explained below: -

Contract No. CM/001 for Mapping of gravel sources covered 3 Counties namely: Machakos, Makueni and Tharaka-Nithi while Contract No. CM/002 for mapping of hard stone sources covered 6 Counties namely Embu, Meru, Kitui, Machakos, Makueni and Tharaka-Nithi.

Value for Money

The Prospecting and Mapping of Sources of natural road construction materials is one of the strategies being undertaken by the Ministry to support the expansion of the Public Paved Road Network from 12,000Km (7.5%) to 24,000Km (15%) and to facilitate reduction of the overall infrastructure development and maintenance costs in accordance with Ministry's Strategic Objectives under the Second Vision 2030 Medium Term Plan (2013-2017).

The programme is part of Research Programmes being undertaken by the Ministry through Materials Testing and Research Division, on construction materials, methods and delivery options to support the Paved Road Network Expansion Programme with the objective of reducing the overall infrastructure development cost in the current Medium-Term Plan period. The State Department is implementing the Programme using the following strategies: -

i) Mapping of Natural Construction Material Sources, axle Load Surveys; and,
ii) Profiling of Alignment Soils.
iii) The Consultancies were geared towards supporting the following: -
iv) The Roads 10000 Low Volume Seal Roads programme;
v) The proposed EU funded Roads 2000 Programme in the Eastern Region Counties;
vi) Reduce the design costs and design period to about 3 months from the current 12 to 18 months taken for designs for medium to high volume traffic roads.
vii) Reduce the design costs and design period to about 3 months from the current 12 to 18 months taken for designs for medium to high volume traffic roads.

The outputs of the two studies are reports and mapping of both the natural gravel in the three (3) Counties of Machakos, Makueni and Tharaka Nithi under the first Contract and report on mapping of hardstone sources in the six (6) Counties of Embu, Meru, Kitui, Machakos, Makueni and Tharaka Nithi under the Second Contract.

Findings from the above studies have been applied in the design for the road upgrading of Low

Volume Seal Roads. The proposed EU funded Roads 2000 Programme in the Eastern Region Counties;

247.2.15 Unresolved Issues Relating to Deposits Account

(i) Unresolved issues for Deposits Account for 2012/13 and earlier years

i. As reported in the previous year, the statement of assets and Liabilities for deposits for the former Ministry of Roads reflected the following debit and credit balances relating to 2012/2013 and earlier years which besides being un-cleared for a long time had remained unanalyzed and unsupported as at 30 June 2016.

Account	
Debits	**Amount (Kshs)**
Recurrent AIA	(184,700.00)
General Suspense	255,702,281.45
District Deposit Bank	251,227.00
Provincial suspense account	22,250,045.75
R/D cheques	38,487.75
Fuel Levy	30,004,897.50
Credits	
Stale cheques	719,064.00
Revenue deposit	52,409,214.20
Mechanical Branch Suspense	687,268,445.25

ii. The statement as at 30 June 2013 also reflected a balance of Kshs.1,192,886,515 on 10percent retention money composed of a balance of Kshs.1,438,823,266, relating to 2011/2012 and earlier years and movement during the year of negative Kshs.245,936,752. However, out of the Kshs. 1,438,823,266 reported in 2011/2012 an amount of Kshs. 1,431,064,186 relating to 2009/2010 could not be verified from the retention money register since serial numbers of the receipts accounting for the retention moneys were not indicated. Further, as reported in 2011/12 an amount of Kshs. 11,822,080 released to a contractor was supported by receipts not issued for use in the Ministry’s cash documents. The position remains unresolved to date.

iii. Schedule supporting the retention money closing balance of Kshs. 1,192,886,515 reflected debit balances under various accounts amounting to Kshs. 233,311,537 implying irregular over-refunding of retention money. One contractor was paid Kshs.17,213,703 when the account already had a debit balance of Kshs.59,940,017 resulting in an overpayment of Kshs.77,153,720. Payment voucher no. 008618 for the amount of Kshs. 17,213,703 paid was still not availed for audit review as at 30 June 2017.

iv. Debit balances reflected in the 2011/2012 statement of Kshs.2,181,697,190 differed with the balance of Kshs.10,288,638,370 shown in the Ministry's trial balance as at 30 June 2012 by Kshs.8,106,941,180. Similarly, the credit balances totaling Kshs. 2,181,697,190 differed with the trial balance totals of Kshs.3,335,760,496 by Kshs.1,154,063,305. Additionally, several accounts totaling Kshs.72,528,192 and credit balances of Kshs.16,549,108,680 shown in the trial balance were excluded from the statement of assets and liabilities as at 30 June 2012.

Submission by Accounting Officer

It was true as reported in the previous year, the statement of assets and liabilities under deposits for the former Ministry of Roads reflected the debit and credit balances relating to 2012/2013 and earlier years which besides being un-cleared for a long time had remained unanalyzed and unsupported as at 30th June, 2016.

The Kenya Ethics and Anti- Corruption Commission (EACC) is investigating irregularities in respect of retention funds for financial years 2006/2007, 2007/2008, 2008/2009 and 2009/2010. Accounting documents in support of retention funds in respect of the above financial years were released to EACC that are inhibiting reconciliation of the outstanding debits and credits

Committee Observations and Findings

It was observed that the paragraph was a prior year matter that was addressed in the Committee report for Financial Year 2015/16 but not resolved.

Committee Recommendations

Within three (3) months upon adoption of this report the EACC should commence investigations into the irregularities regarding retention Funds for the Years 2006/2007, 2007/2008, 2008/2009 and 2009/2010 wit a view to prosecuting those involved in the the misuse of public funds, if culpability is established.

Mechanical and Transport Fund

Basis for Qualified Opinion

248. Cash and Cash Equivalents

248.1 Receipts in Cash Book not in Bank Statements

The statement of financial position reflects cash and cash equivalent balance at the close of the year of Kshs. 127,987,203. A review of the supporting bank reconciliation statement as at 30 June 2017 revealed a total of Kshs.2,380,660 representing receipts in cash book not in bank statements which comprised of collections received in four Fund regions between 2012 and 2016 but not banked or accounted for. The management has explained that this amount represent fraudulent deposit slips submitted by the clients some of which are subject of on-going court case. In the circumstances, the correctness and the accuracy of the cash and cash equivalents balance of Kshs. 127,987,203 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the figure of Kshs. 2,380,660.00 described as receipts in cash book not in the bank statement. This is figure came about as follows: -

The entries of 03-05-2012, unpaid banker's Chq. No. 000015 of 189,280.00 for Nakuru region and 04-04-2012 unpaid banker's Chq. No. 000043 – for Embu region of 70,580.00 which were for hire of equipment were found to be fraudulent**.**

The two cases are being investigated by the Directorate of Criminal Investigation. (OB No. 230/126/2012 and OB No 35/23/9/2015). The matter is being followed up.

The entries dated 18-03-2016 of Kshs. 232,500.00 for Kwale Mechanical Office was paid by Kenya Bixa Ltd. The Company has since paid the amount on 30-11-2017 vide bank deposit slip attached. This reduces the un-reconciled figure by the same amount.

The entries of 16-09-2015 and 06-10-2015 for Malindi of Kshs. 410,500.00, 656,800.00, 410,500.00 and 410,500.00 were cash deposit slips which were fraudulently presented to MTF Head office. The Division communicated to the client M/S SALBURY KENYA LTD vide letters Ref. GSN/14/VOL.III/86 dated 28-09-2015, GSN/14/VOL.III/85 dated 24-09-2015 and they acknowledged the debt vide letter dated 07-06-2016 and promised to clear the debt within two months from date of that letter. They paid Kshs. 100,000.00 vide MR No. C 9060091 dated 21-10-2016 but have not honored the balance. The Regional Mechanical Engineer, Malindi Region reported the matter to the Malindi Police Station vide OB NO.35/23/9/2015 and requested for progress report vide GSN/14/VOL.I/111/90 and the matter is still under investigation. The Regional Mechanical Engineer, Garsen Region is pursuing the payment with the client.

Committee Observations and Findings

(i) **Bank reconciliation statement as at 30 June 2017 revealed a total of Kshs.2,380,660 representing receipts in cash book not in bank statements which comprised of collections received in four Fund regions between 2012 and 2016 but not banked or accounted for;**

(ii) **The Accounting Officer submission that the natter involved fraudulent deposit slips submitted by the clients some of which are subject of on-going court case. The matter is therefore pending until the court cases are finalized.**

Committee Recommendation

The Accounting Officer follows up on all the cases to their logical conclusion and ensure that the total of Kshs. 2,380,660 representing receipts in cash book not in bank statements is fully accounted for and financial statements submitted to the Auditor-General

249.1 Cash and cash equivalent

The statement of financial performance for the year ended 30th June, 2017 reflects routine maintenance of vehicles, equipment and other assets expenditure of 365,074,217 as compared to Kshs. 250,932,091 in the previous year (2015/2016), an increase of 45.5percent while income from hire of equipment and miscellaneous services during the year decreased from Kshs. 912,773,454 to Kshs. 860,957,736. No satisfactory explanation has been given for the huge increase of expenditure while income was decreasing simultaneously.

Submission by Accounting Officer

The Accounting Officer submitted that the increased expenditure was due to the plants and equipment procured in the year FINANCIAL YEAR 2014/2015 exhausting their backup spares and ending their warranty period resulting in the Department maintaining the equipment through its budget.

The revenue decreased due to the Department releasing part of its fleet to the County Governments necessitating the department to rehabilitate the remaining fleet.

Committee Observations and findings

(i) **Routine maintenance of vehicles, equipment and other assets expenditure of 365,074,217 as compared to Kshs. 250,932,091 in the previous year (2015/2016), an**

increase of 45.5percent while income from hire of equipment and miscellaneous services during the year decreased from Kshs. 912,773,454 to Kshs. 860,957,736;

(ii) The increase in routine maintain ace cost for motor vehicles was attributed to due to the plants and equipment procured in the year FINANCIAL YEAR 2014/2015 exhausting their backup spares and ending their warranty period resulting in the Department maintaining the equipment through its budget. Further, the decrease in revenue was due to the Department releasing part of its fleet to the County Governments necessitating the department to rehabilitate the remaining fleet; and

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

Committee Recommendations

The Accounting should ensure that the budget prepared by the entity are realistic and adheres to credible and the increases in budgets and actual spending are driven by the need to improve public service delivery.

249.2 In addition note 12 on Inventories includes lubricants and oils, inventories valued at Kshs.12,113,445 in 2016/17 as compared to Kshs.3,704,821 in the previous year 2015/2016, representing an increase of 227percent. Management has not satisfactory explained the reasons for holding such huge balances of Inventories on lubricants and oils.

Submission by Accounting Officer

The Accounting Officer submitted that at the time of the audit, the lubricants had just been supplied awaiting distribution to the field unlike the FINANCIAL YEAR2015/2016 when the audit was done at the time when the stock had already been distributed.

Committee Observations and Findings

(i) Inventories includes lubricants and oils, inventories valued at Kshs.12,113,445 in 2016/17 as compared to Kshs. 3,704,821 in the previous year 2015/2016, representing an increase of 227 percent;

(ii) The Accounting Officer explained that the audit timing coincided with the time when the new stock had just been supplied to stores and was due for distribution to field. This explanation was satisfactory; and

(iii)The Committee marked the matter as resolved.

Committee Recommendation

The Accounting should within three (3) months of tabling and adoption of this report develop adequate predictive analytics measures for inventory management to determine appropriate replenishment levels, improve inventory availability, and reduce unnecessary overstocking.

249.3 Other Expenditures

Evidence available revealed that the following expenditures increased significantly from the previous year.

Item Expenditures

Item	**Expenditure**		
	2016/2017 (Kshs)	2015/2016 (Kshs)	Variance (Kshs)
Maintenance of vehicles	188,723,414	110,667,596	78,055,818
Tyres and tables	91,027,582	50,436,880	40,590,702
Fuel	27,603,561	10,488,880	17,114,681
Maintenance of other Assets	10,927,708	4,471,490	6,456,218
Purchase of Specialized Equipment	3,349,532	672,080	2,677,452
Printing and Advertising	4,023,762	2,882,820	1,140,912
Uniforms	2,958,066	945,900	2,012,166
Training	11,525,536	4,984,792	6,540,744
Wages for Temporary Employees	30,466,261	19,253,968	11,212,293

No satisfactory explanation was provided for the above huge increases in expenditures despite the Fund's income having decreased from Kshs. 912,773,455 in 2015/2016 to Kshs. 860,957,736 in 2016/2017.

Submission by Accounting Officer

Item	2016/2017 (Kshs)	2015/2016 (Kshs)	Variance (Kshs)	Management Responses
Maintenance of vehicles	188,723,414	110,667,596	78,055,818	The Department made a deliberate effort to rehabilitate its equipment after getting contracts from the Counties. High cost of maintaining and repairing the ageing vehicles and equipment.
Tyres and Tubes	91,027,582	50,436,880	40,590,702	Substantial revenue was received at the end of the FINANCIAL YEAR 15/16 while the works were done in 16/17.
Fuel	27,603,561	10,488,880	17,114,681	There was heavy mobilization of vehicles and equipment to match the increased activities hence increased fuel demand.
Maintenance of Other Assets	10,927,708	4,471,490	6,456,218	The Department embarked on renovation of workshop and offices
Purchase of Specialized Equipment	3,349,532	672,080	2,677,452	Installation of new and upgrade of the existing security systems
Printing and Advertising	4,023,762	2,882,820	1,140,912	Installation of signage for direction to all our workshops in country. There was printing of brochures and other publicity materials.
Uniforms	2,958,066	945,900	2,012,166	The department replaced worn out uniforms, safety gears and kits for all staff across the regions.
Training	11,525,536	4,984,792	6,540,744	The funding for group training and pre-retirement workshops was delegated from HQ to the Division More staffs were trained for promotional courses.
Wages for Temporary Employees	30,466,261	19,253,968	11,212,293	The engagement of casual workers was changed to temporary terms which attracted a higher salary than wages. The engagement of contracted workers increased due to retirement and natural attrition.

Committee Observations and Findings

(i) **There were significant expenditures increased on various items compared to the previous year. The increase was attributed to various reasons including: installation of new and upgrade of the existing security systems; renovation of workshop and offices; and engagement of casual workers was changed to temporary terms which attracted a higher salary than wages;**
(ii) **The explanation by the Accounting Officer was satisfactory therefore the matter was marked resolved.**

Committee Recommendation

The Accounting should ensure that the budget prepared by the entity are realistic and adheres to credible and the increases in budgets and actual spending are driven by the need to improve public service delivery.

DONOR FUNDED PROJECTS

KENYA TRANSPORT SECTOR SUPPORT PROJECT (IDA CREDIT NO.4926-KE/5410-KE COMPONENT B1-SUPPORT TO MINISTRY OF ROADS)

Unqualified Opinion

It was observed that there were no material issues noted during the audit of the Financial Statements of this Project.

Committee Observation and Findings

The Kenya Transport Sector Support Project (IDA Credit No.4926-Ke/5410- KE Component B1-Support to Ministry of Roads received an unqualified opinion in the FINANCIAL YEAR 2016/2017 which is commendable.

Committee Recommendation

The Committee commends the Project Team for the Kenya Transport Sector Support Project (IDA Credit No.4926-Ke/5410- KE Component B1-Support to Ministry of Road for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2017.

NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT (IDA CREDIT NO.5140- KE)

Unqualified Opinion

There were no material issues noted during the audit of the Financial Statements of this Project.

Committee Observation and Findings

The National Urban Transport Improvement Project (IDA Credit No.5140- KE) received an unqualified opinion in the FINANCIAL YEAR 2016/2017 which is commendable.

Committee recommendation

The Committee commends the Project Team for the National Urban Transport Improvement Project (IDA Credit No.5140- KE) for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2017.

Other Matters

250. Special Account Reconciliation

As reported in the previous financial year, the statement of receipts and payments reflected total receipts from development partners for the year as having amounted to Kshs.48,744,572 while the special account statement prepared and submitted for audit by the National Treasury reflected Kshs.8,000,736 as having been withdrawn to finance project activities. Management did not explain the cause of the variance amounting to Kshs. 40,743,836. A review of the position in the current year shows the matter has not been resolved.

Committee Observation and Findings

It was observed that the paragraph was a prior year matter that was addressed in the Committee report for the Financial Year 2015/16.

15.0. STATE DEPARTMENT OF TRANSPORT

FINANCIAL STATEMENTS FOR VOTE 1092

Ms. Esther Koimett (CBS), the Principal Secretary and Accounting Officer for the State Department of Transport (Vote 1092) appeared before the Committee on 21st August 2019 and 9th October 2019 to adduce evidence on the Audited Financial Statements for the State Department of Transport (Vote 1092) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). She was accompanied by the following officials:

1. **Ms. Priscilla Karanja - Principal Accountant Controller**
2. **Mr. Mobegi Henry - Accountant**
3. **Ms. Catherine Shiroko - Senior Principal Finance Officer**
4. **Mr. Kennedy Sakwa - Deputy Director Human Resource Management**
5. **Ms. Joyce N. Ala - Assistant Director Supply Chain Management Office**
6. **Mr. George Wanjau - Chief Economist.**
7. **Mr. David Olechege - Director**
8. **Mr. Joshua Wambugu - Chief Finance officer**
9. **Mr. Felix Atega - DGCA**

Basis for Adverse Opinion

251. Financial Statements Inaccuracies

251.1 Variances between Trial Balance and Financial Statements

A comparison between the financial statements and the supporting trial balance revealed total positive variances of Kshs. 238,120,816 and negative variances totaling Kshs. 295,288,337,930 which were not explained or reconciled. In the circumstances, the accuracy and correctness of the Department's financial statements for the year ended 30 June 2017 could therefore not be confirmed.

Submission by Accounting Officer

Positive variance Kshs. 238,120,816

The Accounting Officer admitted that a comparison between the financial statements and the supporting trial balance revealed a total positive variance of Kshs. 238,120.816 of amount Kshs. 184,052,828.00 relates to system related errors and Kshs. 54,067,987.75 relate to accounting errors. She confirmed that an amount of Kshs.2,863,993.75 related to accounting errors had been corrected and adjusted as analyzed below:

a) **Compensations of Employees Kshs.32,400.00**

This variance resulted from an of imprest surrender (warrant No.2326238 & PV No.002588) which was erroneously charged on salary item instead of the correct charge account.
The error has now been corrected vide Journal Entry number 21636165.

b) Overhaul of vehicles, other transport equipment Kshs. 233,944.00

The figures of Kshs. 233,944 was a transposition error in the financial statements under 'Purchase of Motor Vehicles and other Transport Equipment's' instead of 'Overhaul of Motor Vehicles and other Transport equipment's now corrected.

c) Purchase of specialized and machinery Kshs.338,320

The figure of Kshs. 338,320 was a transposition error which has now been corrected under Acquisition of Assets.

d) Salary deductions Kshs. 8,000.00

This was caused by directly charging the salary account (economic item 2110101) instead of charging court attachments (economic 7320110). The error had since been rectified Journal Number 20340635.

e) Salary Advance Kshs.660,287.75

The amount of Kshs. 660,287.75 were various payment of salary deductions for the financial year 2015/2016 that were erroneously charged to the salary advance item (6710103) instead of their respective salary deductions item (7320000). These errors have now been corrected by Journalizing from the Salary Advance item to the Salary expenditure item. Journal Number 20189946 and 8447652.

f) Government imprests Kshs.1,591,042.00

The Trial Balance reflected an outstanding imprest of Kshs. 1,591,042 which had been surrendered manually but the process of surrendered manually but the process of surrendering them in IFMIS had not been completed. This had been done and the imprests were fully surrendered in IFMIS.

She stated that they were working to resolve the balance of the accounting errors amounting to Kshs. 51,203,994. Similarly, reconciliation is ongoing to resolve the system related errors of Kshs. 184,052,828. We are working in consultation with the National Treasury to resolve these errors.

Negative variance of Kshs. 295,288,337,950

She further admitted that a comparison between the financial statements and the trial balance revealed a total negative variance of Ksh. 295,288,337,950. These errors related to both system and accounting errors of Kshs. 6,144,557,530.00 and Ksh. 289,143,780,420 respectively. Kshs. 288,725,827,483 relating to accounting errors have been corrected as per the audited Trial Balance as analysed below: -

(a) Proceeds from foreign borrowing Kshs.108,969,173.00

The figure of Kshs. 108,969,575,173.00 is correctly captured in the Trial Balance and it is constituted as: -

Item 5120201	Kshs. 108.184, 916,183.73
Item 5120202	Kshs. 784,661,989.60
	Kshs. 108,696,575,173.33

(b) Railway Development Levy fund (RDLF) grants Kshs. 23,299,550,338.00

This amount has been correctly captured in the Trial Balance under item 1450199-Receipts Not Classified Elsewhere Classified (Appropriation in Aid for SGR).

(c) Transfer to other Government units Kshs. 48,496,199,567 Variance

The amount reported under Note 15 of the financial statement (Transfer to other Government Units) tallies with that reported in the Trial Balance of Kshs. 49,363,337,873. This comprised of account item 2630100 Kshs.1,040,310,000 and account item 2630200 Kshs.48,323,027,836.60, thus there was no variance.

(d)Acquisition of Assets Ksh. 95,115,515,065.00 Variance

The amount reported under Note 18 of the Financial Statements (Acquisition of Assets) was Kshs. 95,314,174,794 which tallies with that in the Trial Balance under Item 3110000- Acquisition of Assets therefore there is no variance.

(i) Exchequer provision Kshs. 12,804,984,343.00 Variance

The Trial Balance reported a cumulative figure of Kshs. 42,563,046,631.45 under item 9910200:- exchequer Provisions. This amount includes a brought forward of Kshs. 29,756,062,286.45 the Net difference being Exchequer for year 2016/2017 Kshs. 12,804,984,343. System related errors amounting to Kshs. 6,144,557,530 and unresolved accounting errors of Kshs. 417,952,934 are being corrected through ongoing auto bank reconciliation.

Committee Observations and Findings

(i) A comparison between the financial statements and the supporting trial balance revealed a total positive variance of Kshs. 238,120.816 of amount Kshs. 184,052,828.00 relates to system related errors and Kshs. 54,067,987.75 relate to accounting errors. an amount of Kshs.2,863,993.75 related to accounting errors had been corrected and adjusted; and

(ii) The committee observed that variances relating to system errors totaling Kshs. 184,052,828 were not reconciled. Further ssystem related errors amounting to Kshs. 6,144,557,530 and un-resolved accounting errors of Kshs. 417,952,934 are being corrected through ongoing auto bank reconciliationTherefore then committee marked the matter as unresolved.

Committee Recommendations

(i) The Accounting Officer should always ensure that the records are reconciled and analyzed with necessary supporting documents are submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;

(ii) Within three (3) months of tabling and adoption of this report, the Accounting Officer should ensure all the errors and variances are fully reconciled and the revised financial statements submitted to the Auditor- General for review.

251.2 Variances between the Financial Statements and IFMIS Generated Report

The financial statements submitted for audit also differed from IFMIS generated financial statements as shown below:

Details	Financial Statements	IFMIS Reports	Difference
	Ksh.	**Ksh.**	**Ksh.**
Financial Assets	77,053,284	43,881,666,298	-43,804,613,014
Financial Liabilities	52,540,895	35,528,277,814	-35,475,736,919
Opening Fund balances	427,982,411	8,328,876,093	-7,900,893,682

The above differences between these two sets of records were not explained.

Submission by Accounting Officer

The Accounting Officer admitted that it was true that IFMIS Financial Assets stood at Ksh.43,881,666,298, financial liabilities at Ksh.35,528,277,814 and opening Fund Balances at Ksh.8,328,876,093 respectively. As indicated in our earlier response, there is an on-going Auto-Bank Reconciliation for prior years the conclusion of which will result to the true position of the Financial Assets/Liabilities. Currently the Financial Assets as reported in the IFMIS have reduced from Kshs. 43,881,666,298 to Kshs. 17,914,350,691 as summarized below.

Financial Assets

	Audited	**Revised**
	Ifimis Report 2016/2017(Kshs.)	**Ifimis Report 2016/2017(Kshs.)**
Recurrent Bank Accounts	(2,394,857,264.85)	1,753,106,744.65
Development Bank Accounts	(19,214,158,161.05)	44,340,870,413.40
Capacity Development	-	(23,146,793,211.25)
Deposit Bank A/C	-	20,004,782.70
Cash	6,894,118,492.20	(3,566,392,159.00)
Cash In Transit	58,852,229,191.30	(1,486,445,879.20)
Total Financial Assets:	44,137,332,257.60	17,914,350,691.30
Accountsreceivables	***(255,665,960.00)***	-
Total Financial Assets as per IFIMIS report	***43,881,666,297.60***	***17,914,350,691.30***

Accounts Receivables

		Audited	Revised
		Ifimis Report 2016/2017(Kshs.)	**Ifimis Report 2016/2017(Kshs.)**
Accounts Receivables:			
	Salary Advance	660,287.75	-
	Sub Totals	**660,287.75**	**-**
Other Debtors and Prepayments	Prepayments	(548,960.00)	-
	R/D Cheques	36,822,703.00	-
	Sub Totals	**36,273,743.00**	**-**
Government Imprest:	Standing imprest	1,591,014.85	-
	Temporary imprest	(19,765,103.10)	-
	Sub Totals	**(18,174,088.25)**	**-**
Suspense and Clearance Account	General suspense	(288,504,593.20)	-
	District Suspense a/c	6,922,155.50	
	Stale cheques-Receipts	7,156,535.20	-
	Sub Totals	**(274,425,902.50)**	**-**
Total Accounts Receivable		**(255,665,960.00)**	**-**

Financial Liabilities

The Financial Liabilities as reported in IFMIS have reduced from Kshs.35,528,277,813.65 to Kshs.4,726,579,503 due to accounting for below-the-line items most of which had not been encountered for at the time of reporting. The same is analysed here below: -

Accounts Payable:			
Deposits:	General Deposits	354,638,255.55	(19,069,253.40)
	10percentretention Money	2,485,369.60	0
	Sub Totals	**357,123,625.15**	**(19,069,253.40)**
			0
Other Liabilitiies:			0
	PAYE	3,355,495.70	0
	NHIF	277,300.00	0
	House Rent	110,209.00	0
	Income Tax	478,981.70	0
	NSSF	17,900.00	0
	Co-Operatives	48,933.75	0

	Insurance	347,869.55	0
	Court Attachments	32,000.00	0
	WCPS	93,977.10	0
	Staff Welfare Associations	15,095.85	0
	Helb Deductions	27,083.90	0
	Salary Control Accopunts	823,240.55	0
Salary Deductions:	PAYE	20,333,090.65	0
	NHIF	1,952,771.90	0
	House Rent	770,380.35	0
	NSSF	88,100.00	0
	Co-Operatives	19,145,088.95	0
	Insurance	1,796,734.55	0
	Hire Purchases	132,424.40	0
	Court Attachments	(8,000.00)	0
	WCPS	566,538.75	0
	Staff Welfare Associations	2,176,422.15	0
	Helb Deductions	100,428.05	0
	Save As You Earn (Saye)	7,213,781.55	0
	Morgages/Bank Loans	6,810,726.25	0
	Govt.Liability Attachments	90,694.60	0
	Salary Overpayments Refunds	13,199.95	0
	Civil Service Housing Fund	3,958,090.45	0
	3percentcommission on deductions	97,885.00	0
	Salary Control Accounts	62,634,004.70	0
	Contractors Rentention Money	1,316,559.15	0
	Sub Totals	**134,817,008.50**	**-**
Witholding Taxes	Vat Witholding	184,052,827.60	(18,626,679.85)
	Sub Totals	**184,052,827.60**	**(18,626,679.85)**
System Required Libilities Accounts	Ap Liabilities	3,330,130,165.20	3,031,989,359.40
	Cash Clearing Account	(39,534,401,440.10)	(7,720,872,929.15)
	Sub Totals	**(36,204,271,274.90)**	**(4,688,883,569.75)**
Total Financial Liabilities:		**(35,783,943,773.65)**	**(4,726,579,503.00)**

Committee Observations and Findings

(i) **The IFMIS Financial Assets stood at Ksh.43,881,666,298, financial liabilities at Ksh.35,528,277,814 and opening Fund Balances at Ksh.8,328,876,093 respectively. The financial assets as reported in the IFMIS have reduced from Kshs. 43,881,666,298 to Kshs. 17,914,350,691;**

(ii) **The Committee observed that a review of the IFMIS records showed financial assets reduced by Kshs. 2,758,288,664 and Financial Liabilities reduced by Kshs. 31,013,790,635 leaving balances of Kshs. 41,046,324,350 and Kshs. 4,461,946,284 unresolved;**

(iii) **The Committee observed that the opening fund balance variance of Kshs. 7,900,893,682 also has not been reconciled; and**

(iv) **The matter remains unresolved.**

Committee Recommendations

(i) **The Accounting Officer should always ensure that the records are reconciled and analyzed with necessary supporting documents are submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;**

(ii) **Within three (3) months of tabling and adoption of this report, the Accounting Officer should ensure all the errors and variances are fully reconciled and the revised financial statements submitted to the Auditor- General for review.**

252. Suspense Clearance Account

The trial balance as at 30 June 2017 reflects credit balance and debit balance of Kshs. 14,078,691 and Kshs. 288,504,593 respectively both described as suspense clearance account. The suspense clearance account balances have not been explained, thus the correctness and accuracy of the financial statement for the year ended 30 June 2017 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that included in the Kshs. 14,078,691.00 is Kshs. 6,922,155.50 relating to AIE's issued to Government Clearing Agency, Mombasa. Journals relating to the same were posted in the IFMIS System but were not fully processed and showed an error (failed) during our reconciliation, this figure of Kshs. 6,922,155.50 has since been fully processed. The balance of Kshs. 7,156,535 relates to IFMIS "Returned to Drawer" payments made from the "Stale

Cheques" item 6780105 without a corresponding receipt being captured in the IFMIS. This has been corrected vide Journal Entry No.18773573.

Kshs. 288,504,393 relates to payments Payment Vouchers No.000340 of Kshs. 186,943,680 and Payment vouchers 008407 of Kshs.100,000,000 which had been erroneously charged under this account. These payments were subsequently paid out of the appropriate account i.e. Acquisition of Assets

Committee Observations and Findings

(i) The Committee observed that although suspense clearance account balances reflect nil figures in the revised trial balance, some audited balances have been adjusted and new balances included in the revised trial balance.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer should always ensure that the records are reconciled and analyzed with necessary supporting documents are submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;

253. Budgetary Control

253.1 Under Utilization

The financial statements for the year ended 30 June 2017 include a summary of appropriation; recurrent and development combined which reflects an expenditure of Kshs.145,111,654,945 against the budget of Kshs.169,130,621,133 thus resulting in an under-expenditure of Kshs.24,018,966,188 i.e. 14 percent under-utilization and no satisfactory explanation was provided. 253.2 Pending Bills Annex1- Analysis of pending accounts payables reflects pending bills amounting to Kshs. 6,368,644.47 as at 30 June 2017. Had the bills been paid, the surplus of Kshs. 24,512,389 would have been reduced by the same amount of pending bills.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that there was an underutilization of 14 percent which is made up of following items:-

i. Exchequer releases 74percent - the underutilization was occasioned by the late reallocation of funds from LAPSSET towards the closure of the financial year when it was too late to fully utilize the funds.
ii. Proceeds from Sale of Assets 0percent - No Asset was sold during the year.
iii. Other Receipts 61percent - the implementation of SGR Phase I was behind schedule; caused by delay in NEMA approvals due to litigation and other Land Acquisition issues along the corridor.
iv. Use of goods and services 79percent - caused by delays in procurement processes.
v. Transfers to Other Government Units 89percent: - this was occasioned by the late reallocation of the Kshs 3 Billion from LAPSSET.
vi. Acquisition of Assets 84 percent:- this was occasioned by the SGR project not proceeding as per the schedule due to problems of land acquisition especially access to the national parks. There was also under expenditure under air transport department, caused by delays in contractual process which slowed the construction of the terminals at JKIA.

Committee Observations and Findings

(i) The financial statements for the year ended 30 June 2017 include a summary of appropriation; recurrent and development combined which reflects an expenditure of Kshs.145,111,654,945 against the budget of Kshs.169,130,621,133 thus resulting in an under-expenditure of Kshs.24,018,966,188 i.e. 14 percent under-utilization; and

(ii) Analysis of pending accounts payables reflects pending bills amounting to Kshs. 6,368,644.47 as at 30 June 2017. Had the bills been paid, the surplus of Kshs. 24,512,389 would have been reduced by the same amount of pending bills.

Committee Recommendations

The Accounting Office should ensure systems and mechanisms are put in place to enable budget execution and in comformity with Regulation 33 of the PFM Act 2012.

253.2 Pending Bills Arrears

Pending Bills Annex 1 – Analysis of pending accounts payable reflects pending bills amounting to Kshs. 6,368,644.47 as at 30 June 2017. Had the bills been paid, the surplus of Kshs. 24,512,389 would have been reduced by the same amount of pending bills.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Pending Bills reflected amounted to Kshs. 6,368,644.47 as at 30 June 2017. This was occasioned by the delayed Exchequer release. The pending bills were paid in subsequent period other than three cases which are under review.

Committee Observations and Findings

(i) **The Committee observed that the pending bills were paid in subsequent financial year other than three cases which are under review.**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

(i) **Accounting Officers must at all times ensure that pending bills are treated as a first charge in the subsequent financial year approved budget and prepare estimates of expenditure and revenues of the entity in conformity with the strategic plan pursuant to the provisions of section 68(2) (h) of the Public Finance Management Act, 2012.**
(ii) **Cabinet Secretary for the National Treasury should put in place mechanisms to ensure that bills due are promptly settled to ensure responsive, prompt, effective, impartial and equitable provision of services as articulated in Section 7 of the Public Service (Values and Principles) Act, 2012.**

254. National Urban Transport Improvement Project-MOT Component

254.1 Special Account Reconciliation

The special account reconciliation for National Urban Transport Improvement Project (MOT Component) prepared by the National Treasury showed that an amount of USD 174,168.46 (Kshs. 17,890,915.45) was transferred to the project bank account. However, the project financial statements showed an amount of Kshs. 47,176,982 was received as loan revenue from External Development Partners. The difference of Kshs. 29,286,067 between the two records was not reconciled.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Special Account Reconciliation reflected an amount of USD.174,168.46 (Kshs.17,890,915.45) as having been transferred to the Project Bank Account whereas the Financial Statements showed an amount of Kshs.47,176,982 was received as Loan Revenue. The amount of Kshs. 47,176,982 was meant to be remitted to

Kenya Railway Corporation. This was done in the subsequent year 2017/2018 on 22nd March 2018.

Committee Observations and Findings

- **(i) The Special Account Reconciliation reflected an amount of USD.174,168.46 (Kshs.17,890,915.45) as having been transferred to the Project Bank Account whereas the financial statements showed an amount of Kshs.47,176,982 was received as Loan Revenue;**
- **(ii) The amount of Kshs. 47,176,982 was meant to be remitted to Kenya Railway Corporation. This was done in the subsequent year 2017/2018 on 22nd March 2018; and**
- **(iii) The Committee marked the matter as resolved.**

Committee Recommendations

The Accounting Officer should always ensure that the records are reconciled and analyzed with necessary supporting documents are submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

Other Matter

255. Prior Year Unresolved Matter

255.1 Budgetary Control

As reported in the previous year, the financial statements for the year ended 30 June 2016 included a summary of appropriation; recurrent and development combined which reflects an expenditure of Kshs.73,004,859,771 against the budget of Kshs.170,322,963,791 thus resulting in an under-expenditure of Kshs.97,318,104,020 i.e. 57percent under-utilization and no satisfactory explanation was provided.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the financial statements for the year ended 30 June 2016 include a summary of appropriation, recurrent and development combined which reflects an expenditure of Kshs. 73,004,859,771.00 against the budget of Kshs.170,322,963,791.00 thus resulting in an under-expenditure of Kshs.318,104,020 or 57percent under-utilization. During the financial year 2015/2016 the underutilization especially on acquisition of assets there was a huge disparity of expenditure and budget on the construction of Standard Gauge Railway (SGR). This disparity between the budget and expenditure was occasioned by disputes on land on the SGR corridor.

Some communities along the corridor resisted the usage of their land and this delayed the land acquisition and the attendant budget utilization.

Committee Observations and Findings

The Committee observed that the matter was dealt with in its report of the financial year 2015/2016.

256. Pending Bills

Further, note 26.1 to the financial statements reflected pending accounts payables totaling Kshs. 66,010,455 which remained outstanding as at 30 June 2016. No satisfactory explanation was provided as to why the bills were not settled despite the knowledge that their non-payment would constrain the budget for 2016/2017 financial year should they be paid in the year. Had the pending bills been paid in the year under review, the underutilization would have been reduced by Kshs. 66,010,455. Also note 19.1 to the financial statements reflected pending bills of Kshs. 2,408,879,265 whose analysis had not been provided to give details of pending bills as required by the Public Sector Accounting Standards Board. Had the bills been paid, the under-utilization would have reduced by Kshs. 2,408,879,265.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that note 26.1 to the financial statements reflects pending accounts payable of Ksh.66,010,455 which remained outstanding as at 30 June 2016, and that had the pending bills been paid in the year under review, the under-utilization would have been reduced by Kshs.66,010,455. PAC report 2015/2016.

Committee Observations and Findings

(i) The financial statements reflect pending accounts payable of Ksh.66,010,455 which remained outstanding as at 30 June 2016, and that had the pending bills been paid in the year under review, the under-utilization would have been reduced by Kshs.66,010,455;
(ii) The Committee observed that the bills were cleared in the subsequent year.

Committee Recommendation

(i) **Accounting Officers must at all times ensure that pending bills are treated as a first charge in the subsequent financial year approved budget and prepare estimates of expenditure and revenues of the entity in conformity with the strategic plan pursuant to the provisions of section 68(2) (h) of the Public Finance Management Act, 2012.**

(ii) **Cabinet Secretary for the National Treasury should put in place mechanisms to ensure that bills due are promptly settled to ensure responsive, prompt, effective, impartial and equitable provision of services as articulated in Section 7 of the Public Service (Values and Principles) Act, 2012;**

257. Government Clearing Agency

As reported in the previous year, the State Department reflected expenditure by Government Clearing Agency totaling Kshs. 81,725,454 for the year ended 30 June 2015. However, the financial statements of the Agency prepared by the National Treasury and submitted for audit reflected receipts of Kshs. 1,747,692 while the State Department of Transport indicated receipts of Kshs. 1,341,835 resulting to unexplained variance of Kshs.405, 857. Review of the matter in the year under review revealed that the matter is still outstanding.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the State Department for Transport reflects expenditure by Government Clearing Agency totaling to Kshs. 81,725,454.00 for the year ended 30 June 2015. It is also true that the financial statements of the Agency prepared by the National Treasury and submitted for audit reflects receipts of Ksh. 1,747,692.00 while the State Department for Transport indicates receipts of Kshs. 1,341,835.00. Note 13 of the financial statement from the National Treasury shows a total receipt of Kshs. 1,747,692 made of transfers to other Government Agencies (Government Clearing Agency-State Department for Transport Kshs.1,341,835.00 and a balance of Kshs.384,857.00 refund to deposit which did not relate to State Department for Transport.

Thus, there was no variance between what was reported as having been paid by the National Treasury and what was received by the State Department for Transport. PAC report 2015/2016.

Committee Observations and findings

(i) **The State Department for Transport reflects expenditure by Government Clearing Agency totaling to Kshs. 81,725,454.00 for the year ended 30 June 2015. Further, the financial statements of the Agency prepared by the National Treasury and submitted for audit reflected receipts of Ksh. 1,747,692.00 while the State Department for Transport indicates receipts of Kshs. 1,341,835.00.**

(ii) **The explanation by the Accounting Officer was satisfactory. Therefore, the matter is marked as resolved.**

258. Unaccounted for Deposits

As reported in the previous year, the financial statements of the Ministry of Transport and Infrastructure for the year ended 30 June 2014 omitted the deposits bank balance of Kshs. 558,884,792 held in Central Bank Account No. 1000182188. Re-examination of the deposits balance in 2015/2016 revealed that out of the bank balance of Kshs. 558,884,792 reflected in a reconciliation dated 8 September, 2014, the State Department of Transport received Kshs. 101,772,644 and the State Department of Infrastructure received the balance amounting to Kshs.457,112,149.

However, and although the State Department of Transport received Kshs.101,772,644 only Kshs.63,266,317 was reflected in the financial statements leaving a balance of Kshs.38,506,327 which was explained to have been transferred to the National Treasury in unclear circumstances. Review of the issue in 2016/2017 revealed that the issue remains outstanding.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that as reported in the previous year, the financial statements of the Ministry of Transport and Infrastructure for the year ended 30 June 2014 omitted the statement of deposits bank balance of Kshs. 558,884,792.25 held in Central Bank Account No. 1000182188. It was indicated that a review of the deposits balance during the year revealed that, out of the bank balance of Kshs.558,884,792.25 and as per reconciliation dated September 2014, the State Department for Transport received Kshs.101,772,643.55 and the State Department for Infrastructure received the balance of Kshs.457,112,148.70.

However, at the end of the financial year the State Department for Transport was only able to analyze and support Kshs. 63,266,317.05. It is noted that the State Department for Transport received Kshs. 63,266,317.05 in its deposit bank account as opposed to Kshs. 101,772,643.55 indicated herein. A copy of the deposit bank Account No1000211551 statement showing the opening balance of Kshs. 63,266,317.05 is herein attached also a letter from the National Treasury instructing the CBK to transfer the balance of Ksh. 38,506,326.50 and close the account; a letter from CBK confirming transfer of Ksh. 38,506,326.50 to the exchequer and an Exchequer account bank statement extract reflecting receipt of Ksh. 38,506,326.50 are attached. At the end of the financial year. The state Department of Transport was only able to analyze and support Kshs. 63,266,317.05 as indicated in Appendix V out of the Kshs. 101,772,643.55 received.

The National Treasury therefore withdrew back to the exchequer the unsupported deposits of Kshs. 38,506,326.50.

Committee Observations and Fidnings

The Committee marked the matter as resolved.

RAILWAY DEVELOPMENT LEVY FUND (OPERATIONS ACCOUNT)

Unqualified Opinion

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

Other Matter

259. Prior Year Matter - Variances between amounts paid from Railway Development Levy Fund (RDLF) and amount reflected as received in Kenya Railways Corporation Financial Statements

As reported in the previous year, the Fund's statement of receipts and payments for the year ended 30 June 2016 reflected payments for acquisition of non- financial assets totalling Kshs.4,320,984,173 out of which payments totalling Kshs.393,443,836 made up of Kshs.205,363,955; Kshs.161,748,698 and Kshs.26,331,183 as shown in note 5 to the financial statements were paid during the year 2015/2016 for consultancy services relating to Standard Gauge Railway Project. However, the financial statements for of Kenya Railway Corporation for the year ended 30 June 2016 reflected work-in-progress amount of Kshs.453,201,881 as having been paid during the year 2015/2016 thus resulting in a variance of Kshs.59,758,045 which was not explained.

A review of the issue in the year 2016/2017 revealed that the matter is still outstanding.

Submission by Accounting Officer

The Accounting Officer stated that the Funds statement of receipts and payments for the year ended 30 June 2016 reflects payments for acquisition of Non-Financial assets totaling to Kshs.4,320,984,173.00 out of which payments totaling to Ksh.393,443,836.00 made up of Kshs.205,363,955.00, Kshs.161,748,698.00 and Kshs.26,331,183.00 were for consultancy services relating to Mombasa-Nairobi SGR.

The difference of Kshs.59,758,045.00 was as a result of Kenya Railway Corporation using accrual basis of accounting (taking the invoice amount less tax) to recognize the actual work done, whereas RDLF-operation account reported the actual payment done. These three payments were made from the headquarters directly to the consultant as indicated in Notes 5 of the Financial Statements (Acquisition of non-financial assets) as opposed to being transfer to Kenya Railways Corporation.

Committee Observations and Findings

(i) There was a variance between amounts paid from Railway Development Levy Fund (RDLF) and amount reflected as received in Kenya Railways Corporation Financial Statements. The resulting in a variance of Kshs.59,758,045 which was not explained at the time of audit; and

(ii) The Committee observed that the matter was dealt with in the financial year 2015/2016.

Committee Recommendations

The Committee commends the Accounting Officer and the team for the Railway Development Levy Fund (Operations Account) for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2017;

DONOR FUNDED PROJECTS

KENYA TRANSPORT SECTOR SUPPORT PROJECT CR NO 4926-KE AND 5410-KE (MOT COMPONENT)

Unqualified Opinion

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

Committee Observations and Findings

Kenya Transport Sector Support Project Cr No 4926-KE and 5410-KE (MOT Component) received an unqualified opinion in the FINANCIAL YEAR 2016/2017 which is commendable.

Committee Recommendations

The Committee commends the Accounting Officer and the team for Kenya Transport Sector Support Project Cr No 4926-KE and 5410-KE (MOT Component) for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2017;

EAST AFRICA TRADE AND TRANSPORT FACILITATION PROJECT IDA CREDIT NO.4148 (MOT COMPONENT)

Unqualified Opinion

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

Committee Observations and Fidnings

The East Africa Trade and Transport Facilitation Project IDA Credit No.4148 (MOT Component) received an unqualified opinion in the FINANCIAL YEAR 2016/2017 which is commendable.

Committee Commendation

The Committee commends the Accounting Officer and the team for East Africa Trade and Transport Facilitation Project IDA Credit No.4148 (MOT Component) for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2017;

EAST AFRICA TRADE AND TRANSPORT FACILITATION PROJECT (IDA CREDIT NO.4148KE AND 4977KE-MOT/KRC COMPONENT)

Unqualified Opinion

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

Committee Observations and Findings

The East Africa Trade and Transport Facilitation Project (IDA CREDIT NO.4148KE and 4977KE-MOT/KRC Component) received an unqualified opinion in the FINANCIAL YEAR 2016/2017 which is commendable.

Committee Recommendations

The Committee commends the Accounting Officer and the team for East Africa Trade and Transport Facilitation Project (IDA CREDIT NO.4148KE and 4977KE-MOT/KRC Component) for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2017;

16.0. STATE DEPARTMENT FOR MARITIME AND SHIPPING AFFAIRS

FINANCIAL STATEMENTS FOR VOTE 1093

Unqualified Opinion

The Committee observed that there were no material issues noted during the audit of the financial statement.

17.0. STATE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

FINANCIAL STATEMENTS FOR VOTE 1094

Mr. Charles Hinga Mwaura, the Principal Secrtetary and Accounting Officer for the State Department of Housing and Urban Development (Vote 1094) appeared before the committee on 25th July 2019 and 5th August 2019 to adduce evidence on the Audited Financial Statements for the State Department of Housing and Urban Development (Vote 1094) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Ms. Evelyn O. Nyakwara - Senior Principal Finance Officer**
2. **Mr. Daniel Odhiambo - Senior Finance Officer**
3. **Mr. Victor Ogutu - Ag. Director**
4. **Mr. Lawrence Kithinji - Accountant**
5. **Mr. Daniel Mwangi - Accountant**
6. **Ms. Christine Dambya - Chief Accountant**
7. **Mr. Michael Ochieng - Chief Engineer**
8. **Mr. Julius Wairagu - Deputy Director**
9. **Mr. Cornelius Kimunyu - SAD**
10. **Ms. Helen Abuya - DDE**

Basis for Qualified Opinion

260. Accounts Receivables - Outstanding Imprests

The statement of assets and liabilities as at 30 June 2017 reflects financial assets totaling Kshs.710,374,182 out of which Kshs.26,260,178 are accounts receivables. Included in the accounts receivable balance of Kshs.26,260,178 is an amount of Kshs.9,608,578.00 described as district suspense but no further details were availed, and no investigations had been made as at 31 March 2018 to establish the details of the same. Further, the account receivables balance includes outstanding imprests totaling Kshs.16,651,602 issued to staff between 01 July 2012 and 30 June 2017, an indication that some imprests have been outstanding for over 5 years.

This is contrary to Regulation 92 (5,6,7) of the Public Financial Management (National Government) Regulations, 2015 which, requires a holder of temporary imprest to account/surrender the imprest within 7 working days after returning to duty station.

Submission by Accounting Officer

The Accounting Officer submitted that the Kshs. 9,608,578 is A.I.E's given to Districts but the Districts have not sent returns for accounting. We have reminded the Districts to submit the expenditure returns. We have received returns for Kshs. 7,004,571 and we are pursuing the balance of Kshs. 2,604,005.

He admitted that the Account Receivables balance includes outstanding imprests totaling Kshs.16,651,602 issued to staff as at 30th June, 2017. However out of the outstanding imprest amounting to Kshs.16,651,602, Kshs.14,397,588 have since been surrendered. The balance of Kshs.2,254,014 is being recovered through the payroll and letters of notice of recovery were written to the affected officers.

Committee observations and Findings

- **(i) The Committee observed that the State Department has received returns for Kshs. 7,004,571 and still pursuing the balance of Kshs. 2,604,005.**
- **(ii) The Committee observed that out of the outstanding imprest amounting to Kshs.16,651,602, Kshs.14,397,588 has since been surrendered.**
- **(iii) The matter remains unresolved.**

Committee Recommendations

- **(i) The Accounting Officer must ensure that within three months after the adoption of this report, the recovery of the outsatnding imprests of Ksh.2,604,005.00 is completed; and**
- **(ii) Where the accounting officer fails to recover outstanding imprest of Ksh.2,604,005.00, the Accounting Officer should be surcharged pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.**

261. Proceeds from Domestic and Foreign Grants

The statement of receipts and payments for the year ended 30 June 2017 reflects proceeds from domestic and foreign grants amounting to Kshs.200,000,000. Although the trial balance also reflects grants from foreign governments – direct payments treated as AIA amounting to Kshs.200,000,000, the total amount has not been supported.

Submission by Accounting Officer

The Accounting Officer submitted that the amount of Kshs. 200,000,000 was a direct payment for kfw-Germany towards Primary and Secondary Schools construction of 15 schools in poor urban areas, 13 of which have been completed and handed over. The remaining 2 schools are ongoing.

Committee observations and Findings

(i) **The Committee observed that the Accounting Officer provided a report to the Committee how Ksh. 200,000,000 was initially paid to the Consolidated Account.**
(ii) **The Committee marked the matter as resolved.**

262. Proceeds from Foreign Borrowing

The statement of receipts and payment for the year ended 30 June 2017 reflects proceeds from foreign borrowing representing direct payment to Nairobi Metropolitan Service program amounting to Kshs.3,864,144,628. However, the audited financial statements for the program reflects Kshs.3,702,677,896 resulting to a variance of Kshs.161,466,732 which has not been explained or reconciled. Further, the balance of Kshs.3,864,144,628 excludes Foreign Borrowing – Drawdowns through Exchequer amounting to Kshs.3,776,610,350 which is inadvertently included in the Transfers from National Treasury - Exchequer Releases balance of Kshs.10,855,020,511.

Submission by Accounting Officer

The Accounting Officer submitted that the variance of Kshs. 161,466,732 reported under proceeds from foreign borrowing has since been reconciled and analyzed as follows;

Table 1: Variance of Kshs. 161,466,732 under NAMSIP

S/No	Description	Amount (Kshs)
1.	Amount meant for exchequer transactions from the headquarters account but erroneously charged under foreign borrowing has been explained.	53,000,000.00
2.	Amount for Kisumu Urban Project (KUP) but captured under Nairobi Metropolitan Services Project (NAMSIP) since both projects fall under same Item code: 5120200 in the IFMIS.	120,565,323.10

3.	Amount meant for the payment to Jumal Construction Ltd for the construction of Ngong Bus Terminus. The amount was properly captured in the ledger but did not reflect in the foreign borrowing ledger in the IFMIS.	(12,098,591.10)
	Total	**161,466,732.00**

He admitted that the foreign borrowing drawdowns of Kshs. 3,776,610,310 were included in the figure of Kshs. 10,855,020,511. This is because; when the exchequer notifications are issued, they are inclusive of both National Entity exchequer and the foreign borrowing drawdowns. When capturing these receipts in receivables in the IFMIS system the two balances were wrongly captured as one instead of separating them. The error was later detected, and we undertake to ensure it does not recur in future statements.

Committee Observations and Findings

(i) **The Committee observed that the Accounting Officer provided the report to the Committee on how Kshs.3,864,144,628.00 was initially paid to the Consolidated Account.**
(ii) **The Committee marked the matter as resolved.**

263. Kenya Municipal Programme - Special Account Reconciliation

The special account statement prepared by the National Treasury indicates that Kshs.1,455,530,287 ($14,107,348.14) was released for the programme activities during the year under review but the programmes' financial statements under Note 8.9A reflects 162 receipts of Kshs.1,340,283,408. The variance of Kshs.115,246,879 has not been explained or reconciled.

Submission by Accounting Officer

The Accounting Officer submitted that the variation of Kshs. 115,246,879.05 consists of Kshs. 99,420,120 which was received at the project account on 1st July, 2017 long after 2016/17 Financial Year had been closed. The balance of Kshs. 15,826,759.95 was not received from the National Treasury due to variations of exchange rates as tabulated below;

Table 2: Amount disbursed to KMP

Date	Amount Disbursed (a) $	Expected amount before fluctuation of exchange rate of 103.18 (b) Kshs.	Actual Exchange Rate	Actual Exchequers received from National treasury (c) Kshs.	Loss/Gain due to exchange rate (c-b) Kshs.
10.05.2016	7,413,997.62	764,941,644.35	101.16	750,000,000.00	(14,941,644.35)
21.3.2017	5,730,350.52	591,230,800.73	103.01	590,283,407.05	(947,393.68)
Sub Total	**13,144,348.14**	**1,356,172,445.08**		**1,340,283,407.05**	**(15,889,038.03)**
07.01.2017	963,000.00	99,357,841.92	103.24	99,420,120.00	62,278.08
Gross Total	**14,107,348.14**	**1,455,530,287.00**		**1,439,703,527.05**	**(15,826,759.95)**

The amount indicated in the KMP special Account statement at the National Treasury is USD 14,107,348.14 equivalent to Kshs. 1,455,530,287 at an exchange rate of Kshs.103.18. Copies of exchange rates and exchequer notifications are attached.

Committee observations and Findings

(i) The Committee observed that the Account statement at the National Treasury of USD 14,107,348.14 equivalent to Kshs. 1,455,530,287 translated into 1,439,703,527.05 being the Actual Exchequer received by the State Department leading to a vaiance of Kshs. 15,826,759.95 arising from the fluctuating foreign exchange rates.

(ii) The Committee observed that the submission by the Accounting Oficer was satisfactory.

(iii)The committee marked the matter as resolved.

264. Pending Bills

The financial statements under other important disclosures reflect pending accounts payable (pending bills) amounting to Kshs.1,257,844,010 which had not been settled by 30 June 2017. Had the pending bills been paid, the surplus for the year would have been reduced by the same amount.

Submission by Accounting Officer

The Accounting Officer admitted that the financial statements under other important disclosures reflect pending bills payable amounting to Kshs. 1,257,844,010 which had not been settled by 30th June, 2017. These bills were not paid due to insufficient exchequer. However, Kshs.

1,074,467,978 has since been paid in FINANCIAL YEAR 2017/18. The remaining balance of Kshs. 183,376,032.89 was subjected to the pending bills task force which finalized its work in March, 2019. The validated pending bills are in the process of payment.

Table 3: Exchequer releases as at 30th June, 2017

Vote	Budget Kshs.	Exchequer Kshs.	Variation Kshs.
Recurrent	2,317,662,844	1,295,000,000	1,022,662,844
Development	11,736,835,000	9,560,020,511	2,176,814,489
Budget	**14,054,497,844**	**10,855,020,511**	**3,199,477,333**

Committee observations and Findings

(i) **The Committee observed that some of the Ksh. 183,376,032.89 has since been processed and the remaining balances are in process of payment and supporting documents were availed and verified; and**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

(i) **Accounting Officers must at all times ensure that pending bills are treated as a first charge on the approved budget of the subsequent financial year and should prepare estimates of expenditure and revenues of the entity in conformity with the strategic plan pursuant to the provisions of section 68(2) (h) of the Public Finance Management Act, 2012.**
(ii) **Cabinet Secretary for the National Treasury should put in place mechanisms to ensure that bills due are promptly settled to ensure responsive, prompt, effective, impartial and equitable provision of services as articulated in Section 7 of the Public Service (Values and Principles) Act, 2015.**

THE RECEIVER OF REVENUE - STATE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Basis for Qualified Opinion

265. Non-Maintenance of Books of Accounts and Revenue

Bank Account During the period ended 30 June 2017, the State Department of Housing and Urban Development did not maintain books of accounts (e.g. cash book and ledgers) and a revenue bank account, contrary to Section 83 of the Public Financial Management Act 2012, and Regulation 100 of the Public Finance Management (National Government) Regulations 2015. In the circumstances, the validity, accuracy and completeness of rent revenue amount of Kshs.249,561,252 reported in the Revenue Statement for the year ended 30 June 2017 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the state Department did not maintain books of accounts and revenue bank accounts because it shared the revenue account with the Ministry of Lands and Physical Planning before the two were officially separated on 1st July 2016. Extract of Executive Order No 1/2016 of May 2016 attached. However, after separation, it took time before the State Department got approval to operate its own revenue accounts.

The Principal Secretary in charge of Housing and Urban Development was subsequently appointed receiver of National Government Revenue on 11th January, 2017 vide the National Treasury letter.

On 16th March 2017, the Principal Secretary for Housing and Urban Development wrote to National Treasury requesting for facilitation to open a revenue account at the central bank to enable depositing of collected revenue.

The approval and the account were granted on April 4th 2017. Due to the above systems delay, we were not in a position to veriFinancial Year the completeness and validity of the amount in question. To ensure that all government houses are accounted for and that rent deducted from payroll is received, recorded, banked and remitted to exchequer, the State Department has put in place stringent measures meant to seal all revenue leakages and losses.

Committee Observations and Findings

- **(i) The Committee observed that the submission by the Accounting Oficer was satisfactory.**
- **(ii) The committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

266. Rental Income

According to rent analysis provided by the Estate Department for the year ended 30 June 2017, the rent paying Houses totaling 27,547 were expected to generate monthly rent revenue of Kshs.49,131,995. Consequently, expected rental revenue for the year ended 30 June 2017 was Kshs.589,583,940, but only Kshs.249,561,252 was disclosed in the Revenue statement and the under collection of Kshs.340,022,688 was not satisfactorily explained. Further, a summary of payroll by products held by the Estate Department shows that total rent revenue deducted from staff amounted to Kshs.407,966,482 during the year while the revenue statements reflect a total of Kshs.249,561,252 resulting to a variance of Kshs.158,405,252 which has not been accounted for. In the circumstances the management has failed to put in place measures and controls to ensure that all Government Houses are safeguarded and that rent deducted from payroll received, recorded, banked and remitted to Exchequer Accounts as required.

Submission by Accounting Officer

i. **under collection of Kshs. 340,022,688**

It is true that, according to the analysis given by the Estates Department for the year ended 30th June 2017, the Department under collected the rental revenues as stipulated below:

Total No. of houses fetching Market rent	27,547
Expected rent per month	49,131,995.00
Expected rent per annum	589,583,940.00
Total rent revenue disclosed in the revenue statement	249,561,252.00
Under collection	**340, 022,688.00**

1. The above figures of rental income were projections or targets for the Department for the Financial Year 2016/2017.

2. The projections were made on the assumption that:
   a. There will be no voids (period of no occupants) in the occupancy for the 27,547 houses for the year.

   b. There were to be no free Housing for the disciplined forces (The Police, APs and NYS).

   c. That there will be no boarding, conversion to other uses or for redevelopment.

ii. Variance of Kshs. 158,405,252

Further from the analysis summary of payroll by-products held by Estates Department, it shows:

Total rent deducted from the staff amounted to	Kshs.	407, 966, 482.00
Total rent disclosed by the State Department	Kshs.	249, 561, 252.00
Resulting variation	**Kshs.**	**158,405,230.00**

The reasons for the variance include:

a. Some Ministries and other agencies gave the by-products but failed to remit the deducted rent revenue to the State Department of Housing and Urban Development.
b. Nearly all County Governments recovered rent from Devolved Staff occupying National Government Houses but failed to remit the same to the State Department of Housing and Urban Development.
c. County governments rent by-products have both County Government houses and the National Government. Consequently, the by-products given to the Ministry is not a true reflection of the actual rent recovered from National Government houses.
d. The variance was also due to the refunds of overpaid rent, erroneous recoveries on staffs who vacate government houses at some points, but the rent recoveries go on for some time.

iii. Measures put in place

a. The following books of accounts have been put in place; cashbook for the revenue account, receipt books, bank accounts under the name Rent of Government Buildings.

b. The State Department has moved to close all previous multiple rent revenue accounts **(CBK/BD/KRA/PMG/18)** and establish a single account to receive the remittances. This single account details have been circulated to all Accounting Officers in the Ministries, Departments and County Secretaries. **MTIHUD/HUD//ED/3/6(47)** dated **21st November 2018 attached** and **MTIHUD/HUD/3/21 VOLV/32 dated 16th April 2019** were attached.

c. An analysis of the multiple accounts to which Ministries, Departments and Agencies have been remitting rental income is ongoing with view to tracing all rental income. **(Analysis breakdown attached)**. Letters from Ministries, Departments and Agencies admitting that they have been sending money to the multiple accounts were also attached.

d. Up scaling the Updating of the Housing inventory across the country. This will include follow up for rent recovery through enhanced facilitation to County Directors of Housing for increased mobility and office efficiency. The recurrent Votes for County Estate management which had been lacking since the advent of Devolution has now been restored. Letter to County commissioners requesting them to spearhead the inventory update efforts **MTIHUD/HUD/ED/5/ 14/1 Vol.1/6.** was attached.

e. The Department has requested the State Department for Public Service for separation of market rent recovery Codes by assigning different codes in the IPPD for County government houses and the National Government houses. Request letter; MTIHUD/HUD/ED/5/5/22(47) was attached.

f. The State Department for Housing and Urban Development has requested KRA for assistance to recover rental revenue from defaulting Ministries and Departments. Letter **MTIHUD/ HUD/ ED/2/6(63)** was attached. The Department is waiting for KRA's response and proposal.

g. To professionalize rental income management at the technical department responsible for estates management, Estates Department has requested for additional accounting staff vide letter Ref. No. **MTIHUD/HUD/ED/2/6 (166)** attached. Internal realignments have been made and one such staff has already been deployed to the estates department. Letter **MTIHUD/HUD/4/3/VOL./ (194)** was attached**.**

h. County Governments owing rental money to the State Department have been contacted and requested to make the payments. Sample letter to County government of Kisumu**; MTIHUD/DH/BP/KSM/1** was attached.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the under collection of Kshs. 340,022,688, Variance of Kshs. 158,405,252 and Measures put in place was satisfactory.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

(i) **The Accounting Officer should within three (3) months upon adoption of this report ensure that all the under collected funds respective County Governments are paid and report back to the National Assembly on the same.**
(ii) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

267. Statement of Revenue Arrears

The statement of arrears in revenue as at 30 June 2017 reflects nil balances and no explanation has been provided. This is Contrary to Section 82 (2) (b) of the Public Finance Management Act, 2012, Regulation 65 of the Public Finance Management (National Government) Regulations, 2015 and Public Sector Accounting Standards Board (PSASB) Revenue Reporting Standards Guidelines.

Submission by Accounting Officer

The revenue statement for the Financial Year 2016/17 inadvertently omitted the arrears of revenue amount of Kshs. 158,405,252 as at 30th June, 2017. The same has been disclosed in the revenue statement for the Financial Year 2017/18. *There was an attachment.*
We have attached inventory of government houses and reconciliation on rent collection July, 2018 to June, 2019 as requested. *There was an attachment*.
We undertake to ensure that there is full disclosure of all financial statements in the future.

Committee Observations and Findings

(i) **The submission and accompanying documents tabled by the Accounting Officer explaining the statement of revenue arrears and the mission of Kshs. 158,405,252 as at 30 June 2017, though persuasive, should have been submitted to the Auditor General during the financial year for audit review.**
(ii) **The Committee observed that the inventory of government houses and reconciliation on rent collection July, 2018 to June, 2019 was provided for verification.**
(iii) **The matter remains unresolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

CIVIL SERVANTS HOUSING SCHEME FUND

Basis for Qualified Opinion

268. Cash and Cash Equivalents

268.1 Bank Overdraft

The statement of financial position as at 30 June 2017 reflects cash and cash equivalents balance of Kshs.2,375,548,143 which has been arrived at after netting off cash and cash balances totalling Kshs.2,500,000,000 with an overdraft of –Kshs.124,451,857. No satisfactory explanation has been provided for this treatment. In addition, the reflected cash book balance of Kshs.-124,451,857 (Overdraft) differs with the audited cash book balance of Kshs.-463,720,505 resulting to a variance of Kshs.339,268,648 which has not been explained and/or reconciled.

Submission by Accounting Officer

We are in agreement with the Auditor that the statement of financial position as at 30th June, 2017 reflects cash and cash equivalents balance of Kshs. 2,375,548,142.82. This had been arrived at after netting off cash and cash balances totaling to Kshs. 2,500,000,000 with an overdraft of Kshs.124,451,857.18.

In addition, the reflected cash book balance of Kshs. 124,451,857.18 overdraft differs with the audited cash book balance of Kshs.463,720,505.27 overdraft resulting to a variance of Kshs.339, 268,648.09.

We would like to clariFinancial Year that the Department maintains two manual Cashbooks Deposit Cashbook and Operations Cashbook as back-ups to the Enterprise Resource Planning (ERP) System based cashbooks.

The manual Cashbook reflected a balance of Kshs. 463,720,505.27 overdraft while the system based showed Kshs. 124,451,857.18 overdraft resulting to a variance of Kshs. 339,268,648.09.

This was as a result of errors in the manual cashbook which have since been identified and corrected.

During the period, there were errors in the manual Cashbook which occasioned the variance between the two Cashbooks. The correct cashbook balance is the system-based cashbook which is Kshs. 124,451,857.18 overdraft which we used and reported in the financial statements for 2016/2017 Financial Year. The book overdraft was subsequently reconciled and cleared after posting the omitted entries.

Committee Observations and Findings

(i) The Committee observed that the manual cash book has been updated to agree with the system cash book.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

268.2 Un-reconciled Cash and Bank Items

Examination of the bank reconciliation statement as at 30 June 2017 revealed long outstanding balances in the bank reconciliation totaling Kshs.184,750,652 as receipts in cash book not in the bank. The receipts in cash book not in the bank includes Kshs.13,347,367 balance relating to the previous financial year and earlier years.

Submission by Accounting Officer

The Accounting Officer submitted that the bank reconciliation is a continuous process. The department has been able to clear receipts amounting to Kshs. 147,299,807.34 so far out of the outstanding balance of Kshs. 184,750,625.35 as at 30th June 2017.

The Department has also managed to clear Kshs. 4,290,352.00 out of the balance of Kshs. 13,347,366.95 relating to the previous financial year and earlier years.

The bank reconciliation statement also shows unexplained payments in bank not in cash book amounting to Kshs.10,354,686. These payments have been effected without the necessary payment vouchers being posted to the cash book. The Accounting Officer submitted that those were payment vouchers which had been fully processed but inadvertently omitted while posting the manual cashbook which we use to prepare the bank reconciliation statement. The payment vouchers have since been captured in the cash book.
Further, the bank reconciliation statement reflects a balance of Kshs.59,498,951 being payments in cashbook not in bank which includes Kshs.12,741,658.45 relating to the financial year ended 30 June 2016 and earlier years. In the circumstances, it has not been possible to confirm the accuracy and completeness of cash and cash equivalents balance of Kshs.2,375,548,143 as at 30 June 2017.

The Accounting Officer submitted that the department has since cleared Kshs.50,416,561.21 out of the outstanding balance of Kshs. 59,498,951.45 as at 30th June, 2017. The Department has also managed to clear Kshs. 11,958,393.10 relating to the previous year and earlier years.

The exercise is still ongoing to identiFinancial Year the outstanding balance. The exercise is rigorous but the Department has been facing challenges of shortage of Accountants which is being handled administratively by the Principal Secretary in consultation with the National Treasury.

Committee Observations and Findings

(i) The Committee observed that though the reconciliations are being updated, they are not yet complete; and
(ii) The matter remains unresolved.

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

STATE OFFICERS HOUSE MORTGAGE SCHEME FUND

Unqualified Opinion

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

DONOR FUNDED PROJECTS KENYA INFORMAL SETTLEMENT IMPROVEMENT PROJECT CREDIT NO.4873-KE (IDA)
Unqualified Opinion

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

KOROGOCHO SLUM UPGRADING PROJECT (KENYA/ITALY DEBT FOR DEVELOPMENT SWAP PROGRAMME) CREDIT NO.CN/1246

Unqualified Opinion

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

NAIROBI METROPOLITAN SERVICES IMPROVEMENT PROJECT (CREDIT NO. 5102- KE)

Unqualified Opinion

There were no material issued notes during the audit of the financial statements of this Project.

KENYA URBAN SUPPORT PROGRAMME ADVANCE NO.V0360KE

Unqualified Opinion

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

KENYA SLUM UPGRADING LOW COST HOUSING AND INFRASTRUCTURE TRUST FUND (KENSUF)

Unqualified Opinion

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

18.0. STATE DEPARTMENT OF PUBLIC WORKS

FINANCIAL STATEMENTS FOR VOTE 1095

Prof. Arch. P. M. Maringa, the Accounting Officer for the State Department for Public Works (Vote 1095) appeared before the committee on 20th June 2019 to adduce evidence on the Audited Financial Statements for the State Department for Public Works (Vote 1095) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Samuel Kungu - Accountant**
2. **Mr. Stephen Ikua - Secretary Administration**
3. **Mr. A. N. Okweto - Works Secretary**
4. **Arch. S. K. Muli - Chief Architect**
5. **Mr. Muriuki Z. Mbogori - Chief Financial Officer**
6. **Mr. Mike Kimoko - Ag Director of Administration**
7. **Mr. Qs. F. M Kingori - Chief Quantity Surveyor**
8. **Eng. F. K. Mbiti - Ag C.E.E**

Basis for Adverse Opinion

269. Differences between Financial Statements and Trial Balance

A comparison between the financial statements and the trial balance which was in agreement with IFMIS generated statements revealed a difference of Kshs.120,665,766 under cash and bank balance, and a difference of Kshs.120,882,634 in payables balance as shown in the table below:

Item /Component	Financial Statements (Kshs.)	Trial Balance /IFMIS (Kshs.)	Variance (Kshs.)	Audited Balance (Kshs.)
Cash and Bank				

6530000- Recurrent Account	8,709,590.	-672,773,794.	681,483,384	8,709,590
6540000-Development Accounts	49,856,493	-1,225,167,892	1,275,024,385	49,856,493
6550000 – Deposit Account	1,011,107,969	1,043,585,583	-32,477,614	1,011,107,969
6580101-Cash	1,614,344	1,804,978,733	1,803,364,389	1,614,344
Total	1,071,288,396	950,622,630	3,727,394,544	
Payables				
7310101-General Deposits	0	79,326,058	-79,326,058	0
7320000-Salary Deductions	20,223	-196,576	216,799	20,223
7320200-VAT W/tax	0	-1,838,599	1,838,599	0
7380000 Withholding Taxes	0	-673,198	673,198	0
7390100-System required liabilities	0	-152,797,511	152,797,510	0
7399999-Cash clearing	0	-44,682,517	44,682,517	0
	20,223	-120,862,343	120,882,565	

In the circumstances, it has not been possible to confirm the accuracy and the correctness of the financial statements for the year ended 30 June 2017.

Cash and Bank:

The Accounting Officer submitted that it was true that the financial statement and Trial balance show a difference of Kshs 120,665,765.70 in respect of cash and bank. The difference was a result of system problem under the cash management module in IFMIS, (auto bank reconciliation). The Financial Statement reflect the correct position of total cash and cash equivalent of Kshs 1,071,288,396 according to the cashbook balances as shown in the attached Board of Survey report.

The Department reported the systems failure to the National Treasury for rectification.
See attached copy of letter Ref. No. MOTIHUD&PW/BGT/(16) dated 10/1/2017 to National Treasury.

Current Status

The state department has been able to auto reconcile financial year 2016/2017 bank statements with IFMIS cashbook up to date. Though currently the IFMIS Cash Management Module has been very slow in both uploading bank statements and running Auto reconciliation, which The National Treasury is currently addressing it.
The State Department has also been keeping up to date parallel manual bank reconciliation.

Payables:

The Accounting Officer submitted that it was true that the Financial statement and Trial balance shows a difference of Kshs.120, 882,633.90 in respect of payables. I wish to state as follows;

a) The figure of Kshs 79,326,057.80 under General Deposit was not reflected in Financial Statement because it relates to Stores and Services fund, which is separately reported as Financial Statements for Stores and Services Fund. (See attached copy of the Trial Balance for June, 2017.
b) The figures for VAT of Kshs.1, 838,599.00, withholding Taxes of Kshs 673,197.50, system required liabilities of Kshs.152,797,511.00 and cash clearing of 44,682,517.10 are reflected in IFMIS reports and not in Financial Statement. This is due to the IFMIS system cash management module having challenges in completing system processes. The problem was reported to the National Treasury.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the accuracy and the correctness of the financial statements for the year ended 30 June 2017, though persuasive, should have been submitted to the Auditor General during the financial year for audit review.

(ii) The Committee also observed that the State Department was been able to auto reconcile financial year 2016/2017 bank statements with IFMIS cashbook up to date;

(iii) Further, the Committee also observed that the State Department performs regular follow up with the Lands office; and

(iv) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

270. Pending Bills

The statement of Assets and liabilities as at 30 June 2017 reflects pending accounts payables amounting to Kshs.10,352,026.00. Included in this amount and as disclosed in note 10.1 to the financial statements is an amount of Kshs. 909,950.00 related to supply of goods. However, in the course of the audit, management provided a schedule showing total pending bills of Kshs.354, 554,474.00 and Kshs.41,102,635.00 for construction of buildings and construction of civil works respectively. Although management has explained that the pending bills of Kshs.354, 554,474.00 and Kshs.41,103,635.00 had no budgetary provision during the year, no satisfactory explanation was provided for failure to include the same in the budget.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the pending bills disclosed in the Financial Statement was Kshs 10,352,026.00 which consisted of all bills that were processed for payment but lacked Exchequer provision to facilitate funds transmission/Bank transfer. The additional list of Kshs.354,554,474 and Kshs.41,103,635 had no budgetary provision, and therefore they were never processed for payments. These were certificates that were issued for works done from all ongoing projects.

Current Status

Out of Kshs. 354,554,474.00 in respect of Construction of Building, Kshs. 216,956,966 was budgeted for in 2017/2018 and payments made, leaving a balance of Kshs. 137,597,508.00. The balance of Kshs. 137,597,508.00 was factored in this year's budget and the bills have been paid.

The pending bills of Kshs.41,102,635.00 in respect of construction of Civil Works were budgeted during that Financial year under review but due to re-alignment of the budget, they were deferred to 2017/2018 and 2018/2019 financial years respectively. Kshs. 17,324,260 out of Kshs. 41,102,635.00 was paid in 2017/2018 as provided for leaving a balance of Kshs. 23,778,375.00 which was factored in the current financial year.

Committee Observations and Findings

(i) **The Committee observed that out of Kshs. 354,554,474.00 in respect of Construction of Building, Kshs. 216,956,966 was budgeted for in 2017/2018 and payments made, leaving a balance of Kshs. 137,597,508.00. The balance of Kshs. 137,597,508.00 was factored in 2018/2019 budget and the bills have been paid;**

(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills are available, they should form a first charge in the subsequent year's budget thereby impending smooth implementation of the subsequent budget.

271. Cash and Cash Equivalents

Regulation 90(1) of the Public Finance Management (National Government) Regulations, 2015 requires the Accounting Officer to ensure that bank reconciliation statements are completed and submitted to the National Treasury with a copy to the Auditor General not later than 10th of the subsequent month for each bank account held by a National Government entity. Further, Regulation 90(3) requires the Accounting Officer to ensure that any discrepancies noted during the bank reconciliation exercise are investigated immediately and appropriate action taken including updating the relevant cashbooks. A review of the bank reconciliation statements in support of cash at bank balance of kshs.1,069,674,052 revealed the following matters:

271.1. Lack of Ownership and Authorization for Bank Reconciliation Statements

The bank reconciliation statements presented for audit for the three bank accounts held by the Department for the period July 2016 to 30 June 2017 did not have the name and the signature of the preparer and the authorizing officer. Further, the date of preparation was not indicated and it was therefore not possible to confirm if the bank reconciliations were prepared within the timelines provided in the Regulations. Further, there was no evidence to show if the statements were submitted to the National Treasury and the Auditor General as required in Regulation 90(1) above.

Submission by Accounting Officer

The Accounting Officer submitted that the department struggled with auto bank reconciliation in the system without much success and had to revert back to manual bank reconciliation. This caused the delay in preparing and submitting the reconciliations. Subsequently, the Bank reconciliation were prepared, signed and submitted to National Treasury vide our letter Ref. No. MOTIHUD&PW/BGT/(23) of 4th July, 2017.

Committee Observations and Findings

(i) The Committee observed that the bank reconciliations prepared, signed and submitted to National Treasury vide our letter Ref. No. MOTIHUD&PW/BGT/(23) of 4th July, 2017;
(ii) The matter remains unresolved.

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

271.2. Unresolved Reconciling Items in the Bank Reconciliation Statements

Examination of the bank reconciliation statements presented in support of the Bank balance in the statement of assets and liabilities revealed the following unresolved matter.

271.2.1. Recurrent Bank Account Reconciliation

i. Payments in Cash Book not Yet Recorded in Bank

The reconciliation statement for Recurrent bank account for the month of June 2017 reflects an amount of Kshs.57,157,706.90 as payments in cash book not in bank statements. Included in this balance are entries totaling Kshs.10,850.00 which had remained outstanding for more than 6 months as shown below:

Date	Ref.	Payee	Amount (Kshs)
17.10.2016	PVNo.00068	Kakamega Welfare	50.00
17.11.2016	PVNo.00068	Sophia Oyoo-Overcast	600.00
31.11.2016	FOLIO 32	Closing Bal.	10,000.00

		Overcast	
30.12.2016	FOLIO 39	Closing Bal. Overcast	200.00
TOTAL			**10,850.00**

Further, a review of the above entries showed that entries totaling Kshs.10,800.00 related to cash book overcasts. It was not clear why cash book overcasts were appearing as reconciling items instead of correcting the closing balance with the same amount.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that an amount totaling **Kshs. 10,800.00** was appearing as reconciling items as at 30th June 2017. This was an oversight which was later corrected on 23rd April, 2018. Find folio No. 66 of recurrent cashbook.

Committee Observations and Findings

(i) The Committee observed that Kshs. 10,800.00 related to cash book overcasts which was appearing under reconciling items was an oversight which was later corrected;
(ii) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

ii. Receipts in Bank Statement not in the Cash Book

The bank reconciliation statement further shows an amount of Kshs.28,303.75 as receipts in bank statement not in cash book as analyzed below:

Date	**Ref.**	**Particulars**	**Amount**
01.11.2016	RD CHEQUE	Family Bank	18,303.75
17.05.2017	RD CHEQUE	National Bank	10,000.00
TOTAL			28,303.75

It was noted that the Refer to Drawer (RD) cheque of Kshs.18,303.75 above was dated November, 2016 and it had remained outstanding for about eight (8) months. It was not clear what action the management had taken to remedy these returned cheques.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that RD cheque of Kshs. 18,303.75 dated November, 2016 had remained outstanding for eight months. The bank reconciliation statement has been amended to clear the item appearing as a receipt in bank and not in cash book and also as payment in bank and not cash book. Kshs.18,303.75 Family Bank and Kshs.10,000.00 RD cheques are entered in the Cash book in April, 2018.

Committee Observations and Findings

(i) The Committee observed that Refer to Drawer (RD) cheque of Kshs.18,303.75 above was dated November, 2016 and it had remained outstanding for about eight (8) months;
(ii) The Committee also observed that the bank reconciliation statement had been amended to clear the item appearing as a receipt in bank and not in cash book and also as payment in bank and not cash book; and
(iii)The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

iii. Payments in Bank not in Cash Book

The statement also shows an amount of Kshs. 2,714,750.75 as payments made in the bank but not posted in the cashbook which includes an amount of Kshs. 526,835.05 for closing balance under cast. Management did not provide explanation on above payments which appear to have been originated by the bank.

Submission by Accounting Officer

The recurrent bank reconciliation statement showed an amount of Kshs. 2,714,750.75. However, the amended bank reconciliation statement corrected the error of closing balance under cast of Kshs.526,835.25. The figure of Kshs. 2,714,750.75 was also reduced to Kshs.1,520,072.35.

Committee Observations and Findings

(i) The Committee observed that in the recurrent bank reconciliation statements, an amount of Kshs. 2,714,750.75 was appearing as payments made in the bank but not posted in the cashbook which includes an amount of Kshs. 526,835.05 for closing balance under cast;
(ii) The Committee also observed that the amended bank reconciliation statement corrected the error of closing balance under cast of Kshs.526,835.25. The figure of Kshs. 2,714,750.75 was also reduced to Kshs.1,520,072.35 which, remains outstanding; and
(iii)The matter remains unresolved.

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

iv. Receipts in Cashbook not in Bank Statement

The reconciliation statement also had an amount of kshs.247,550.95 for receipts in cash book not in the bank statement. A review of the analysis provided for this balance showed that it comprised of cash book closing balance under cast of Kshs.105,267.45 and amount of Kshs.142,283.50 for Ufundi SACCO dated 30 September 2016. Cash book under casts are supposed to be adjusted in the cashbook and should not appear as reconciling item. Also, the nature of the receipt from Ufundi Sacco could not be established as it had no support.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the reconciliation statement had an amount of Kshs. 247,550.95 for receipts in cash book not in the bank statement. This amount comprised of Kshs. 105,267.45 as overcast and Kshs. 142,283.5 for Ufundi Sacco. The amended bank reconciliation statement reduced the amount of Kshs.247,550.95 to Kshs.14,230.

Committee Observations and Findings

(i) The Committee observed that the amended bank reconciliation figure was reduced from Kshs.247,550.95 for receipts in cash book not in the bank statement to Kshs.14,230 which was still outstanding; and
(ii) The matter remains unresolved.

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

271.2.2. Development Bank Account Reconciliation

A review of the bank reconciliation statements for development bank account revealed the following matters:

(i) Receipts in Cash Book not Recorded in Bank Statement

The statement shows a total of Kshs. 215,005 as receipts in the cash book not in the bank statement which include an amount of Kshs. 200,000 described as opening balance under cast dated 31 March 2017. It was not explained why the opening under cast appeared as a reconciling item instead of adjusting the cash book accordingly**.**

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the development reconciliation statement had under cast of Kshs. 215,005. This was an oversight in correcting the under cast as at 30th June 2017. However, the amended bank reconciliation corrected the opening under cast error.

Committee Observations and Findings

(i) The Committee observed that the reconciliations were done to correct the opening under cast error with the figure of Kshs. 215,005; and
(ii) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

(ii) Payments in Bank Statement not Yet Recorded in Cash Book

The statement also includes an amount of Kshs. 227,555.15 for payments in bank statement not in cash book made up of Kshs. 158,979.30 for withholding tax dated 28 February 2017 and Kshs.68,275.85 for ReiFinancial Year Holdings dated 30 May 2017. The two entries were not supported and their validity could therefore not be established.

Submission by Accounting Officer

The development bank reconciliation statement had an amount of Kshs. 227,555.185 which comprised of, Kshs.158,979.30 withholding tax and Kshs.68,275.85 to ReiFinancial Year Holdings respectively, which were posted in the cash book on 23rd April 2018 adequately supported with payment vouchers.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer supporting the validity of Kshs. 227,555.185 which comprised of Kshs.158,979.30 for withholding tax dated 28 February 2017 and Kshs.68,275.85 for ReiFinancial Year Holdings dated 30 May 2017 which, were posted in the cash book on 23rd April 2018 and adequately supported with payment vouchers, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

271.2.3. Deposit Bank Account Reconciliation

A review of the bank statements availed in support of the deposit bank account balance of Kshs. 1,011,107,969.00 revealed the following matters:

i. Payment in Cash Book not in Bank Statement

The reconciliation statement reflects an amount of Kshs. 21,324,393.00 as payments in cash book not in bank statement. Included in the figure is closing balance under cast of Kshs. 285,000.00 whose validity could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that deposit cashbook reflects an amount of Kshs. 21,324,393.00 as payments in cash book not in the bank statement. Included in this figure is closing balance under cast of Kshs. 285,000.00 which was duly adjusted in deposit cashbook on 23rd April, 2018.

The other payments in cash book but not in the bank statement were as a result of year end transactions made up to and including 30th June, 2017.

Most of the payments were yet to be processed in the bank, thus remained unpaid at the bank statement date. Subsequent bank statements and reconciliation statements for the following financial year confirms that the figure decreased from the initial amount of Kshs. 21,324,393.00 after clearance of payments by bank. (See attached copy of cash book folio 12 dated 23rd April, 2018 and April 2018 bank reconciliation statement.)

Committee Observations and Findings

(i) The Committee observed that from the bank reconciliation statements, the figure decreased from the initial amount of Kshs. 21,324,393.00 after clearance of payments by bank. There was no update on whether the balance has been cleared; and
(ii) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after

close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

ii. Receipt in Cash Book not in Bank Statements

The reconciliation statement reflects a figure of Kshs.9,024,643.90 for receipts in cash book not in bank statements which includes Kshs.57,284.20 for PEAL Building Contractors. This amount had remained outstanding since 27 April 2016 and its nature and validity could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the deposit reconciliation statement for the year ended 30th June 2017 reflects a figure of Kshs. 9,024,643.90 for receipts in cashbook not in bank statement. These are as a result of year end transactions. Deductions from contractors in form of retention fee and other collections at the end of the period would only be reflected in the following month's bank statement.

Committee Observations and Findings

(i) The Committee observed that from the bank reconciliation statements for the year ended 30th June 2017 reflected a figure of Kshs. 9,024,643.90 for receipts in cashbook not in bank statement resulting from year end transactions;

(ii) The Committee also observed that deductions from contractors in form of retention fee and other collections at the end of the period would only be reflected in the following month's bank statement; and

(iii)The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

Other Matter

272. Proposed Completion of Lamu Port Police Station and Management Housing

The project commenced on 03 October 2012 and was to be completed by 19 February 2014. The contractor was given an extension of time which revised the completion date to 19 January 2017. A review of the latest progress report dated 14 December, 2017 revealed that only Kshs.267,196,753 representing 46% of the contract sum had been certified. The project is therefore behind schedule and this may lead to cost escalation.

A review of the latest payment voucher showed that an amount of Kshs.12,952,171 had been paid as interest on delayed payment due to failure to pay the contractor within contractual timelines. This amount is nugatory as it has no commensurate value and should have been voided.

Submission by Accounting Officer

The contract commenced on 3rd October, 2012 but only the police station site was given to the contractor. The police station site is within the walled site of the headquarters building while the rest of the project works lies outside. This part of the project is the one which became the subject of land compensation claims by the local land owners hence the delay in giving possession and thus the delayed progress and completion status among other reasons. Site possession was only given on 26th February, 2015 when issues of land compensation were resolved and work on site resumed.

In addition to land issues, performance of the project had been severely affected by the constant insecurity at the project site e.g terrorist attacks in Mpeketoni (2014) and subsequent terrorist activities in Lamu County as a whole.

Inadequate funding due to budget cuts and exchequer deals disrupted project activities and slowed down project implementation process e.g from 2015-2017 financial years there were no funds allocation to the project leading to the contractor abandoning the site save for security guarding the assets on site.

Due to constant underfunding and given the project's importance to security functioning of the soon to be operational Lamu port, a decision was reached in November, 2017 to shift its funding to KPA who are the users.

Since the shift of funding to KPA commendable progress has been achieved in the following areas;

i) Police Station completed and handed over for use
ii) 4 No. block of type E flats comprising of 6 No. units, two bedroomed,

iii) Self-contained flats have been completed and handed over for occupation by the police.
iv) Two No. types D block of flats have their structures completed and finishing works are ongoing
v) Two No. 4 bedroomed bungalows have been roofed and finishes on going
vi) Part of the boundary wall has been completed which is providing security to the 4No. type E flats
vii) The club house and canteen is substantially complete only minor touches are remaining.
viii) The dispensary is complete awaiting handing over to the users

Interest on delayed payments

Interests on delayed payments are a contractual provision under clause 13 of the conditions of contract which states in part "the employer shall pay the contractor the amounts certified by the project manager within 30 days of the date of the issue of each certificate. If the employer makes a late payment, the contractor shall be paid a simple interest on the late payment in the next payment. Interest shall be calculated on the basis of number of days delayed at a rate three percentage points above the Central Bank of Kenya's average rate of base lending prevailing as of the first day the payment becomes overdue".

Payment of interest is therefore inevitable where certified payments are delayed beyond the stipulated days. Attached is a report by the Project Quantity Surveyor and Architect, minutes of site meetings, a letter by the Contractor on requesting for suspension of works due to security issue and tabulation of interests on delayed payments.

Committee Observations and Findings

(i) The Committee observed that the project is one among those which became the subject of land compensation claims by the local land owners hence the delay in giving possession and thus the delayed progress and completion status among other reasons;
(ii) The Committee also observed that the performance of the project had been severely affected by the constant insecurity at the project site e.g terrorist attacks in Mpeketoni (2014) and subsequent terrorist activities in Lamu County as a whole; and
(iii) The matter remains unresolved.

Committee Recommendations

(i) The Accounting Officer must ensure that the construction of Lamu Port Police Station and Management Housing is undertaken following the right standards and any poor workmanship corrected to avoid possible occupational safety hazards; and

(ii) The Ministry of Public Works should inspect the building and table their report to Parliament within a period of six months of the adoption of this report.

273. Construction of Mathare Nyayo Hospital

The project commenced on 27 August 2012 and was to be completed by 27 August 2015. However, the latest project statement showed that by 10 July 2017 which was about two years after expiry of the original contract period, the value of works completed stood at 48% of the contract sum. Subsequently, the management granted the contractor an extension of time by 76 weeks to bring the new completion date to 27th December, 2018. The delay in project implementation may lead to escalation of project costs.

Further, it was noted that project managers expenses had exceeded the contracted bill of quantities (BOQ) by Kshs.8,880,699.

A review of the latest payment certificate for valuation No. 20 dated 11 July, 2017 showed that the contractor had been paid Kshs.46,570,658.19 as interest on delayed payments. This payment has no commensurate value and should have been voided.

Submission by Accounting Officer

- **Delayed completion**

The Accounting Officer submitted that the project suffered protracted under funding due to budget cuts and delayed exchequer releases e.g during the financial year 2016/17 allocation was 181,590 million but was revised downwards to 161.6million. In the financial year 2017/18 the allocation was 287 million but was revised downwards to 70.6 million, in the financial year 2018/19 the allocation was 28 million but was revised upwards to 101.2 million. It is noted that when allocations are revised in the negative this leaves certificates that had already been raised but not paid in limbo. It is also important to note that despite the allocation, the exchequer releases normally get delayed resulting into works disruption and slow down on site activities, sometimes occasioning stoppage.

- **Excess project manager's expenses Ksh. 8,880,698.63**

Kshs. 16,413,600.00 was provision for both the time related preliminaries and project management which is also time related.

The running costs for project management and preliminaries increased by Kshs.1,506,333.00 and Kshs.7,374,565.00 respectively mainly due to site security, resulting to a total increase of Kshs. 8,880,898.00. With respect to interest on delayed payment of Kshs. 46,570,658.00, the Project was documented using standard PPOA Tender document for construction that allows for interest on delayed payment certificates under clause 23.3. the interest so accruing is computed and added onto the valuations for interim payment certificates during the currency of the project. In this regard interest is payable as part of the project valuation despite its not being part of the original contract sum.

Committee Observations and Findings

(i) The Committee observed that the project suffered delayed completion due to budget cuts in the financial years 2016/2017 and 2017/2018 respectively;
(ii) The Committee also observed that the running costs for project management and preliminaries increased by Kshs.1,506,333.00 and Kshs.7,374,565.00 respectively mainly due to site security, resulting to a total increase of Kshs. 8,880,898.00;
(iii) The Committee observed that interest on delayed payment of Kshs. 46,570,658.00 was because the Project was based on standard PPOA Tender documents for construction which, allows for interest on delayed payment certificates under clause 23.3. the interest so accruing is computed and added onto the valuations for interim payment certificates during project implementation and paid as part of the project valuation despite its not being part of the original contract sum; and
(iv) The matter remains unresolved.

Committee Recommendations

(i) Within three months after the adoption of this report the Accounting Officer must ensure that the construction of Mathare Nyayo Hospital is undertaken following the right standards and any poor workmanship corrected to avoid possible occupational safety hazards; and

(ii) The Ministry of Public Works should inspect the building and table their report to Parliament within a period of six months of the adoption of this report.

274. Motor Vehicles

274.1 Stolen and Unaccounted for Motor Vehicles

A review of motor vehicle records showed that two vehicles were stolen and had not been recovered while another two had not been transferred to the Department after completion of the projects as summarized below:

	Vehicle No	Make	Remarks
1	GKB 933F	Toyota Prado	Case at Kibera CCMC No 5060/2015 but file not availed for verification
2	GK A078Y	Nissan D/Cabin	Case going on with D.C.I.O, Kilimani. but file not availed for verification.
3	KBL 935K	Toyota Hilux	The vehicle was attached to Foot Bridge project Kisumu Work's office.
4	KBP 735Q	Ford Ranger	The vehicle was attached to Foot Bridge project Kisumu Works office

Evidence available indicates that the Director of Administration wrote to the County Commissioner vide a letter Ref:CR/8/6/VOL.1/32 dated 19 September, 2016 requesting assistance to recover the two vehicles above. i.e. KBL 935K and KBP 735Q which were being used illegally by Chief Officer, Roads Transport and Public Works of the County Government. As at the time of the audit the vehicles had not been recovered from the County Government.

Submission by Accounting Officer

S/No.	Vehicle No.	Make	Position
1.	GK B933F	Toyota Prado	- Case at Kibera CCMC No. 5060/2015. - Case files in court/Police Station. - The case is ongoing. The next hearing is set for 27th September, 2018. It is handled by Inspector Marua of Capital Hill Police Station Attached are copies of Police abstract and Bond to attend Court (Annex 11).
2.	GK A078Y	Nissan D/Cabin	- Case on-going with DCIO Kilimani - Subject file in Police Station - The case is under investigation - OB No. 25/30/8/2014. - Driver dismissed from service.

			- Attached are copies of Police Abstract and dismissal letter ref. No. C/1985061447/16 dated 16th January, 2017 (Annex)
3.	KBL 935K	Toyota Hillux	- The vehicle was attached to foot bridge project, Kisumu - Kisumu Works Office were the project supervisors - Vehicle taken over by the County Government of Kisumu after project completion (see attached letter reference no. CGK/RT&PW/CO/MV/ PLTS/EQUIP/VOL.II/74 dated 4th September, 2018)
4.	KBP 735Q	Ford Ranger	- The vehicle was attached to foot bridge project, Kisumu - Kisumu Works office were the project supervisors - Vehicle taken over by County Government of Kisumu (see attached letter reference no. CGK/RT&PW/ CO/MV/PLTS/EQUIP/VOL.II/74 dated 4th September, 2018)

To further strengthen the control of vehicles in the State Department, the internal audit unit factored the activity in 2017/18 financial year, but due to budget cut, the activity, among others was not done. The activity is now factored in 2018/19 financial year. This, when done will ensure that the organization's assets are safeguarded, exists and are utilized for purposes intended.

Committee Observations and Findings

(i) The and accompanying documents tabled by the Accounting Officer explaining that the State Department initiated the process of developing a Fixed Asset Register as prescribed in the reporting template and intends to engage a consultant to finalize the compilation of the fixed assets register was availed; and

(ii) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.

274.2 Unaccounted for Vehicle Purchased During the Year

A review of payment voucher No. 0685 of 20th March 2017 showed that an amount of Kshs.13,825,000 was paid to Toyota Kenya for purchase of motor vehicle. A review of supporting documents revealed the following matters:

i) The local Purchase order No.100 attached to the payment voucher was dated 9 February, 2017 and is for purchase of 6 (six) units of Toyota Prado (Japan made) at a unit price of Kshs.2,304,166.67 all totaling Kshs.13,825,000. The total amount was paid on 07 March, 2017. However, no documents were availed during the audit to confirm that the vehicles were received by the Department.
ii) In a response ref. SDOPW/ACCTS/AUDIT/(21) dated 27 April 2018, management availed work tickets for a vehicle under the State Department of Transport with registration number indicated as GKB 539R. However, the registration number differed from that in the supporting purchase invoice from Toyota Kenya Ltd, dated 24 January 2017, which showed the registration number as GKB 539Q and the delivery note which had registration number of GKB 539Z and therefore it was not possible to confirm which vehicle was actually delivered.
iii) Also, the motor vehicle was not in the list of inventories of Department Vehicles provided for audit.
iv) Further, the vehicle log book and subject file were not availed for audit.
v) In addition, there was no evidence that the vehicle was inspected after delivery by an inspection and acceptance committee as required under Section 48(3) of the Public Procurement and Asset Disposal Act, 2015.

It was therefore not possible to confirm whether the vehicle is in existence and if it is registered in the name of the Department and used for official purposes. In addition, it was not possible to confirm the validity of the total expenditure of Kshs.13,825,000 incurred to purchase the unaccounted-for vehicle.

Submission by Accounting Officer

The Accounting Officer submitted that the payment voucher No. 0685 of 20th March, 2017 of Kshs. 13,825,000.00 was raised to pay Toyota Kenya and supported with invoice number 90925872 from the dealer. The Local Purchase Order No.1987301 for the purchase of the vehicle indicated one quantity (i.e. one vehicle). Purchase order No.100 which is Computer/System generated indicated six (6) quantities occasioned by the six (6) items where the money was to be re-allocated from as per the approved Financial Order (F.O.3) and Treasury authority letter Ref. No. RES 1095/16/01&7) of 5th December, 2016.

Committee Observations and Findings

(i) **The submission and accompanying documents tabled by the Accounting Officer confirming the validity of the total expenditure of Kshs.13,825,000 incurred to purchase the unaccounted-for vehicle, though persuasive, should have been submitted to the Auditor General in time during the audit review;**

(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.

THE RECEIVER OF REVENUE - STATE DEPARTMENT OF PUBLIC WORKS

Unqualified Opinion

There were no material issues noted during the audit of the Public Works.

STORES AND SERVICE FUND

Basis for Disclaimer Opinion

275. Presentation of Financial Statements

The Accounting Officer requested to make submissions on paragraphs 275 – 280 with regard to Store Services Fund while responding to audit queries for the year 2017/2018.

281. Unresolved Prior Year Matters

281.1 Inaccuracies in the Financial Statements

The 2015/2016 financial statements presented for audit review reflected the following inaccuracies:

281.2 Cash and Cash Equivalent

Cash and cash equivalent balance brought forward amounted to Kshs.224,744,758 while the prior year audited financial statements reflect a balance of Kshs.224,741,758 thus resulting to un-reconciled or unexplained variance of Kshs.3,000.

The Committee observed that the matter was dealt with in its report of the financial year 2015/2016.

281.3 Inventories

The prior year's inventories balance reflected in the financial statements amounted to Kshs.130,935,583 while the audited closing balance was Kshs.128,342,509 thus resulting to a variance of Kshs.2,593,074 which has not been explained.

The Committee observed that the matter was dealt with in its report of the financial year 2015/2016.

281.4 Sale of Goods

The prior year's balance for sale of goods amounts to Kshs.32,321,404 while the audited balance for the account in the year 2014/2015 was Kshs.252,482,245. The resultant difference of Kshs.220,160,841 has not been explained. Further, the statement of financial performance reflects sale of goods balance of Kshs.96,639,911 as at 30 June 2016 while the statement of cash flows reflects Kshs.90,893,143 thus resulting to unexplained variance of Kshs.5,746,769.

The Committee observed that the matter was dealt with in its report of the financial year 2015/2016.

281.5 Borrowings

The statement of financial position reflects prior year borrowings totaling to Kshs.844,003,247 while the audited statement of financial position as at 30 June 2016 reflects a balance of Kshs.844,003,247 under the Paymaster General (PMG) Account. It is not clear and the management has not explained the correlation of the two creditors. Further, supporting documentation was not presented for audit review.

The Committee observed that the matter was dealt with in its report of the financial year 2015/2016.

281.6 Bulk Purchases of Stores

The statement of financial performance for the year-ended 30 June 2016 reflect payment for bulk purchases of stores and fuel of Kshs.120,017,325 while the statement of cash flows reflects a balance of Kshs.76,186,589. The resultant difference of Kshs.43,830,736 has not been explained or reconciled.

In the circumstances, the validity and accuracy of the financial statements for the year ended 30 June 2016 could not be ascertained.

The Committee observed that the matter was dealt with in its report of the financial year 2015/2016.

281.7 Bulk Purchases of Stores and Fuel

Note 8.4 to the financial statements indicate bulk purchases of stores and fuel of Kshs.82,135,913 and Kshs.37,881,410 respectively. However, schedules provided for audit review reflected balances of Kshs.83,572,057 and Kshs.36,445,266 for stores and fuel resulting to difference of Kshs.1,436,144 and Kshs.1,436,144 respectively which however, have not been explained. Further, supporting schedules for purchase of fuel worth Kshs.36,445,226 indicate that the purchase was done in 2014 and therefore does not relate to the year under review. Management has not explained the anomaly. In addition, purchases of fuel during the year amounting to Khs.13,508,501 was excluded from these financial statements.

Under the circumstances, it has not been possible to confirm the accuracy of bulky purchases of stores and fuel balance of Kshs.120,017,323 reflected in the financial statements for the year ended 30 June 2016.

The Committee observed that the matter was dealt with in its report of the financial year 2015/2016.

281.8 Cash and Cash Equivalents

The cash and cash equivalent balance of Kshs.155,840,626 reflected in the statement of financial position is at variance with the cashbook balance of Kshs.212,993 resulting to unexplained variance of Kshs.155,627,633.

Further, no evidence was presented for audit review to confirm that the Fund appointed a Board of Survey at the end of the financial year to veriFinancial Year the actual cash balance of Kshs.117,613 reflected in Note 8.5 (b) to the financial statements. The bank reconciliation statement presented for audit review reflected receipts in the bank statement and not in the cash book of Kshs.90,786 and receipts in the cash book and not in the bank statement of Kshs.499,641. In addition, Kshs.5,387,452 described in the bank reconciliation statement as a cashbook under cast could not be confirmed.

In the circumstances, the validity and accuracy of cash and cash equivalent balance of Kshs.155,840,626 as at 30 June 2016 could not be confirmed.

The Committee observed that the matter was dealt with in its report of the financial year 2015/2016.

281.9 Trade and Other Payables

Trade and other payables from exchange transactions balance reflected in the statement of financial position as at 30 June 2016 was Kshs.52,994,135. However, supporting schedules reflected a balance of Kshs.51,915,535 thus resulting to a variance of Kshs.1,078,600 which has not been explained or reconciled.

Further, records available indicate that other unpaid purchases totalling to Kshs.52,280,900 were excluded from the trade and other payables balance of Kshs.52,994,135 but no reason was given for their omission. Under the circumstances the trade and other payables from the exchange transactions balance of Kshs.52,994,135 included in the statement of financial position as at 30 June 2016 could not be confirmed.

The Committee observed that the matter was dealt with in its report of the financial year 2015/2016.

281.10 Inventories

The statement of financial position as at 30 June 2016 reflected inventories totalling to Kshs.130,121,256. However, the balance could not be confirmed since stock sheets for the year were not presented for audit review. Further, the Fund did not hold a stock taking exercise at the end of the financial year as required. Consequently, the accuracy and validity of the inventories balance of Kshs.130,121,256 reflected in the statement of financial position as at 30 June 2016 could not be confirmed.

The Committee observed that the matter was dealt with in its report of the financial year 2015/2016.

281.11 Payment Received in Advance

The statement of financial position as at 30 June 2016 reflected payments received advance totaling to Kshs.149,591,532. However, the dates when the payments were received by the Stores and Services Fund were not presented for audit review. Further, the bank statements were not provided to confirm whether they were indeed received. Under the circumstances, the balance of Kshs.149,591,532 denoted as payments received in advance as at 30 June 2016 could not be confirmed.

The Committee observed that the matter was dealt with in its report of the financial year 2015/2016.

281.12 Sale of Goods

The statement of financial performance for the year ended 30 June, 2016 reflected a balance of Kshs.96,639,911 while the supporting schedules presented for audit review reflected a balance of Kshs.100,274,267 thus resulting to a difference of Kshs.3,634,356 which has not been explained. In addition, the Fund did not maintain a sales ledger and therefore the source of the sales data could not be confirmed for the year ended 30 June 2016.

The Committee observed that the matter was dealt with in its report of the financial year 2015/2016.

281.13 Missing Receipt Books

The statement of financial performance reflected total revenue of Kshs.96,639,911. However, receipt numbers MR 6654401 to 6654450 dated September 2015 to March 2016 and receipt numbers 6654351 to 6654400 dated April 2016 were not availed for audit review. Further, the management has not explained whether revenue collected from May to June 2016 was receipted using official receipts. In the circumstances, the total revenue balance of Kshs.96,639,911 included in the statement of financial performance for the year ended 30 June 2016 could not be confirmed.

Committee Observations and Findings

The Committee observed that the matter was dealt with in its report of the financial year 2015/2016.

19.0. STATE DEPARTMENT FOR WATER SERVICES

FINANCIAL STATEMENTS FOR VOTE 1103

Mr. Joseph W. Irungu, the Principl Secretary and Accounting Officer for the State Department for Water Services (Vote 1103) appeared before the committee on 8th August 2019 to adduce evidence on the Audited Financial Statements for the State Department for Water Services (Vote 1103) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Eng. S. A.O Alima - Water Secretary**
2. **Mr Joseph K. Keter - Secretary Administration**
3. **Ms Agnes W. Waweru - Assistant Accountant General**
4. **Mr Joel N. Onchwati - Chief Finance Office**
5. **Mr David Kihara - Deputy Chief Finance Officer**
6. **Eng. Simon G. Mwangi - Project Manager -Kenya Water Security CPD**
7. **Mr Wycliffe Ojuko - Ministry of Water Services**
8. **Mr Chrispine O. Juma - Ministry of Water Services**
9. **Mr Kihara Ndungu - Ministry of Water Services**

Basis for Qualified Opinion

282: Accuracy, Completeness and Presentation of the Financial Statements

The financial statement balances provided for audit for the year ended 30 June 2017 differ with balances in IFMIS. In addition, the statement of budget execution by programmes and sub programmes differs with the statement of receipts and payments and the statements of appropriation: recurrent and development. Further, the financial statements balances differ with the trial balance figures as detailed in the table below:

Difference between Trial Balance/ Leger and Financial Statements

Item	Balance as per Financial Statements (Kshs.)	Balance as per Trial Balance (Kshs.)	Difference (Kshs.)
Transfers from National Treasury	22,816,057,602	-	22,816,057,602
Proceeds from Foreign Borrowing	13,249,074,165	-	13,249,074,165
Transfers to National Govt. Agencies	23,780,557,603	-	23,780,557,603
Recurrent Bank Account	17,127,624	218,904,487)	236,032,111
Development Bank Account	100,988,880	9,766,210,656	(9,665,221,776)
Deposits Bank Account	33,969,410	948,275	33,021,135
Cash in hand	45,999	154,542,687	(154,496,688)
Other Debtors and prepayments	-	(69,716,556)	69,716,556
Impressts	-	6,329,677	(6,329,677)
Clearance Accounts	2,542,880	9,239,131	(6,696,251)
Other Liabilities	-	464,356	(464,356)
System Required Liabilities	-	6,634,847,312	(6,634,847,312)
Provisions	-	1,100	(1,100)
Deposits	33,969,410	-	33,969,410

Fund Balance B/f	1,603,540,577	-	1,603,540,577

In view of the foregoing, the accuracy, completeness and presentation of the financial statements for the year ended 30 June 2017 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer acknowledged that the financial statement balances provided for Audit for the year ended 30th June 2017 differed with balances in IFMIS. He stated that the figures in the trial balance for cash at bank and cash in hand, originated from the IFMIS cashbook which is a product of the cash management module that had not been fully operationalized by the time of reporting. The ministry still runs a manual cash book which provided reliable figures that were used to prepare the financial reports.

The accumulated figure of Ksh.6,634,847,312.00 is system generated for balancing the Trial balance and does not make part of the financial statements. Further, he admitted that the statement of budget execution by programmes differs with the statement of receipts and payments and the statements of appropriation: recurrent and development. He stated that there was an anomaly in the report since the report was supposed to have the same figures as the budget execution by items which were agreeable to the receipts and payments and the appropriation account.

Committee Observations and Findings

(i) The committee observed that the recently audited financial statements for the State department showed that the number of items with disparities has reduced. However, the differences on cash and bank balances and the system required liabilities still persist with material differences.
(ii) The matter remains unresolved.

Committee Recommendation

The Accounting Officer must ensure, at all times, that fully reconciled financial statements are submitted to the Office of the Auditor General pursuant to section 68 (2)(k) of the Public Finance Management Act, No. 8 of 2012, and within three months as required under Article 229 (4) of the Constitution of Kenya.

283. Unsupported Cash and Cash Equivalents Balances

The statement of assets and liabilities reflects a cash and cash equivalents balance of Kshs.152,131,913 as at 30th June 2017 However,

i) The IFMIS Cashbook was not made available for audit verification despite it being in-built in the system.

ii) Bank reconciliation statements for the Deposits Account (Dep-110 A/C No. 1000302127) were not provided for audit verification. The bank balance as per the report of the board of survey was Kshs.33,958,410 while the certificate of bank balance shows Kshs.33,969,410 leading to a difference of Kshs.11,000 as at 30 June 2017. Also, the bank statement was provided in support of the bank balance.

iii) The reported bank balances under cash and cash equivalents in the financial statements for Recurrent and Development bank accounts were not supported by bank reconciliation statements as shown in the table below:

Account	Amount (Kshs.) in The Financial Statements	Amount (Kshs.) as Per Bank Reconciliation Statements	Variance Kshs.
Recurrent	17,127,624	132,611,243	(115,483,619)
Development	100,988,880	1,865,677,469	(1,764,688,589)
Deposit	33,969,410	Reconciliation statement was not provided	

Consequently, the accuracy of the cash and cash equivalents balance of Kshs.152,131,913 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted that the statement of assets and liabilities reflected a cash and cash equivalents balance of Kshs.152,131,913 as at 30th June 2017, however the statement was said to have included the following anomalies:-

1. The IFMIS cashbook was not made available for audit verification despite it being in-built in the system this is because the cash management module had not been fully operationalized; hence the cashbook report could not be generated.

2. Bank reconciliation statement for the deposit account which was not availed to the Auditor was later provided to the Auditor for review. The difference of Kshs.11,000.00 as at 30th June, 2017 between the bank balance as per the board of survey report and the certificate of bank balances was as a result of mis-posting in the cash book which was later corrected**.**
3. He further stated that the reported balance bank balances under cash and cash equivalent in the financial statements for Recurrent and Development bank accounts were not supported by bank reconciliation statements. The variance between the reported balance and bank reconciliation statements was due to non-operationalization of cash management module which made system auto reconciliation to provide different balances as required.
4. However, the State Department prepared manual bank reconciliation statements that agreed with the reported balances.

Committee Observations and Findings

(i) The committee observed that the IFMIS cashbooks for the financial year balances 2017-18 were availed to the auditors but the balances were not in agreement with the financial statements.

(ii) The committee observed that the bank reconciliation statements for the deposit has been availed and confirmed. The matter is resolved.

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

284. Transfers to Other Government Units

284.1Unexplained Variance

During the year under review, the State Department of Water Services disbursed as Transfer to Other Government Units Kshs.24,785,802,620. However, the supporting schedule in annex 3 to the financial statements reflect total transfers of Kshs.21,118,936,857, while the ledger reflects a figure of Kshs.24,790,252,105 resulting to unreconciled difference of Kshs.3,666,865,763 and Kshs.4,449,485 respectively between the two sets of figures.

As a result, the accuracy and completeness of the Transfer of Other Government Units could not be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that during the year under review, the State Department of Water Services disbursed as Transfer to other Government Units Kshs. 24,785,802,620.00. However, the supporting schedule in annex 3 to the financial statements reflected total transfers of Kshs.21,118,936,857.00. The supporting schedule earlier attached did not include all the transfers made to Water Services Boards, this was later amended to reflect the amount of Kshs. 24,785,802,620.00

The difference between Ksh 24,785,802,620.00 and Ksh.24,790,252,105.00 was as a result of mis-posting in ledger which was later rectified.

Committee Observations and Findings

- **(i) The committee observed that the financial statements reflect total transfers of Kshs.21,118,936,857, while the ledger reflects a figure of Kshs.24,790,252,105 resulting to unreconciled difference of Kshs.3,666,865,763 and Kshs.4,449,485.**
- **(ii) The committee observed that the difference was later reconcilled and verification done.**
- **(iii) The committee observed that the recently audited financial statements for the State department (2017/18) showed that instances of mis-postings are minimal.**
- **(iv) The committee marked the matter as resolved.**

284.2 Under-Disbursements

A review of the financial statements of some of the entities that received the disbursements reveals discrepancies between the figures received by the entities and those disbursed by the State Department as follows:

Entity	Amount as per Financial Statements Kshs.	Amount as per SDWS Kshs.	Difference Kshs.
Water Services Regulatory Board	90,000,000	75,000,000	15,000,000
Water Resources Management Authority	798,351,621	807,696,901	(9,345,280)

Kenya Water Institute	191,880,000	194,880,000	(3,000,000)
National Water Conservation and Pipeline Corporation	2,583,652,471	2,670,548,271	(86,895,800)
Kenya-Italy Debt for Development Programme	71,000,000	-	71,000,000

No reconciliations have been provided, to explain the differences in the figures which normally should be similar. Consequently, the accuracy of disbursements, could not be confirmed.,

Submmission by Acounting Officer

The Accounting Officer submitted that the discrepancies were occasioned by amounts disbursed towards the end of the Financial Year 2016-2017 and recognized by the entities in the financial year 2017/2018, and disbursements made towards of the end of the financial year 2017-2018 and recognized by the entities in the financial year 2018-2019. This information on the effects of the cut off period has been shared with the auditor.

Committee Observations and Findings

(i) The committee observed that the disbursements have continued to be done towards the last day of the financial year and reach the entities after the close of the financial year which leads to the reporting of the disbursements in different financial years for the entities hence the need for reconciliations.

(ii) The committee marked the matter as resolved.

Committee Recommendation

The Accounting Officer must ensure, at all times, that they prepare annual cash flow which shall be broken down into a three months rolling basis and adjust them to reflect previling implementation realities in consultation with the National Treasury pursuant to the provisions of regulation 44 (3) of the Public Finance Management (National Government) Regulations, 2015.

285: Acquisition of Assets

Annex 1 to the financial statements reflects a historical cost fixed assets balance of Kshs. 24,403,548,346 as at 30 June 2017. Included in the Account of construction and Civil works is an amount of Kshs. 12,242,604,423.65 which was supposed to be charged to transfers and to amounts incurred for other government entities.

Also included are amounts with credit balances amounting to Ksh. 215,711,544.85 indicated as an adjustment for errors. These adjustments are not explained and therefore it was not possible to ascertain what they relate to.

Consequently, it was not possible to establish the accuracy of the acquisition of assets figure.

Submission by Accounting Officer

The Accounting Officer submitted that during the year under review, grants and transfers were budgeted under two accounting codes series (2630000-Transfer to other Government units) and (3110000- acquisition of assets). The Kshs.9,215,043,556.00 were funds budgeted and processed as grants though they were captured under 3110000 series where they had been budgeted this has been rectified in the subsequent budget.

The amounts of Ksh.215,711,545.00 indicated as adjustments for errors were transfers to Water Services Trust Fund that were erroneously posted via a journal entry instead of a payment voucher hence the adjustment to correct the error through reverse journal.

Committee Observations and Findings

- **(i) The Committee observed that Ksh.215,711,545.00 indicated as adjustments for errors were transfers to Water Services Trust Fund that were erroneously posted via a journal entry instead of a payment voucher.**
- **(ii) The Committee observed that the transfers have been correctly budgeted and posted in the recently audited financial statements for 2017/19.**
- **(iii)The committee marked the matter as resolved.**

286: Improper Expenditure on employees seconded to Nairobi Water Conservation and Pipeline Corporation (NWCPC)

As reported in the previous year's Audit report, the State Department seconded 423 members of staff to National Water Conservation and Pipeline Corporation (NWCPC) in various core operations, which include drilling, electromechanical, land survey and water technology. Although the State Department has explained that the officers were seconded because the State Department had ceased to implement technical projects attached to Water Boards, it is not clear and the State Department has not explained why it continues to pay officers who are serving in a statutory body or why the officers cannot be officially be absorbed by the institution. This matter is still outstanding in the financial year under review.

In the circumstances, it has not been possible to ascertain the completeness, accuracy and propriety of compensation to employee’s expenditure of Kshs.552,983,571.

Submission by Accounting Officer

The Accounting Officer stated that the four hundred and twenty-three (423) employees were deployed to former National Water Corporation and Pipeline Company from the Ministry to perform various core operations, which include drilling, electromechanical, land survey and water technology. This was capacity support to start off the institution. The Ministry therefore had deployed and continued to pay them salaries since they were not on secondment. The reason is because the institution had not yet been transformed into a SAGA (Semi-Autonomous Government Agency).

He reported that these officers were on deployment, and not on secondment. When the institution attained SAGA status, it went ahead to recruit its own employees and did not absorb the Ministry staff. This action aggrieved the Ministry employees and in 2015 they sought court redress.

The case went on from 2015 up to 2018 when the case was determined. The judge directed the Ministry staff to report back to their mother Ministry, Water.

Upon determination of the court case, a total of one hundred and sixty-two (162) officers were officially released from NWCPC to the Ministry. He reported that the numbers has now decreased, due to natural attrition.

Currently all the staff that had been deployed in NWCPC reported back and were received in the Ministry and have been deployed accordingly.

Committee Observations and Findings

(i) **The Committee observed that the officers were on deployment, and not on secondment. When the institution attained SAGA status, it went ahead to recruit its own employees and did not absorb the Ministry staff.**
(ii) **The Committee observed that the employees have been deployed back in the ministry**
(iii) **The Committee observed that it had pronounced itself on the matter through its report for the Financial Year 2015/16 and the water was marked as resolved.**

287: Undisclosed Revenue

The summary statement of appropriation (combined) reflects that out of a budget of Kshs.2,322,088,239 for other revenue against actual collection of Kshs.1,962,500 resulting in an under collection of Kshs.2,320,125,835. The other receipts were budgeted under Appropriation – In- Aid (A-I-A) and were expected to be collected by various semi-autonomous Government institutions affiliated to the State Department for Water Services. These have not been included in the financial report, and the variance appropriately explained.

Consequently, it is not possible to ascertain the accuracy of revenue balances reported in the financial statements.

Submission by Accounting Officer

The Accounting Officer admitted that the summary statement of appropriation (combined) reflected that out of a budget of Kshs.2,322,088,239 for other revenue against actual collection of Kshs.1,962,500 resulting in an under-collection of Kshs.2,320,125,835. The Water Act 2016 gave the mandate for the provision of water services and the management of National Public Water Works to the country governments, joint committee or authority of the County Government and the water works' assets exclusively rest geographically within their jurisdiction.

During the financial year 2016/2017 when the Water Act 2016 was enacted, several County Governments instructed the Water Service Providers not to remit license fees to the Services Boards (Currently – Water Works Development Agencies).

This action by the County Governments severely affected the ability of the institutions affiliated to the Ministry of Water to collect the budgeted Appropriation-in-Aid (A-I-A), as situation which has persisted to date. The A-I-A that was budgeted to be collected during the F/Y 2016-2017 was Kshs.2,322,088,239.00 the amount that was collected was Ksh.1,962,500.00 resulting in under collection of Ksh.2.320,125,835.00.

He tabled some of correspondences from County Governments to the Water Services Providers requiring the WSPS to comply with the directive to suspend remittances of agency fees payable to the Water Services Boards (WSBs).

Committee Observations and Findings

(i) **The Committee observed that the budget performance on other receipts for the recently audited financial statements has been low and the management explanation has been the same.**
(ii) **The Committee observed the State Department does not have a water policy.**
(iii) **The matter remains unresolved.**

Committee Recommendations

Within six months upon adoption of this report, the Accounting Officer should ensure that a Water Policy is developed and shared with the National Assembly.

288: Motor Vehicles Register

The State Department for Water Services does not maintain a register of the motor vehicles. Lists provided for audit verification differed with one list shows 69 motor vehicles while the other indicated 74 vehicles. Review of the schedule provided contained motor vehicles belonging to Other Government Entities such as Ministry of Environment, and, the National Water Conservation and Pipeline Corporation.

In addition, only sixteen (16) motor vehicles log books were availed for ownership verification.

Consequently, the completeness, accuracy, ownership, location, utilization and security of the State Department's motor vehicles could not be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted that the State Department had not updated the motor vehicle register during the period under review. The Ministry of Water and Irrigation with its two State Departments, Irrigation and Water Services had a total number of 93 motor vehicles.

The vehicles were drawn from the State Department of Irrigation and National Irrigation Board while State Department of Water Services had vehicles including those from National Water Conservation and Pipeline Corporation, Water Resources Management Authority and Athi Water Services Board.

Institution	Vehicles
Ministry of Water and Sanitation	42
Kenya Water Security and Climate Resilience	20
Water Appeal Board	7
National Water Conservation and Pipeline Corporation	4
Athi Water Services Board	1
	Total 74

There are 27 logbooks out of 42 motor vehicles. We have since initiated the process of registering the remaining motor vehicles.

Committee Observations and Findings

(i) **The Committee observed that the Ministry currently maintains an inventory of its vehicles. However, a number of the motor vehicle log books were not availed in the recent audit in the 2017-18.**
(ii) **The Committee observed that the Ministry indicated that follow-up with NTSA was being done there is no evidence that the process has been concluded**.
(iii) **The matter remains unresolved.**

Committee Recommendation

The Accounting Officer should ensure that the vehicles inventory is updated and submitted to the Office of the Auditor General for audit verification.

Other Matter

289: Public Participation in the Budget Preparation

Article 201(a) of The Constitution of Kenya requires that there should be openness and accountability, including public participation in financial matters. Further, Section 36 (3) (d) of the Public Finance Management Act, 2012 provides for public participation in the budget process. The State Department for Water Services has not availed evidence to confirm that the procedures for public participation were undertaken. Even though the State Department for Water Services explained that public participation process is a function of the National Treasury and invitation letters were received. No evidence has been availed to show that the deliberations at the public participation event were noted and included in the budget.

Submission by Accounting Officer

The Accounting Officer submitted that as earlier explained, the issue of Public Participation of the MTEF Budget is coordinated by the National Treasury. The PFM Act 2012 Section 35 (2) states that the Cabinet Secretary, National Treasury shall ensure Public participation in the budget process.

The Ministry undertook a one-day consultative meeting with the Development Partners at Silver Springs Hotel in April, 2015 on the FINANCIAL YEAR 2016/2017 budget. All the SAGAs in the Ministry were involved in the budget making process through a Sub-sector Group meeting held in August 2015 in Naivasha.

Further, the FINANCIAL YEAR 2016/17 budget was presented to the public in February 2016 and the issues raised were captured in the Budget Policy Statement (BPS) of the FINANCIAL YEAR 2016 before the same was presented to Parliament.

Committee Observations and Findings

(i) **The Committee observed that the Ministry has explained and demonstrated how public participation was carried out in the budget preparation**
(ii) **The Committee marked the matter as resolved.**

290: Weak Internal Controls

The State Department does not have a risk management policy. There was no risk assessment carried out to identiFinancial Year and address key areas of concern and document specific controls in response to identified risks. There is no evidence that management assessed the internal controls applicable to address any material weaknesses that could be inherent in the controls.

Submission by Accounting Officer

The Accounting Officer admitted that during the period under review, the State Department of Water and Services had not established risk management policy. He also admitted that the State Department did not carry out risk assessment to identiFinancial Year key areas of concern and document specific controls in response to the identified areas. However, the management has currently put in place appropriate risk management mechanisms. A Safety and Security Committee was constituted and specific areas of concern identified below:-

i) Fire Safety

- Servicing of firefighting equipment
- Sensitizing staff on fire safety
- Training of fire marshals
- Fire exit points identified and marked

ii) Safe and Secure Work Environment

- Maintenance and servicing of equipment and lifts.
- Providing a work environment that is safe and hygienic through contracting of cleaning and security companies to ensure staff works in an environment free from diseases, accidents and hazards.
- Terrorism – Staff identification, providing scanners and CCTV equipment

iii) Financial Risk Strategies

- Establishment of strong internal audit
- Budget implementation committee

iv) Records Management

- Receiving, Filing, Dispatching and classification of correspondence
- Disposal of files.
- Fire proof cabinets for safety of records.

v) Information Security Management System

- Training of ISMS Champions to secure information for the organization.
- Establishment of ISMS policy and procedures
- Establishment of risk register and information assets register
- Establishment of ISMS risk management action plan

Vi) Human Resources

- Ministerial Human Resources Advisory Committee
- Ministerial performance management committee

Committee Observations and Findings

(i) The committee observed that the risk management policy is still not in place and no risk assessment was done. However, risk management strategies and mitigation measures have been implemented.

(ii) The matter remains unresolved

Committee Recommendations

The Accounting Officer should ensure that the institution develops a risk management policy to provide a solid backing for the prevailing risk management strategies and mitigation measures.

B) The State Department has no formal, documented and tested disaster recovery plan/emergency procedure in place and therefore in case of an emergency, the personnel involved might not be aware of what is expected of them. In addition, no evidence was availed of the existence of information back up and retention strategy.

Submission by Accounting Officer

The Accounting Officer submitted that the state Department has formal, documented and tested disaster recovery plan/emergency procedures in place. In case of an emergency the personnel involved are aware of what is expected of them (We have assessment team ready to carry out the evaluation of the disaster and a team to carry out interventions).

Backup information is available, but retention strategy is not available because disasters vary from one type to the other. In this regard, the Ministry has incorporated/mainstreamed DRM Strategies in the Ministry's Strategic plan. Every Department in the Ministry has prepared strategies to mitigate against disasters. Most of these strategies are not funded hence are not implemented.

The strategies range from prevention, reduction, preparedness, mitigation and building resilience among the affected communities (Ministerial Strategic plan attached). Some of these strategies being implemented range from construction of large, medium and small dams to harvest water as a way of controlling floods, store water for use as well as for mitigating against drought. The Ministry has also drilled few strategic boreholes in the drought prone areas to serve the affected communities.

The Ministry has also participated in the formulation of National Disaster Management Policy that received Cabinet approval in March 2018. This policy aimed at providing a foundation for sectoral DRM'S. After the approval of the DRM Policy a DRM bill was developed which is currently at the National Assembly awaiting finalization. Once the Bill is passed, the Ministry will domesticate it by developing the Water sector Disaster Risk Management Strategy that will address the water related disasters in the country.

Committee Observations and Findings

(i) **The Committee observed that the critical IT services are provided externally which include the IFMIS (for financial and accounting services) and GHRIS (For Human resources). These have a backup system maintained by the relevant departments.**
(ii) **The Committee marked the matter as resolved.**

c) There is no IT strategic committee and plan, IT steering committee and security policy in place to guide use of IT in the State Department.

Submission by Accounting Officer

The Accounting Officer admitted that, in the year under review, there was no IT Strategic Committee, Strategic Plan and Security Policy. However, currently the Information Security Management Systems Committee has since been established, the same committee engaged a consultant whereby the State Department now has an ISMS (Information Security Management Systems) Policy and a Management Action Plan has been outlined in the same Policy as part of the Performance Contract target for the Financial Year 2018/2019.

Committee Observations and Findings

(i) **The Committee observed that there is no IT Strategic Committee and Plan, However the State Department has put in place an Information Security Management Systems Committee and Security Policy to guide the use of IT in the State Department.**
(ii) **The matter remained unresolved.**

Committee Recommendations

Accounting Officer should establish an Information Technology Strategic Committee and Plan to facilitate implementation of the Information Security Management Systems and the security policy which shall guide the use of information technology in the State Department.

d) There was no audit committee in place as required by regulations

Submission by Accounting Officer

The Accounting Officer admitted the Audit Committee had not been constituted during the financial year under review, but it has since been constituted and functioning as per the PFM Act (2012).

Committee observations and Findings

(i) **The Committee observfed that the Audit Committee is in place and functioning.**
(ii) **The Committee marked the matter as resolved.**

e) The code of conduct for staff has not been developed and implemented.

Submission by Accounting Officer

The Accounting Officer admitted that during the period under reference, the code of conduct for staff in the Ministry had not been developed but the same has been developed as per Public Service Commission letter PSC/C&QA/CODE/(1) dated 19th March 2019 and our Ref. C/MWI/ESTAB/2 'B' (18) dated 4th April, 2019.

Committee observations and Findings

(i) **The Committee observed that the code of conduct for staff in the Ministry had not been developed during the audit review but the same has since been developed, customized and signed by the staff.**
(ii) **The Committee marked the matter as resolved.**

Donor Funded Projects

Kenya Water Security and Climate Resilience Project

Unqualified Opinion

It was observed that there were no material issues noted during the audit of the financial statements of this project.

Other Matter

291. Comparative Budget and Actual Information

a) Transfer from Government entities increased by 100% as per the statement of comparative budget and actual amounts. It was explained that the excess funds are for CRWSCRP which were received in Kenya Water Security and Climate Resilience Project account. The funds are for resettlements. However, it is not clear why the amount was received in Kenya Water Security and Climate Resilience Project while CRWSCRP is an independent project.

Further, after the amount was received, it has not been transferred to CRWSCRP.

b) Purchase of goods and services overshot the indicated budget by Kshs.218,093,625 or 53% and these was attributed to increased project activities. Identity of the specific activities and their impact on the project implementation process was not disclosed. Further, there were no control measures in place to ensure that this variation positively affected project implementation.
c) Acquisition of financial assets – there is no explanation for underutilization of (Kshs.23,232,825) or 15%.

292. Public Participation in the Project Implementation

There is no evidence of public participation in the budgetary information used to prepare the financial report presented. The requirements of the law have therefore not been complied with.

293. Internal Controls Not Implemented

The following observations were made during a review of the internal control systems of the Kenya Water Security and Climate Resilience Project (KWSCRP):
a) No internal audit reports have been availed for review.

b) No risk assessment was carried out to identiFinancial Year and address key areas of concern and document specific controls in response to identified risks – There is no evidence that management assessed the internal controls applicable to address any material weaknesses that could be inherent in the controls.

c) The project has no formal, documented and tested disaster recovery plan/emergency procedure in place and therefore in case of an emergency, the personnel involved might not be aware of what is expected of them.

Committee Observations and Findings

The Committee treated paragraph 291 and 292 as information to be noted by the Accounting Officer.

294. Accounts Receivables – Long Outstanding Imprests

Imprest amounting to Kshs.1,313,199 have been outstanding for more than six months after the due date for surrender in the records of Kenya Water Security and Climate Resilience Project. No reason has been provided for the failure to surrender or clear the imprests as per the Public Finance Management Regulations, 2015.

In addition, the imprests are recorded in the cashbook as payments to the bank instead of the actual payees and the imprest warrant numbers. Hence it is difficult to follow up on recording of surrenders and accountabilities of the imprests.

Submission by Accounting Officer

The Accounting Officer admitted that an outstanding imprest of Kshs. 1,313,199 was outstanding at the end of the financial year. However, an outstanding imprest of 857,504 was cleared in FINANCIAL YEAR 2017/2018 and another 74,095 in FINANCIAL YEAR 2018/2019. The recovery process for the balance of Kshs. 381,600 has commenced to be recovered from the pension of the imprest holder, Patrick Change personal number 78132295, designation Senior Superintendent (Water)
Imprest recording and management was revised and adhere with the recommendation of office of the Auditor General.

Committee Observations and Findings

(i) **The Committee observed that the outstanding balance of Ksh. 857,504 was cleared in Financial Year 2017/2018 and another 74,095 in Financial Year 2018/2019 for the project except for Kshs. 381,600 for one officer.**
(ii) **The matter remains unresolved.**

Committee Recommendations

Within three months of the adoption of this report, the Accounting Officer must ensure the recovery of the outstanding imprest of Kshs. Kshs. 381,600 from the payment dues of the defaulting imprest holder together with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(16) of the Public Finance Management (National Government) Regulations, 2015.

295. Accounts Receivables – Amount Paid to National Land Commission

The project has paid a total of Kshs.400,000,000 to the National Land Commission since it started. No report or analysis has been provided on how the National Land Commission has used this money to implement project objectives.

Submission by Accounting Officer

The Accounting Officer submitted that the ctual amount transferred to National Lands Commission to date is Kshs. 450,000,000 for Lower Nzoia compensation. NLC provided the project with analysis of amount spent by the end of Financial Year 2017/2018. However, since they did not provide documentation for the expenditure the amount was not expensed in Financial Year 2017/2018 as well.

The project wrote to NLC requesting for documentation of the expenditure. Although compensation of project affected persons is derailing the work on the contractor, the project will only transfer additional funds when NLC request for the funds and also submit supporting documents for the expenditure incurred.

Committee observations and Findings

(i) The Committee observed that the situation persists in the recently audited financial statements 2017/18 for the project and a total of Kshs 450,000,000 had been advanced to NLC but no expenditure returns have been provided for audit;
(ii) The Committee observed that the State Department transferred Kshs. 450,000,000 to National Land Commission for Lower Nzoia compensation;
(iii) The Committee observed that only Ksh 125, 393, 735 was spent by the National Land Commission and returns submitted to the State Department; and
(iv) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer should ensure that expenditure returns for the Ksh 125, 393, 735 are availed to the Office of the Auditor General for Audit Verification.

296. Non-financial Assets - Purchased Assets Not Properly Disclosed

The Project purchased the assets tabulated below totaling Kshs.47,901,700 which could not be verified because of lack of evidence about how they were requisitioned, distributed and the activities that they are being utilized for in the project:

Item	Quantity	Value (Kshs)	Remarks
Motor cycles Bicycles	8 80	2,309,900	Distribution list not availed Location, condition and use not ascertained
Projectors Servers-portable Servers-mounted	14 10 10	38,253,700	User requisition not seen Distribution list not availed Location, condition and use not ascertained
Item	Quantity	Value (Kshs)	Remarks
Desktop computers Ultra book laptops Laptops	19 18 25	7,440,000	User requisition not seen Distribution list not availed Location, condition and use not ascertained
Cameras UPS light duty UPS medium duty	2 19 10	2,208,000	User requisition not seen Distribution list not availed Location, condition and use not ascertained
Total		47,901,700	

Submission by Accounting Officer

The Accounting Officer submitted that the distribution list was tabled for review and clearance.

Committee observations and Findings

- **(i) The Committee observed that the distribution list has been availed and verified.**
- **(ii) The Committee marked the matter as resolved.**

297. Unsupported Expenditure on Printing, Advertising and Information Supplies

The project management prepared financial statements which included an amount of Kshs.20,758,718 for printing, advertising and information supplies. However, schedules provided to support the figure amounted to Kshs.26,351,659. Upon discussion about the variance, the management amended the financial statements to include a figure of Kshs.51,302,670 as the expenditure on the item. The schedules for the amended figure now reflect the Kshs.26,351,659 for advertising; Kshs.17,500,753 for conference expenditure and

Kshs.7,450,258 for stationery. It is not clear where the additional figures have come from, neither has the supporting documentation been made available for audit verification. Also, the classification of conference expenditure under this item is erroneous.

Further, included in the advertising expenditure is a payment of Kshs.684,028 to The Star for advertisement of requests for expression of interest placed in the paper for positions of Agronomist and Accountant II. The management has not produced the procurement records to ascertain the reasons for the choice of the paper, the necessity to advertise these positions in 3 papers and the process followed in placing the adverts.

The Project paid Kshs.526,176 and Kshs.597,985 to the Standard Group and Nation Media Group respectively for advertisement by NEMA seeking public views on environmental impact assessment done on the proposed Mwache Dam, Fulugani and Miyani areas in Kwale County. The project management have indicated this to be a standard procedure, but no basis has been availed to support the arrangement for the advert to be placed by NEMA at the cost of the Project.

Submission by Accounting Officer

The amount of Kshs 20,758,718 is made up of the amount in draft I of the financial statements which was the 13,827,168 and Kshs. 6,931,550 for conferences and stationery respectively. The amount of Kshs. 26,351,659 was indeed the amount of advertising. Since the project transfers funds for portioning expenses to the implementing units, the financial statements were revised to include the expenditure by Water Resources Management Authority (WRMA) of Kshs. 3,641,585 and Kshs, 518,708 incurred on conference and stationery respectively. Consequently, the previously reported amounts of Kshs. 13,827,168 and Kshs 6, 931,550 were adjusted to Kshs. 17,500,753 and Kshs. 7,450,258.00. The amounts of Kshs. 26,351,659, Kshs, 17,500,753 and Kshs 7,450,258 make up the Kshs 51,302,669.60.

In financial year 2017/2018, the amount Kshs 51,302,669.60 was restated to 33,801,917 and 17,500,753 under printing, advertising information supplies & services and Hospitality supplies and services respectively.

On the 17,500,753 erroneous classifications, the financial statements were revised in the financial reports for FINANCIAL YEAR 2017/2018 and a column for "restated" in the cash flow added. Attached are the financial reports for FINANCIAL YEAR 2017/2018 and schedules for the previous years for clarification purposes.

The Public Procurement and Disposal Act 2015 section 96(2) requires publications of adverts to be carried out in at least two dailies of wide circulation, that the dailies be registered by ABC (Audit bureau of circulation). The project seeks approval from the PS before placing any advert.

Payment for advertisement in the Standard and Nation newspapers was done in accordance with the law as part of process of obtaining NEMA license (Attached Legal Notice No. 101 – The Environmental (Impact Assessment and Audit Regulations 2003 highlighted on pages 15 and 16**).**

Committee observations and Findings

- **(i) The committee observed that the reclassification of the expenditures was done, and the financial statements were restated in the financial year 2017/18.**
- **(ii) The committee marked the matter as resolved.**

298. Inability to Implement the Project Annual Work Plan

The project has timelines within which certain deliverables are to be achieved. Based on the deliverables, a project implementation manual should have been prepared and from which an annual work plan and budget are extracted for implementation. However, the project annual work plan had a budget of Kshs.2,433,837,990 for various activities/outcomes expected of the project in the period under review. Further, the project achieved an expenditure of Kshs.759,525,800 as per the revised statement of receipts and payments presented for audit. This translates to only about 31% of the expected performance detailed in the annual work plan.

In addition, the progress reports produced have not analyzed the project achievements against the outcomes/activities included in the annual work plan, together with the expenditure realized. Hence it is not possible to ascertain what project outcomes have been obtained at the reported expenditure level.

Submission by Accounting Officer

The Accounting Officer submitted that the project annual work plan is prepared in accordance with World Bank agreed cash flow projection levels and is submitted and approved by the Bank before the start of the Financial Year. However, the GoK Printed Estimates are released thereafter and, in this case, as indicated on the statement of comparative budget and actual amount, the total approved budget was KShs 3.1b which was reduced to KShs 814m in supplementary II.

Since the project cannot spend beyond the printed estimate budget, the annual work plan and budget ought to have been reduced accordingly to conform with the revised budget. This did not happen in time as request made to NT for authorization to spend did not succeed up to the last-minute closure of the Financial Year. The activities were therefore rolled over to Financial Year 2017/2018 and implemented with the approved budget for the year.

In the meantime, the project has now improved on an effective tracking tool for the complicated project implementation arrangements that cut across different ministries, state agencies and county governments to ensure timely completion and funding of all planned activities.

Committee observations and Findings

(i) **The Committee observed that according to the auditor general, the project availed an annual work plans for the subsequent years and the implementation has since improved.**
(ii) **The Committee matter marked the matter as resolved.**

20.0. STATE DEPARTMENT FOR IRRIGATION

FINANCIAL STATEMENTS FOR VOTE 1104

Prof. Fred Segor, the Principal Secretary and Accounting Officer for the State Department of Irrigation (Vote 1104) appeared before the committee on 20th August 2019 to adduce evidence on the Audited Financial Statements for the State Department of Irrigation (Vote 1104) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Peter Chemwele - Chief Finance Office**
2. **Mr. Robinsin Gaita - Irrigation Secretary**
3. **Ms. Rose Baraza - Head of Accounting Uni**
4. **Mr. James Yatich - Director Land Reclamation**
5. **Mr. Aboud Moeva - Director Irrigation water Management**
6. **Mr. Gitonga Mbijiwe - Rep: Director irrigation and drainage**
7. **Mr. Henry Omosa - Directorate Human Resource**
8. **Ms. Elizabeth Masaku - Head Supply Chain Management**

Basis for Adverse Opinion

299.1 Unexplained variances

Examination of the Department's Financial Statements as at 30th June 2017 revealed that figures reported in the ledger balances and the supporting schedules had variances. The variances are as shown below;

Description	Balance as per ledger (Kshs.)	Financial Statements Figure (Kshs.)	Balance as per schedules (Ksh)	Variance (Kshs.)
Acquisition of Assets	1,044,115,440	1,033,601,364	1,072,503,403	(38,902,039)
Transfers to other Entities	7,270,723,146	7,270,646,073	7,185,861,543	(84,784,530)

No explanation or reconciliation has been provided for the variances between the three sets of records which normally have the same figure.

Submission by Accounting Officer

The Accounting Officer admitted that the financial statement as at 30th June 2017 reported different figures in its records on Acquisition of Assets. Kshs.38,902,039 being the difference between the Financial Statements figure and balance as per schedule was as a result of pending bills which have been reported under note no. 11.1 and 11.2 read together under Annex 1 & 2 in the Financial Statement on pending bills that was as a result of inadequate exchequer. He stated that the difference between figures in the Ledger balance and Financial Statement was caused by the system recognizing a payment when a validation is initiated and not when a payment is made. The schedule reflected the figures sent to other Government entities.

The difference in transfers to other entities in three sets of records in the financial statement giving a variance of Kshs.84,784,530 was as a result of expenditure incurred by the Department on Projects under National Water Harvesting and Water for Schools these being activities undertaken by the Department directly.

He reported that the pending bills that had been verified had since been settled and that the Journal vouchers for correcting the system failure on validations and payments had been raised and verified. Further, the Ministry had taken steps to ensure that activities undertaken by the department were budgeted for under the department directly and not as transfers to other entities.

Committee Observations and Findings

(i) The Committee observed that the Kshs.38,902,039 on Acquisition of Assets being the Financial Statements figure and balances resulted from pending bills reported in the Financial Statement resulting from inadequate exchequer;

(ii) The Committee also observed that the variance of Kshs.84,784,530 in the financial statements resulted from expenditure incurred by the Department on Projects under National Water Harvesting and Water for Schools these being activities undertaken by the Department directly;

(iii) In addition, the Committee observed that the submission made by the Accounting Officer explaining the validity and completeness Kshs.38,902,039 on Acquisition of Assets and the variance of Kshs.84,784,530 in the financial statements, though persuasive, should have been provided to the Auditor General in time during the audit review; and

(iv) The committee marked the matter as resolved.

Committee Recommendations

(i) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

(ii) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**

299.2 Wrongly Charged Accounts

The statement of receipts and payments reflects expenditure amounting to Ksh.7, 270,646,073 on transfer to other government units. Included in this amount is Kshs. 922,576,264.24 for the construction of small dams and water pans which was wrongly charged to current grants to other Government units (2630201) instead of construction and civil works under the acquisition of assets component.

The inconsistencies undermine the accuracy of the account in the presentation of a true and fair view of the state department of irrigation operations as well as the purpose of budgeting. It also amounts to unauthorized expenditure and a move to avert the surrender of the unspent balances and/or reporting over-expenditure in the affected particular item.

In the circumstances, the accuracy, validity and completeness of the financial statements balances cannot be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that the Kshs.922,576,264.24 included in Kshs.7,270,646,073 reported in the statement of receipts and payments relates to the construction of small dams and water pans which was wrongly charged to current grants under other Government units (2630201) instead of construction and civil works under the acquisition of assets component. This was caused by an error when trying to post the expenditure in the code (3110504) other infrastructure and Civil works. The error has been corrected in the system and is being reported correctly in subsequent years.

Committee Observations and Findings

(i) **The Committee observed that the error of charging Kshs. 922,576,264.24 for the construction of small dams and water pans to current grants to other Government units was corrected in the system;**

(ii) **The Committee also observed that the submission made by the Accounting Officer explaining the accuracy, validity and completeness of the financial statements, though persuasive, should have been provided to the Auditor General in time during the audit review; and**

(iii) **The committee marked the matter as resolved.**

Committee Recommendations

(i) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

(ii) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**

300. Fixed assets

During the year under review, the State Department of Irrigation spent Kshs.1,033,601,364 on acquisition of assets as shown in the statement of receipts and payments. However, details of the assets acquired were not disclosed as Note 6 refers to construction and civil works while annex 4 summary fixed assets register indicates buildings and structures with a note on construction of pans and dams. Further, a fixed asset register (showing additions/disposals during the year 2016/2017) was not made available for audit review. In addition, fixed assets inherited by the state department are not disclosed in the financial statements. Consequently, it has not been possible to confirm the accuracy, ownership and completeness of kshs.1, 033,601,364 balances on fixed assets as at 30th June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that the State Department of Irrigation spent Kshs.1,033,601,364.00 on acquisition of assets as shown in statement of receipts and payments and the summary of fixed Assets register indicates them as Water Pans and Small Dams. The State Department was created in May 2016. Therefore, by the time the Audit was taking place the State Department was on the process of compiling and recording the assets in the Asset register.

He reported that the State Department of Irrigation has since created a fixed-assets register which is complete and accurate showing details of ownership and location as per the attached.

Committee Observations and Findings

(i) The Committee observed that the State Department has created a fixed-assets register which is complete and accurate showing details of ownership and location;
(ii) The Committee also observed that the submission made by the Accounting Officer confirming the accuracy, ownership and completeness of Kshs.1, 033,601,364 balances on fixed assets as at 30th June 2017, though persuasive, should have been provided to the Auditor General in time during the audit review; and
(iii)The committee marked the matter as resolved.

Committee Recommendations

(i) Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.
(ii) The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.

301. Cash and cash equivalents

301.1 Recurrent Account

The cash and cash equivalents balance of Kshs.702,081,595 as at 30 June 2017 includes a Recurrent Account balance of kshs.326,936. The Recurrent Account includes Kshs.1,025,679 reflected as payments in the bank not in the cash book. Management has not explained how the payments were made in the bank before they were posted in cashbook.

Submission by Accounting Officer

The Accounting Officer admitted the cash balance at the close of the Financial Year reflect Kshs.1,025,679 as payments in the bank not in the cash book. This was a typographical error where the words cash book and bank were erroneously interchanged. The bank reconciliation statement has since been revised as per the attached.

Committee Observations and Findings

(i) **The Committee observed that the Kshs.1,025,679 appearing as payments in the bank not in the cash book was a typographical error where the words cash book and bank were erroneously interchanged;**
(ii) **The Committee also observed that the submission made by the Accounting Officer confirming the validity, accuracy and correctness of Kshs.1,025,679, though persuasive, should have been provided to the Auditor General in time during the audit review; and**
(iii) **The Committee marked the matter as resolved.**

Committee Recommendations

(i) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
(ii) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**

301.2 Development Account

The Development Account cash book balance of Kshs.595,952,227 (Note 7A) includes an amount of Kshs.978,528,318 shown as payments in the cash book not in the bank out of which Kshs.419,800 is shown as cashbook overcast which could not be traced in the cash book. Further, Kshs.540,400 is reflected as payments in Bank Statement are not recorded in the cash book. Management has not explained how the payments were made in the bank before they were posted in the cashbook.

Submission by Accounting Officer

The Accounting Officer admitted that the Development Bank Reconciliation had Kshs.978,528,318 shown as payment in the Cashbook not in the bank and out of which Kshs.419,800 is shown as the Cashbook overcast. This amount showing as outstanding in cashbook not in Bank was payment paid in the month of June 2017. The issue of overcast of Kshs.419,800 shown in the bank reconciliation as a cashbook overcast and Kshs.540,400 reflected as a payment in the bank not yet recorded in the cashbook were compensating error which have since been corrected through the bank reconciliation statement and verified**.**

Committee Observations and Findings

(i) **The Committee also observed that the submission made by the Accounting Officer confirming the validity, accuracy and correctness of Kshs.978,528,318, though persuasive, should have been provided to the Auditor General in time during the audit review; and**
(ii) **The committee marked the matter as resolved.**

Committee Recommendations

(i) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
(ii) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**

301.3 Cash Management and Poor Records

There is no segregation of duties as pertained cash management. It was not clear how cash is handled and by who. The cash book is also poorly maintained as important details like voucher details are omitted. The closing cash in hand balance as at 30 June 2017 as indicated in the financial statements was Kshs.1,005,100. It was not clear where the cash was kept in the absence of a cash office and /or cashier.

In the view of the foregoing, it has not been possible to confirm the accuracy and completeness of cash and cash equivalents balance of Kshs.702,081,595.00 as 30 June 2017.

Submission by Accounting Officer

The Accounting Officer admitted that there was no proper segregation of duties as pertained to cash management during the year under review. This was because by the time the state Department was created, the Accounts Department had only four Accountants. The challenge was corrected and currently the Department has ten (10) Accountants and segregation had been realized.

He further admitted that State Department had no Cash Office in the year under review but had Cashbox and a Cashier. The Cashbox was kept in Head of Accounting Unit office. The Cashier would withdraw monies for office use from the bank and keep in the safe.

The Kshs.1,005,100 was a closing balance as at 30th June 2017 and was transferred to exchequer Account.

Committee Observations and Findings

(i) The Committee observed that the Accounting Officer admitted that there was no proper segregation of duties as appertains to cash management during the year under review;
(ii) The Committee also observed that during the year under review the number of accounts at the State Department increased from four accounts to ten;
(iii) In addition, the Committee observed that Kshs.1,005,100 was a closing balance as at 30th June 2017 and was transferred to exchequer Account; and
(iv) The Committee marked the matter as resolved.

Committee Recommendations

(i) Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.
(ii) The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

302. Accounts Receivables

Included in the accounts receivables balance of Kshs.34,067,310 as at June 2017 is Kshs.10,968,632 for clearance account and kshs.23, 098,678 outstanding imprests. The amount of Kshs.10,968,632 has not been explained by way of a note to the financial statements nor has a breakdown listing been provided to support the amounts. Further, records maintained by the state department of irrigation indicate that imprest amounting to Kshs.23,098,678.00 under Note 8 in the financial statement was outstanding as at 30th June 2017. However: -

a) The imprest Register is not up to date and thus cannot be relied upon to know when an imprest was surrendered and by which payment voucher. It was also noted that officers are issued with more than one imprest at a given time contrary to public finance management regulations, 2015.
b) Officers also take imprests on behalf of other officers instead of paying directly to the concerned officers' accounts.

c) A schedule of the outstanding imprest holders availed indicated surrender dates which could not be relied upon as most of them showed imprests were surrendered before 30 June 2017. It was thus not clear how the same could appear as outstanding on 30th June 2017 yet they purported to have been cleared before the close of the financial year.

Consequently, it has not been possible to confirm the accuracy of the Imprest balance of Kshs. 23,098,678.00 as at 30th June 2017

In the circumstances, it has not been possible to ascertain the completeness and accuracy of the accounts receivable balance of Kshs. 34,067,310 as at 30th June 2017.

Submission by Accounting Officer

The Accounting Officer admitted that the Accounts receivables balance of Kshs.34,067,310 as at June 2017 was Kshs. 10,968,632 for clearance Account and Kshs.23,098,678 outstanding imprests.

The figure of Ksh.10,968,632 related to VAT paid directly to KRA. He stated that the payment failed in the system and therefore had to be processed again in the System. The figure of Ksh.23,098,678 is imprest issued to Officers and currently all have been cleared.

a) It is also true by the time of Audit Review the Imprest Register was not updated with IFMIS Register. This was occasioned by challenges in the IFMIS System while the Surrender Vouchers were still being processed. The officers therefore first clear the Manual Register and other processes before they are finally cleared in the IFMIS System. The IFMIS Department later opened the system and was corrected and updated.
b) It's also true that there where Officers who would take Imprest on behalf of others. This was necessitated by the fact that the Department was fairly new and serving Officers had not been mapped in the System. The Office has taken action to rectiFinancial Year this anomaly and has also ensured that all Officers are now mapped in the IFMIS System.
c) The issue of Officers holding two Imprest was because they had submitted the documentation but had not been cleared from the IFMIS or IFMIS Register at the time new Imprest is given. The Office is taking action by ensuring that before an Imprest issued to an officer any outstanding Imprest is cleared from both Manual and IFMIS Registers. The issue of outstanding Imprest being surrendered after 30th June, 2017 is because at the close of Financial Year 30th June the Imprest is first cleared in manual Imprest register as the officers do other processes and later are cleared through IFMIS System.

Currently, the State Department has taken action by ensuring that Manual Imprest and IFMIS Imprest Register are reconciled simultaneously.

Committee Observations and Findings

(i) The Committee observed that the Accounting Officer admitted that the Accounts receivables balance of Kshs.34,067,310 as at June 2017 was Kshs. 10,968,632 for clearance Account and Kshs.23,098,678 outstanding imprests;
(ii) The Committee observed that Ksh.10,968,632 failed in the system and therefore had to be processed afresh again in the System; and
(iii)The Committee observed that all the imprest has been cleared.
(iv)The committee marked the matter as resolved.

303. Compensation of Employees

i. During the year under review, the State Department for Irrigation budgeted to spend Kshs.92,656,614 on compensation of employees. However, the actual expenditure was Kshs.102, 930,735 resulting in an unexplained over expenditure of Kshs.10,274,121. Further, the general ledger balance of Kshs.111, 136,623 is at variance with the schedules provided in support of the compensation of employee's figure totalled Kshs. 102,930,735

i. In addition, included in the compensation of employees are commuted leave allowance amounting to Kshs.4,560,135 paid to various officers contrary to section N of the Government code of regulations Revised 2006 and department of personal management (DPM) circular number DPM/381A/38. Again, the respective officers' personal files sampled, revealed there was no evidence to show they actually applied for leave and were never granted due to exigency of work to warrant the commutation of leave for cash.

In consequence, the validity completeness and accuracy of the compensation to employees' balance of Kshs.102, 930,735 as at 30 June 2017 could not be ascertained.

Submission by Accounting Officer

I. The Accounting Officer admitted that the Department budgeted for Kshs.92,656,614.00 on compensation of employees. However, the actual expenditure was Kshs.102,930,735.00.

He submitted that when the State Department was created, it had budgeted to cater for only Technical officers. However, when the State Department was operationalized as a fully-fledged State Department, other support units namely; Administration, Human Resource, Planning, Supplies Chain Management, Accounts, Records Management, Finance, ICT and Secretarial staff were brought on board from other Ministries and State Departments. The gradual inclusion of these support services officers into the payroll for the State Department occasioned variance between the budgeted and actual expenditure chair the increase in expenditure represent 11% which is within allowable 10% variance.

Revenue/Expenses	Original Budget	Adjustments	Final Budget	Actual Comparable Basis	Budget Utilisation
Compensation of Employees	134,868,263	(42,211,649)	92,656,614	102,930,735	(10,274,121)

As Stated in the table above the budget was reduced after the expenditure and the over expenditure regularized in the supplementary budget of 2017/2018.

II. He further admitted that compensation of employees includes Kshs.4,560,135 as commutation employee leave. The decision to commute leave was because the Department was new with no structural processes and other committees for efficiency and effective service delivery. In order to realize the targets, set in the Performance Contract for 2016/2017, all officers were advised to forfeit their leave for commutation.

Committee Observations and Findings

(i) The Committee observed that the Department budgeted for Kshs.92,656,614.00 on compensation of employees but the actual expenditure was Kshs.102,930,735.00 because other departments were created;
(ii) The Committee also observed that the submission by the Accounting Officer explaining the validity completeness and accuracy of the compensation to employees' balance of Kshs.102, 930,735 as at 30 June 2017, though persuasive, should have been provided to the Auditor General in time during the audit review; and
(iii) The Committee marked the matter as resolved.

Committee Recommendations

(i) Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

(ii) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**

304. Procurement of Construction and Civil Works- Small Dams and Water Pans

During the year under review, the State Department spent Kshs.1,033,601,364 on acquisition of assets. Included in this amount is Kshs. 865,301,290.24 on the construction of small dams and water pans. However, the department did not avail an inventory of all water pans and small dams indicating the physical location, the contractor, when it was constructed and their status. Further there were no technical reports like feasibility, hydrological, environmental impact assessment (EAI) that were carried out before commencing of works. In addition, the contracts enter into were not dated.

There was no evidence of individual evaluation score sheets of each contract for both technical and financial evaluation. Only a summary of the scores was availed nor any evidence to show if a cost benefit analysis was done to show dams versus rehabilitating the existing ones.

Further, it was noted that all the purchase orders were raised in the month of June 2017 in a span of eight (8) days as enumerated below:

No.	Date	**Total Value of LPOs (Kshs.)**
1.	8/6/2017	48,160,324
1.	9/6/2017	195,019,180
2.	12/6/2017	303,145,120
3.	3/6/2017	155,292,219
4.	14/6/2017	38,258,575
5.	15/6/2017	34,443,259
6.	19/6/2017	9,177,010
7.	27/6/2017	81,805,604

Submission by Accounting Officer

The Accounting Officer stated that during the 2016/2017 financial year, the State Department included in its expenditure an amount of Kshs.865,301,290.24 for construction of small dams and water pans. He tabled the inventory of 84 Projects constructed in Phase 1. All 84 projects were developed between March and June 2017. The physical location, including GPS coordinate names of contractors and status of completion of each project.

He also tabled a sample of the Contracts, Feasibility design reports and Environmental Impact Assessment reports for the water pans/small dams are available. All these projects were of low risk by their design and use.

He submitted that the projects purchase orders to facilitate payment were issued in the month of June 2017 because payment certificates for construction work that started in March 2017 could only be issued once substantial completion was achieved and this was possible by June 2017. Contractors then qualified for payment necessitating preparation of Purchase Orders during the period indicated. The Accounting Officer also tabled an Evaluation Report.

After visiting the water pans, the state department further submitted the following:

FINANCIAL YEAR 2013/2014 to FINANCIAL YEAR 2018/2019, the Government allocated funds for construction of water pans and small dams on top of development of strategic large dams and drilling, equipping and construction of 20,000 cubic metre elevated steel tank with either solar pumps or KPLC connection. The following projects have been developed: -

GOK ALLOCATION FOR CONSTRUCTION OF WATER PANS, SMALL DAMS AND DRILLING AND EQUIPING BOREHOLES AND PILOT GREEN HOUSES IN PUBLIC SCHOOLS

	Financial Year	Amount Allocated (Ksh)	Executing Agencies	No of Water Pans/ Small Dam & Boreholes Drilled Developed	Total Amount Paid/Released Ksh	Est Storage Capacity Created	Remarks
	2014/2015 & 2015/2016	Ksh 3.5 Billion From (MoDP)	8 WSBs & 6 RDAs	701	Ksh 3.495b to WSBs & RDAs	9.6million m³	Water pans of average 5,000m³ were developed no auxiliary works.
	2016/2017	Ksh 2 billion	SDI	84 (Ksh 1b used)	Ksh 865million	4.7million m³	On average 30,000m³ with auxiliaries;- drawing points, fencing, silt traps, and toilets)
		Ksh 530million	SDI	NIL	nil	NIL	supplementary reversed
	2017/2018	Ksh 2billion	SDI	48 water pans and small dams	Ksh 410million (Ksh 665m as (pending bills)	2.6million m³	Court cases affected planned projects procured in Phase 1 for Financial Year, but outstanding Financial Year 2016-2017 and 15 phase 2 water pans and 7 boreholed
		Ksh 400million	SDI	41 Boreholes drilled & equipped, 3 HH irrigation projects		benefit 72 schools, 60 pilot green house	
	2018/2019	Ksh 995 million	SDI	18 Water pans/small dams 12 boreholes	Ksh 995million No pending bills	1.2million³ 12 public schools with wate pilot green house	Used to pay outstanding debts from Financial Year 2016/2017 to Financial Year 2018/2019

In Financial Year 2018/2019, SDI was allocated **Ksh 995million** to pay outstanding debts for a total 66 water pans/small dams, 3 community household projects and 53 boreholes drilled, equipped with 20,000cubic tank all from Financial Year 2016/2017 – Financial Year 2018/2019. The projects had historical disparities; some were complete, others near or in various stages of completion. During this period, **8 water pans/small dams** and **16 boreholes had challenges** due to capacity of contractors, dry boreholes or insufficient public land. The same have been proposed for re-advertisement**.**

Committee Observations and Findings

(i) The Committee conducted a field visit to inspect the water pans between 21st October and 26th October 2019.
(ii) The Committee observed that most of the water pans sampled were not complete in terms of percentage as stated by the state department e.g Sirata water pan in Samburu County, Chasimba small dam in Kilifi County, Baragoni Water Pan in Lamu County, Mutune water pan and Mwanduru small dam in Kwale County;
(iii)The Committee observed that the original designs of the water pans were different from what was on the ground especially with regards to toilets and spillways;
(iv) The Committee observed that most of the water troughs were dilapidated, not fenced and not in use; and
(v) The Committee could not ascertain value for money in some of the sampled water pans and small dams; and
(vi) The matter remains unresolved.

Committee Recommendations

The Committee recommends that within three (3) months upon adoption of this report, the Auditor General undertakes a special audit on the viability and value for money in the construction of Small Dams and Water Pans across the country for financial years 2016/2017 and 2017/20118 and report back to the National Assembly.

305. Unsupported Expenditure

I. Included in the use of goods and services balance of Kshs. 47,631,799 as at 30 June 2017, is payment vouchers totaling Kshs.11,522,043 without sufficient supporting evidence.

II. Further, a total of Kshs 8,196,744 relating to routine maintenance- vehicles other transport, routine maintenance- other assets and fuel oil and lubricants which the audit could not confirm the accuracy of the stated amount due to non-provision of the following documents.

- A list showing all the departments motor vehicles indicating their status that were in used during financial year under review together with original work tickets for each vehicle
- Contract with National Oil corporation (2016/2017)
- Supplier statement for 2016/2017 for all bulk fuel purchased and drawn.
- Bulk fuel register for the generator for 2016/2017.

This is in contravention of part IX- accounting and reporting section 104(1) of the Public Finance Management Regulations, 2015.

Consequently, it has not been possible to confirm the accuracy, completeness, validity and value for money of the use of goods and services expenditure of Kshs.47,631,799 as at 30 June 2017.

Submission by Accounting Officer

I. The Accounting Officer admitted that included in the use of goods and services balance of Kshs.47,631,799 as at 30th June 2017, is payment vouchers totalling Kshs.11,522,043 all with supporting documents which have since been verified by officers from the Office of The Auditor General.

He stated that there was a delay in the provision of the documents at the time of audit resulting in the audit query but as a department has resolved to deal with audit matters hence forth when they arise to avoid such cases.

II. The State Department also had in its possession motor vehicle whose work ticket were not availed during the year under review. The Work Tickets were available as well as the status of the vehicles at the time.

The Department is using a contract with National Oil Corporation and fuel is drawn as and when required.

Committee Observations and Findings

(i) The Committee also observed that the submission by the Accounting Officer confirming the accuracy, completeness, validity and value for money of the use of goods and services expenditure of Kshs.47,631,799 as at 30 June 2017, though persuasive, should have been provided to the Auditor General in time during the audit review; and

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

Other matters

306. Delay in Availing information/documents

During the audit we requested various information/documents vide a request for documents Ref:AA/SDI/2016/2017(2) dated 8 December, 2017. Some of the documents were availed on 4 January 2018 that is twenty-eight (28) days late. The following documents were never availed.

1. Internal audit minutes (hard and soft copy)
2. Internal audits monthly/quarterly reports (hard and soft copy)
3. Internal audit work plans (hard and soft copy)

Consequently, management was in breach of the Public Audit Act, 2015.

Submission by Accounting Officer

The Accounting Officer submitted that the State Department of Irrigation regrets for the delay caused when called upon to avail documentation in time and has taken note to ensure that information and documents is availed when requested henceforth.

Committee Observations and Findings

It was observed that the paragraph was for the information purposes to the Accounting Officer. The Accounting Officer was directed to take note of the Comments of the auditor General and improve on the same.

307. Budget analysis

The State Department of Irrigation had budgeted to receive Kshs.8,769,590,276 from National Treasury and Kshs.3,548,150,825 from foreign Borrowings. However, only Kshs.7,477,294,345 and Kshs.1,608,867,199 were received resulting to underfunding of Kshs.1,292,295,931 and Kshs.1,939,283,626 respectively.

In view of the forgoing, the state department did not achieve its planned and budgeted activities and its objectives for the year under review.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the State Department was expected to receive Kshs.8, 769,590,276 from The National Treasury and Kshs.3,548,150,825 and Foreign borrowing. However, the Department was only able to receive from The National Treasury Kshs.7,477,294,345 and Kshs.1,608,867,199 budgeted funds was not 100% as expected. This was caused by exchequer issues which were beyond the department.

Committee Observations and Findings

It was observed that the paragraph was for the information purposes to the Accounting Officer. The Accounting Officer was directed to take note of the Comments of the auditor General and improve on the same.

308. Lack of Audit Committee

The State Department for Irrigation has not established an audit committee as required under Section 174(1) of the Public Finance Management Act, 2012. This has the effect of constraining on the follow up and implementations of the recommendations of the internal and external auditors.

Submission by Accounting Officer

The Accounting Officer submitted that it was true during the year under review the Audit committee was yet not established. The issue has since been addressed. The State Department has adopted the Ministerial Audit Committee.

Committee Observations and Findings

- **(i) The Committee noted that the Audit Committee had since been established under the parent Ministry.**
- **(ii) The Committee marked the matter as resolved.**

309. Pending Bills

Pending bills amounting Kshs.47,086,657 chargeable to both recurrent and Development votes for the State Department for Irrigation as at 30 June 2017 were not paid in the year under review but instead were carried forward to 2017/2018. However, no supporting documents were provided to confirm the accuracy, validity and completeness of the pending accounts payables as shown in notes 11.1 and 11.2 read together with Annex 1 and 2. Had those bills been paid and expenditure charged, the statement of receipt and payments will reflect a surplus of Kshs.584,264,916 instead of Kshs.631,351,573 now shown. Failure to settle the bills during the year to which they relate distorts the financial statements for that year and adversely affect the provisions for the subsequent year to which they have to be charged.

In addition, the accounts payable in respect of deposits of Kshs.104,797,332 had no supporting documents to confirm the third parties owed.

As a result, the accuracy, validity and completeness of the pending bills and deposits could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was rue the State Department had accrued in 2016/2017 Financial Year Pending Bills of Kshs.47,086,657. As reported under note 11.1 and 11.2 read together with Annex 1 and 2 are fully supported. This was because of the inadequate exchequer at the close of the financial year.

He reported that the Department has been able to pay off the pending bills which have been cleared by the ongoing audit of pending bills.

The Accounts Payable in respect of Deposit of Kshs.104,797,332 relate to retention monies received in the cause of Financial Year 2016/17 belonging to third party.

Committee Observations and Findings

(i) The Committee observed that the pending bills had since been settled.
(ii) The Committee marked the matter as resolved.

21.0. STATE DEPARTMENT OF ENVIRONMENT

FINANCIAL STATEMENTS FOR VOTE 1105

Dr. Ibrahim M. Mohamed, the Principal Secretary and Accounting Officer for the State Department of Environment (Vote 1105) appeared before the committee on 11th July, 2019 to adduce evidence on the Audited Financial Statements for the State Department of Environment (Vote 1105) for the Financial Year 2016/2017. (Minutes of the Committee ittings and submissions abled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1.	**Mr Joel M. Kitili, CBS**	**-**	**Secretary of Administration**
2.	**Mr Henry Obinyo**	**-**	**Director of Administration**
3.	**Mr Ayub Shaka**	**-**	**Deputy Director**
4.	**Ms Peninah Njuguna**	**-**	**Assistant Accountant General**
5.	**Mr Joseph Mutuma**	**-**	**Senior Chief Finance Officer**
6.	**Ms Bibiama Onyango**	**-**	**Principal Accountant**
7.	**Mr Chito Njeria**	**-**	**Principal Meteorologist**
8.	**Mr Wilson Nyongo**	**-**	**Senior Economist**

Basis for Qualified Opinion

310. Accuracy, completeness and presentation of the Financial Statements

310.1.Comparative figures

The financial statements of the State Department of Environment as at 30 June 2017 reflect comparative figures that mirror the closing balances of the defunct Ministry of Environment and Natural Resources. However, there was a separation during the year under review separating the State Department of Natural Resources from the State Department of Environment. The effect and impact of the separation of the state departments has not been considered in the comparative figures to comply with IPSAS 1 and 3 requirements. Further, the comparative figures in the financial statements do not tally with the nil comparative balances shown in the IFMIS.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the financial statements for the state department of environment as at 30th June 2017 reflect comparative figures that mirror the closing balances of the defunct Ministry of environment and Natural resources:

I) That the comparison was unavoidable due to the fact that there existed a vote designated as the Ministry of Environment and natural resources and this therefore implies that the basis for comparison during the year under review would have been the previous votes against the State Department of Environment.

II) The National treasury has no clear policy guidelines on mergers and demergers hence it was not be possible to separate the budgetary provisions for the former Ministry of Environment and Natural Resources into (2) components for comparison purposes.

III) The Ministry is in consultation with The National Treasury seeking guidance on the same.

Committee Observations and Findings

The Committee observed that the matter was resolved.

310.2. Undisclosed and Unsupported Transfers to other Government Entities

Note 7 to the financial statements indicates transfer to other Government entities of Kshs.1,957,181,570 (2016; Kshs.10,731.987,178) as at 30 June 2017. However, the entities provided only received Kshs.65,970,160 and Kshs.786,823,221 for recurrent and development expenditure all totaling Kshs.852,793,381 leaving Kshs.1,104,388,189 undisclosed and unsupported.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Financial Statements indicates transfer to other Government Entities of Kshs.1,957,181,570.00 While the supporting schedule provided total Recurrent and Development Expenditure of Kshs.852,793,381.00 leaving a variance of Kshs.1,104,388,189.00.

The schedule provided was incomplete since it did not capture development grants to projects/programs as indicated below:-

S. No.	Projects/Programs	Amount (Kshs.)
1	Green Growth	192,300,000.00
2	Mercury Initial Action for Kenya	5,999,994.00
3	Institution Strengthening of Ozone Depleting substances Project	14,999,994.00
4	Lake Victoria Environmental Management Project	683,056,436.00
5	Support of Kenya for Revision of the NBSAPs and Development	7,092,700.00
6	Adaptation Fund NEMA	81,000,000.00
7	Nairobi River Rehabilitation and Restoration Programme	34,000,000.00
8	Centre for Excellence	19,900,000.00
9	National Green Economy	4,506,500.00
10	Urban Rivers Rehabilitation Project	34,584,349.00
11	Natural Resources Management Programme	26,948,216.00
	TOTAL	**1,104,388,189.00**

Committee Observations and Findings

(i) **The Committee observed that according to the auditor general, the figures were subsequently reconciled.**
(ii) **The Committee marked the matter as resolved.**

310.3. Completeness of the Financial Statements

The financial statements presented for audit do not have a list of pending bills and summary of fixed assets and a progress on implementation of audit recommendations for previous year as required under International Public Sector Accounting Standards (IPSAS 1) under which they were prepared. The financial statements were therefore incomplete.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Financial Statement presented for audit did not have a list of pending bills, a summary of fixed assets and a progress on implementation of Audit recommendations of previous year as required under IPSAS I under which they were prepared.

i) The list of pending bills has since been provided for audit verification and is attached as and a progress on implementation of audit recommendation also availed and is attached as.

ii) The summary of fixed assets has since been availed to the auditors and a fixed assets register presented for verification.

iii) Subsequently the ministry has adhered to the requirements of IPSAS **1.**

Committee Observations and Findings

The Committee observed that the fixed asset register was submitted pending verification by the auditors.

Committee Recommendations

The Auditor General should veriFinancial Year the summary of the fixed asset register within three months of adoption of this report.

310.4. Unsupported Prior year Adjustment

Included in the financial statements under the cash flow statement and Note 15 is Kshs.146,183,034 described as prior year adjustments on receivables which has not been explained or supported contrary to IPSAS 1. The adjustment could therefore not be verified as no information was provided for audit review.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that included in the financial statements under the cash flow statement and note 15 is Kshs.146,183,034.00 described as prior year adjustments on receivables which has not been explained or supported contrary to IPSAS 1.

He stated that the balances of K shs. 146,183,034 belonged to the Ministry of Environment and Natural Resources. During the financial year 2016/17 the Ministry changed to State Department for Environment with a new vote (vote 1105) and could not therefore carry forward the balances since the new department had to start with a nil balance.

The Ministry is consulting with the National Treasury on the way forward to clear the balances.

Committee Observations and Findings

(i) **The committee observed that the Ministry is in consultation with the National Treasury on the way forward to clear the balances.**
(ii) **The matter remained unresolved.**

Committee Recommendations

The Accounting Officer should within three months after the adoption of this report ensure that all the balances have been cleared.

310.5. Unexplained variances between the Financial Statements & the IFMIS records balance.

Various account balances in the financial statements differ with respective balances shown in the unsigned IFMIS trial balances and notes attached to the financial statements as shown below;

Account Name	**Financial Statement Balance 30/6/17 Kshs.**	**IFMIS Balance 30/6/17 Kshs.**	**Variance Kshs.**
Bank Balances	54,991,707	(104,718,559)	(49,726,852)
Cash Balances	8,249	1,668,109,022	1,668,100,773
Accounts Receivables – Outstanding Imprest and Clearance Accounts	6,964,157	38,697,848	31,733,691
Accounts Payables-Deposits	53,266,931	1,593,017,629	1,539,750,698
Financial Assets	61,964,113	1,602,088,311	1,540,124,198

In view of the foregoing, the accuracy, completeness and presentation of the 2017 financial statements for the State Department of Environment cannot be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that it was true that various account balances in the financial statements differ with respective balances shown in the unsigned IFMIS trial balances to the financial statements.

This was due to the implementation of cash management module of the IFMIS which is still in the process of implementation by the National Treasury. The ministry is in liaison with the national treasury over the same and there has been a lot of improvement.

Committee Observations and Findings

(i) **The Committee observed that the Ministry is in consultation with the National Treasury on the way forward to clear the balances.**
(ii) **The matter remained unresolved.**

Committee Recommendations

The Accounting Officer for the National Treasury and the Accounting Officer for the State Department of Environment should within three months after the adoption of this report ensure that the consultations are concluded and mechanisms to facilitate clearing of the pending balances established.

311. Cash and Cash Equivalent

The cash and cash equivalents balance of Kshs.54,999,956 as at 30 June 2017 is at variance with the IFMIS balance of Kshs.1,563,390,462 resulting in an unexplained difference of Kshs.1,557,890,506. Consequently, the accuracy and completeness of the cash and cash equivalents balance of Kshs.54,999,954 as at 30 June 2017 cannot be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that cash and cash equivalent balance of Ksh.54,999,956 as at 30th June, 2017, is at variance with the IFMIS balance of Ksh.1,563,390,462 resulting in an unexplained difference of Ksh.1,557,890,506. He stated that the query has been covered under 311 above.

Committee Observations and Findings

- **(i) The Committee observed that the cash and cash balance and the IFMIS balance were at variance with a difference of Kshs.1,557,890,506.**
- **(ii) The Committee observed that the sunmission by the Accounting Officer was satisfactory.**
- **(iii)The Committee committee marked the matter as resolved**

312. Fixed Assets

312.1 Fixed Assets Register

The state department acquired Fixed Assets of Kshs.872,524,939. However, a summary fixed assets register was not provided for audit review yet the department has various assets including land and buildings across the country as well as vehicles and other equipment of undetermined value. Further, the state department raised Kshs.1,750,000 from sale of unidentified fixed assets. In addition, the fixed assets inherited by the department have not been disclosed in the financial statements.

In the absence of the fixed assets register, it has not been possible to confirm that the fixed assets in the state department's financial statements are fairly stated and the reason for non-maintenance of a fixed assets register.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that during the year under review the state department acquired fixed assets of Kshs.872,524,939. It was also true that a summary fixed assets register was not provided for audit review. The state department also raised Kshs.1,750,000 from sale of fixed assets and it is true that the fixed assets inherited by the state department have not been disclosed in the financial statement.

- i) The asset register has since been availed to the auditors and we are in liaison with the National Treasury with a view to agree on the guidelines on the valuation of the said assets both inherited by the state department and those acquired by the state department in order to make them compliant with the IPSAS requirements.
- ii) The revenue of Kshs.1,750,000 was realized from sale of Meteorological data and visits to Kenya Meteorological Department Stations by students.

Committee Observations and Findings

(i) **The Committee observed that the fixed asset register had no values.**
(ii) **The National Treasury reported that the current cash method of accounting does not require valuation of asset. The accruals method will be introduced in the FINANCIAL YEAR 2021.**
(iii) **The Committee marked the matter was resolved.**

312.2 Loss of government vehicle

As reported in 2014/2015 and 2015/2016 the state department vehicle registration number GK A 152Q (though assigned civilian number plate KAY953F valued at Kshs.5,460,000 was lost at mlolongo area in Machakos County under unclear circumstances on 24th August 2013 at around 9.00am and was at the time being driven by an unauthorized person. However, Government regulation on reporting of stolen vehicles were not adhered to while reporting the matter in the ministry.

It therefore seems that there is an intension to conceal the loss. Management has not initiated any measures to recover the loss of Kshs.5,460,000 from the responsible parties.

Consequently, the existence, ownership, security and accuracy of the fixed assets acquired and or inherited by the state department could not be confirmed as at 30th June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that State Department vehicle registration number GK A152Q (though assigned civilian number plate KAY 953F) and attached to the Principal Secretary valued at Kshs.5,460,00 was reported lost at Mlolongo area in Machakos County under unclear circumstances on 24th August, 2013 at around 9.00pm.

The matter was reported by the driver Mr. Boniface Mwaura Kimani as a car-jacking incident at the Kileleshwa police station (CR142/64/2013) on 24th August 2013. He also reported the matter to the Principal Secretary through the transport officer. The matter is still under investigation by the Kenya Police Service.

The Ministry has recently written a follow up letter to the inspector general of police on this matter. He also stated that the ministry is making efforts to address this matter and ultimately resolve it conclusively.

Committee Observations and Findings

(i) **The Committee observed that none completion of investigations into the matter had stalled prosecution of the suspects. As such, none of the suspects had been convicted.**
(ii) **The matter remains unresolved until the court case is completed.**

313. Pending Bills

313.1 Unpaid bills

During the year under review, there were no pending bills disclosed in the financial statements except for an amount of Kshs.330,483,375 which was mentioned in an attached correspondence that relates to 2015/2016 for Meterological Department. However, its not clear whether the pending bills were paid or not. Further, IFMIS note 24 indicates accounts payable of Kshs.1,593,017,629 that are not shown in the financial statements nor were supporting documents provided for audit review.

Under the circumstance, it has not been possible to confirm whether, the department had outstanding pending bills as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the State Department for Environment closed the financial year 2016/2017 with pending bills of Kshs.330,483,374.70 for Kenya Meteorological Department (KMD).

It was also true that IFMIS note 24 indicate Accounts Payable of Kshs.1,593,017,629 that are not shown in the financial statements nor support documents provided.

Based on the presidential directive on pending bills, the ministry has paid the pending bills that were cleared by the special audit team. This will be reflected in the financial year 2018/2019.

The Accounts Payable figure of Kshs.1,593,017,629 was not shown in the Financial Statement nor support documents provided because it was generated by IFMIS and there are still challenges with implementation of cash management module of IFMIS which is in the process of being fully implemented by the National Treasury.

Committee Observations and Findings

(i) **The Committee observed that based on the presidential directive on pending bills, the ministry has paid the pending bills that were cleared by the special audit team. This will be reflected in the financial year 2018/2019.**
(ii) **The Committee observed that Accounts Payable figure of Kshs.1,593,017,629 was not shown in the Financial Statement nor support documents provided because it was generated by IFMIS and there are still challenges with implementation of cash management module of IFMIS which is in the process of being fully implemented by the National Treasury.**
(iii) **The Committee marked the matter as resolved.**

314. Deposits Account

The State Department of Environment reflects a deposit account of Kshs.53,266,931 as at 30 June 2017 as compared to Kshs.57,084,782 in 2015/2016. The deposits account is build up by retention money for defect liability period of about six (6) Months to one year. However, most of the deposits have been outstanding for over five (5) years. It was therefore not possible to ascertain the validity and genuineness of the deposits balance of Kshs.53,266,931 as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the State Department of Environment reflects a deposit account balance of Kshs.53,266,931.00 as at 30th June 2017 as compared to Kshs.57,084,782.00 in 2015/16. It was also true that most of the deposits have been outstanding for over five years.

He stated that the deposit account is build up by retention money that has accumulated from balances that belongs to the previous ministries/ state departments prior to the creation of the present state department of environment. These were occasioned by changes that have occurred in the restructuring of the ministries in the recent past. The Ministry is also in the process of sorting this out with the concerned state departments.

Committee Observations and Findings

(i) **The Committee observed that the pending bills were occasioned by changes that have occurred in the restructuring of the ministries in the recent past.**

(ii) **The Committee observed that the Ministry is also in the process of sorting this out with the concerned state departments**.

(iii) **The matter remained unresolved**.

Committee Recommendations

The Accounting Officer must ensure, at all times, that fully reconciled financial statements are submitted to the Office of the Auditor General pursuant to section 68 (2)(k) of the Public Finance Management Act, No. 8 of 2012, and within three months as required under Article 229 (4) of the Constitution of Kenya.

315. Outstanding Imprest

315.1. Imprest Understatement

The outstanding imprest balance of Kshs.6,964,157 as at 30 June 2017 is understated by Kshs.38,764,774 being Government imprest not posted to the ledger. Recoverability of the balance cannot be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that an outstanding balance of Kshs.6, 964,157 was reflected in the financial statement as at 30th June 2017 under receivables (Outstanding) while IFMIS schedule reflected Kshs.38,764,774.

The variance in the imprest balance was as a result of failure of some transactions to clear in the IFMIS (Cash Management) system after clearance from the manual register. This is an IFMIS system challenge which is being addressed by the National Treasury. The impress have since cleared.

The figure of Kshs.6,964,157 comprised of the following:

(i)	Outstanding imprest	807,083.00	
(ii)	Prepayments	185,455.00	
(iii)	District Suspense	5,680,515.00	
		6,964,157.00	

Committee Observations and Findings

(i) **The Committee observed that the outstanding imprest balance of Kshs.6,964,157 has since been cleared.**
(ii) **The Committee marked the matter as resolved.**

315.2. Multiple Imprests

It was noted during the audit that fourteen officers had more than one imprest at a time amounting to Kshs.66,747,385 as at 30 June 2017 contrary to Section 94 (4) (a) of the Public Finance Management Act, 2012.

In the circumstances, the accuracy, completeness and recoverability of the outstanding imprest cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that various offices were issued with imprests amounting to Ksh.66,747,385 as at 30th June, 2017.

He stated that the officers were issued with new imprest only upon surrender of previous imprest or upon receipts of the surrender documents based on the demand of the activities. He mentioned that where non-ministry staff was involved in an activity, one officer from the ministry was issued with imprest on behalf of the non-ministerial staff to pay for their allowances.

He confirmed that all the imprests were surrendered and the balances cleared within the financial year. He also confirmed that the Ministry has put measures in place to ensure that no officer is issued with more than one imprest and imprest are surrendered when due as per the Public Finance Management Act. 2012.

Committee Observations and Findings

(i) **The Committee observed that all the outstanding imprest of Kshs.66,747,385 owed to fourteen officers has been cleared.**
(ii) **The Committee observed that the Management has put in place measures to ensure that no Officer will be issued more than one imprest and imprest are surrendered when due as per PFM Act, 2012.**
(iii) **The Committee marked the matter as resolved.**

Emphasis of Matter

1. Budget Analysis

The aggregate exchequer release of Kshs.4,777,671,490 for the year under review were short of the approved budget figure of Kshs.5,348,274,451 by Kshs.570,602,961 whose variance has not been explained. The department had budgeted to receive Kshs.3,750,000 from the sale of assets whose actual receipt was Kshs.1,750,000 resulting in a shortfall of Kshs.2,000,000.

Further, on other receipts the department had an approved budget of Kshs.815,150,000 whereas the actual realized was Kshs.159,560,430 resulting in a shortfall of Kshs.655,589,570 which has not been explained.

Submission by Accounting Officer

a) Revenue Shortfall

The Accounting Officer submitted that it was true that the aggregate exchequer release of Kshs.4,777,671,490 for the year under review was short of the approved budget figure of Kshs.5,348,274,451 by Kshs.570,602,961.

He stated that it was also true that the department had budgeted to receive Kshs.3,750,000 from the sale of assets whose actual receipt was Kshs.1,750,000 resulting in a shortfall of Kshs.2,000,000.

He further stated that , it was true that on other receipts the department had an approved budget of Kshs. 815,150,000 whereas the actual realized was Kshs.159,560,430 resulting in a shortfall of Kshs.655,589,570.

The revenue shortfall of Kshs.570,602,961 was due to non-release of exchequer by the National Treasury. However, the Ministry is in liaison with the National Treasury with a view of ensuring that all exchequer releases are done in good time.
With regard to sale of assets, the receipt of Kshs.1,750,000 was realized from sale of Meteorological data and visits to Meteorological Stations by students.

The Ministry had also anticipated to sell other assets including motor vehicles, furniture and other stores but this did not materialize due to delays in the disposal process hence the short fall of Kshs.2,000,000.

With regard to other receipts, the shortfall of Kshs.655,589,570 was as a result of suspension of collection of Appropriation In Aid (AIA)by NEMA from Environmental Impact Assessment (EIA) and non-submission of AIA documents by donors for capture in the system.

b) Expenditure Budget Analysis

The Accounting Officer submitted that it was true that the State Department had an approved budget of Kshs.531,138,194 for use of goods and services, and of Kshs.830,074,824 as at 30th June, 2017.

Itwas also true that the state Department had an approved budget of Kshs.3,801,572,286 for transfer to other Government entities. The indicated actual transfer during the year amounted to Kshs.1,957,181,570.

It was also true that the approved budget for acquisition of assets was Kshs.1,578,507,293 and the actual expenditure was Kshs.872,524,940.

The Ministry had a printed estimate of Kshs.531,138,194, however, in the course of the financial year 2016/2017, the Department received additional funding of Kshs.347,390,142 in Supplementary Estimates increasing its approved budget to Kshs.878,528,336 against an expenditure of Kshs.830,074,824. In this case, there was no over expenditure as indicated.

The Printed Estimates in relation to transfers to other Government entities was Ksh3,801,572,286 and Kshs.1,578,507,293 for acquisition of assets. In the Supplementary Estimates of 2016/17 financial year, the same was reduced by Kshs.653,907,831 and Kshs.577,336,221 respectively resulting to an under expenditure of Kshs.1,190,482,884.60 for transfers and Kshs.128,646,132 for acquisition of assets.

The under expenditure in both cases was occasioned by under issue of exchequer by the National Treasury. However, the Ministry is in liaison with the National Treasury to ensure that all exchequer releases are done in good time.

This is shown in the table below:

State Department of Environment - Statement of Budget Execution

	Printed estimates 2016/17	Supplementary estimates 2016/17	Approved Budget 2016/17	Actual Expenditure 2016/17	Under/ over Expenditure
Use of goods and services	531,138,194	347,390,142	878,528,336	830,074,824	48,453,512
Transfers to other government entities	3,801,572,286	-653,907,831	3,147,664,455	1,957,181,570	1,190,482,885
Acquisition of Assets	1,578,507,293	-577,336,221	1,001,171,072	872,524,940	128,646,132

Committee Observations and Findings

In regard to paragraph 310 – 315 referred to in the invitation letter, he stated that the queries have been referred to the relevant Ministry of Water where the projects are domiciled.

22.0. STATE DEPARTMENT OF NATURAL RESOURCES

FINANCIAL STATEMENTS FOR VOTE 1106

Prof. Fred Segor, the Principal Secretary and Accounting Officer for the State Department of Natural Resources (Vote 1106) appeared before the committee on 14th October 2019 to adduce evidence on the Audited Financial Statements for the State Department of Natural Resources (Vote 1106) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Stephen Manegene - Director Wildlife**
2. **Mr. Christopher Musumbu - Director of Administration**
3. **Mr. John Gicaci - Chief Finance Officer**
4. **Mr. Tom Odundo - Assistant Accountant General**
5. **Mr. George M. Wambua - Chief Supply Chain Management Officer**
6. **Dr. Erastus Kanga - Director Partnerships & Wildlife Co-existence**
7. **Mr. Isaiah Muhanji - Director Human Resource**
8. **Mr. Pius Wanga Runyeje - Deputy Chief State Counsel**
9. **Mr. Julius Maina - Principal Accountant**
10. **Ms. Christine Lugongo - Principal Supply Chain**

Basis for Qualified Opinion

316. Accuracy, Completeness and Presentation of the Financial Statements

316.1 Transfers to Other Government Units

Note 5 to the financial statements reports a breakdown from self-reporting entities of Kshs.6,475,880,054 while statement of receipts and payments reports a balance of Kshs.6,478,832,768 hence resulting in an unexplained variance of Kshs.2,952,714. No explanation has been provided for the anomaly.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Note No. 5 to the financial statements that reports a breakdown from self reporting entities had a difference of Ksh.2, 952,714.00, a difference that was brought about by the expenditure under Kenya Water Towers Programme, which was omitted from the self reporting entities report. This error has since been corrected. This error is regretted.

Committee Observations and Findings

- **(i) The Committee observed that the omission has not been corrected neither has the Financial Statement been Adjusted to reflect the Correct position.**
- **(ii) The Committee observed that the financial statements did not comply with the International Public Sector Accounting Standards (IPSAS) cash basis, which requires preparation of budget comparative utilization statement pursuant to PFM Act Section 194(5), 2012.**
- **(iii) The matter remains unresolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they comply with the International Public Sector Accounting Standards (IPSAS) cash basis, which requires preparation of budget comparative utilization statement pursuant to PFM Act Section 194(5), 2012.

316.2 Comparative Figures

Comparative figures for 2015/2016 for Ministry of Environment and Natural Resources were not separated or restated to reflect what belongs to the State Department of Environment and State Department of Natural Resources. Hence, the State Department of Natural Resources reported nil balances in the comparative year 2015/2016.

In view of the foregoing, the accuracy, completeness and presentation of the financial statements as at 30 June 2017 could not be ascertained**.**

Submission by Accounting Officer

The Accounting Officer submitted that it was true that no comparative figures were given for the financial period 2015/2016. The State Department for Natural Resources was established in May, 2016 under executive Order No. of 2016.We had no comparative figures for 2015/2016 since the State Department for Natural Resources existed as a Department within the Ministry of Environment, Water and Natural Resources Vote in the financial year 2015/2016.

Committee Observations and Findings

(i) **The Committee observed that the state department had no comparative figures for 2015/2016 since the State Department for Natural Resources existed as a Department within the Ministry of Environment, Water and Natural Resources.**
(ii) **The Committee was concerned why it took so long to explain the above to the auditor general.**

Committee Recommendations

(i) **Accounting Officers must at all times ensure that they comply with the International Public Sector Accounting Standards (IPSAS) cash basis, which requires preparation of budget comparative utilization statement pursuant to PFM Act Section 194(5), 2012.**
(ii) **The Accounting Officers must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**

317. Substandard and Incomplete Works

The State Department awarded a Contract of Kshs.24,956,008.00 on 24 November 2016 for refurbishment of 20th and 21st floors of offices at Block A of NSSF Building. However, a review of the contract, revealed that time period for the execution of the works was not specified, contract terms and conditions were not outlined, defects liability period was not stated. Further, retention amount was not clearly defined in the contract document and no performance bond was provided as required against client non-performance. In addition, as per bills of quantities it was indicated works was supposed to be carried out on 21st floor instead of 15th floor and paid for thereby invalidating the claim. Also, provisional sum of Kshs.5,900,000 paid with respect to contingencies was not authorized nor approved for payment. Again, certified sum of Kshs.11,078,834 equivalent to 48% could not be verified due to lack of breakdown analysis and supporting documents.

In the circumstances, the propriety and value for money for the expenditure of Kshs.16,978,834 could not be confirmed as a proper charge to public funds.

Submission by Accounting Officer

(i)According to Section V: Contract Data Sheet of the contract document, 1.1 of the General Conditions of the Contract, the intended completion date for the whole of the works shall be 24 weeks from the date of site possession.
ii) Contract terms and conditions were not outlined Section IV, General Conditions of Contract are on pages from 41- 66 of the contract document.

iii) Defects liability period was not stated According to Section V: Contract Data Sheet of the contract document, 1.1 of the General Conditions of the Contract, the defects liability is 180 days.
(iv) Retention amount was not clearly defined According to Section V: Contract Data Sheet of the contract document, 22 (51.1) under clause D. Cost Control of the General Conditions of the Contract, the amount of retention is 10% of value of works of Interim Pay Certificate, and the limit will be 5% of contract price ((page 68 of the contract document
v) No performance bond was provided as provided against client non - performance The State Department acknowledges that there was an oversight on this requirement, but also note that the contract was fully completed without exposing the government to any loss that might have arisen from the contractor not carrying out the works as per the contract agreement, that would have warranted the forfeiture of the Performance Guarantee.
(vi) Works supposed to be carried out on 21st floor, instead of 15th floor and paid for therefore invalidating the claim All the works paid for under this contract were as per the contract document. Section 139(1) (a) and (b) and (3) of the PPADA, 2015 under Section 139(1) Stipulates that an amendment or a variation to a contract resulting from a procurement proceeding is effective only if —
(a) The variation or amendment has been approved in writing by the respective tender awarding authority within a procuring entity; and
(b) Any contract variations or amendments for goods, works and services shall be as prescribed. Section 139 (3) also instructs that no contract price shall be varied upwards within twelve months from the date of the signing of the contract.

(vii) It is true that the provisional sum under the contract amounted to Kshs. 5,900,000.00. All payments in respect to this contract were initiated through a certificate of works certified by the project manager from the State Department of Public Works under the Ministry of Transport, Infrastructure, Housing and Urban Development, who were the contact supervisors. This certificate of work done constituted the authority and approval for the payment as certified by the Engineers. This is all done after the works have been measured and certified completed to the satisfaction of the contract supervisors.
(viii) It is true that the first certificate issued in respect of this contract had a certified sum of Kshs. 11,078,834.00.

Committee Observations and Findings

(i) **The Committee observed that the State Department admitted that it was in breach of the law by engaging the Contractor without a Performance bond.**
(ii) **The Committee observed that there was no formal communication to the contractor for non-payment of the extra works.**
(iii) **The Committee observed that the retention money was paid and the contractor discharged position.**
(iv) **The Committee marked the matter as resolved.**

318. Wrong Charge

The statement of receipts and payments reflects expenditure balance of Kshs.402,337,553 for use of goods and services, of which kshs.19,921,114 relates to domestic subsistence allowance which had been charged to the wrong expenditure heads as analyzed in the table below. Further, there was no authority sought from the National Treasury for reallocation.

Financial Statement Component/wrong account charged	Amount Kshs.	Correct Account ought to be charged
Transfer to other Government units		
Capital grants	7,090,002	2210403-Domestic Subsistence Allowance
Other current transfers, grant and subsidies	7,822,654	2210403-Domestic Subsistence Allowance
Other grants and transfers		
Emergency relief and refugee assistance/Drought Mitigation	**5,008,458**	**2210403-Domestic Subsistence Allowance**
TOTAL	**19,921,114**	

Under the circumstance, the posting of Kshs.19,921,114 is misleading and amounts to window dressing of the financial statements.

Submission by Accounting Officer

Kenya Water Towers Programme

The Accounting Officer submitted that it was true that the figure of Kshs. 7,090, 002.00 was used for domestic subsistence allowances. The Kenya Water Towers protection programme was managed from the Headquarters. To manage and evaluate this programme, officers were normally sent to monitor the activities in the fields thereby paid daily subsistence allowance on the same account (2630201) to facilitate them.

Green Schools Programme

The Accounting Officer submitted that it was true that the figure of Kshs. 7,822,654.00 was used on daily subsistence allowance. This was paid to officers who were assigned to monitor and supervise activities under the green schools programmes which were being implemented in different parts of the country. It was the responsibility of the State Department to ensure the green schools programme was implemented and monitored accordingly. Drought Mitigation It is true that the figure of Ksh s. 5,008,457.80 was used as daily subsistence allowance. This was paid to officers who were responsible for supervising and monitoring the implementation of the drought mitigation initiatives.

Committee Observations and Findings

- **(i) The Committee observed that the supporting Evidence to support the above expenditure were not provided by the Accounting Officer.**
- **(ii) The Committee was of the view that all grants and transfers ought to have been spent and accounted by the receiving Agency and not at the source.**
- **(iii)The matter remains unresolved.**

Committee Recommendations

- **(i) Accounting Officers must at all times ensure that they comply with the International Public Sector Accounting Standards (IPSAS) cash basis, which requires preparation of budget comparative utilization statement pursuant to PFM Act Section 194(5), 2012.**
- **(ii) The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**

319. Cash and Cash Equivalents

The statement of assets reflects a cash and cash equivalents balance of Kshs.11,942,275 as at 30 June 2017. However, the bank reconciliation statement for recurrent and development account as at 30 June 2017 reports payments in cashbook not yet recorded in bank statement totaling to Kshs.472,006,470 and Kshs.885,463,907 respectively. Subsequent clearance of the said reconciling items was not provided at the time of audit. Consequently, it has not been possible to confirm the accuracy of cash and cash equivalent balance of Kshs.11,942,275 as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the cash and cash equivalent balance was Kshs. 11,942,275.00. It is also true that the Bank Reconciliation Statements for Recurrent and Development as at 30th June, 2017 reports payment in cashbook not in the Bank Statements totaling Kshs. 472,006,470 and Kshs. 885,463,907.00 respectively.

The financial year ended on 30th June, 2017 leaving a bulk of transactions having not cleared by closure of the day, being that last working day of the week. In the Recurrent Account the outstanding payments (payment in Cashbook not yet recorded in Bank Statement) of Kshs. 472,006,47.00 was cleared in the month of July, 2017.

However, a balance of Kshs. 31,893,048.25 remained outstanding and was treated as pending bills which were subsequently paid during the Financial Year 2017/2018. In the Development Account the outstanding payments (payment in Cashbook not yet recorded in Bank Statement) of Kshs. 885,463,907.00 was cleared in the month of July, 2017. However, a balance of Kshs. 9,410,898.30 remained outstanding and was treated as pending bill which were subsequently paid during the financial 2017/2018.

Committee Observations and Findings

- **(i) The Committee observed that the reconciliations have since been provided and verified.**
- **(ii) The Committee marked the matter as resolved.**

320. Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets of Kshs.282,107,946 as at 30 June 2017. However, the summary of fixed assets in Annex 4 to the financial statements reflects nil values for fixed assets. Further, included in the acquisition of assets figure of Kshs.282,107,946 and as disclosed in Note 7 to the financial statements, is an amount of Kshs.200,000,000 related to construction and civil works. This amount relates to construction of a wildlife security fence in Laikipia and was to be undertaken by the Kenya Wildlife Service (KWS).

However, this amount was supported by payment voucher number 00449 which indicated disbursements of development grants to KWS. It is not clear how transfers to other government units of Kshs.200,000,000 was recorded as construction and civil works in the state department of Natural Resources financial statements.

204Consequently, the accuracy and valuation of the acquisition of assets figure of Kshs.282,107,946 as at 30 June 2017 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of receipts and payments reflects acquisition of assets of Kshs. 282,107,946.00 as at 30th June, 2017. This amount includes Kshs. 200,000,000.00 that was allocated under supplementary II during the financial year 2016/2017 for the construction of an electric game-proof fence in Laikipia that was erroneously budgeted under construction and civil works instead of capital grants to Semi-Autonomous Government Agencies. This money was transferred under the payment voucher No. 00449 to Kenya Wildlife Service (KWS) to undertake the project.

Committee Observations and Findings

(i) **The Committee observed that the Accounting Officer provided the evidence that the money was received by the Kenya Wildlife Service**.
(ii) **The Committee marked the matter as resolved**.

321. Unbudgeted Expenditures

The State Department of Natural Resources did not include the estimates on wildlife compensation in Vote R1106 revised recurrent expenditure estimates for the year 2016/2017. Further, no information was made available for audit review to confirm whether the amount of Kshs.230,000,000 was included in the development or recurrent estimates due to Kenya Wildlife Service transferable by the State Department of Natural Resources. Further, it was not clear how the funds for wildlife compensation were sourced neither was there any explanation or reallocation warrants or authority sought or given was made available for audit scrutiny.

In view of the inconsistencies, the accuracy of the financial statements could be undermined thereby affecting presentation of a true and fair view of the state departments operations as well as the purpose of budgeting. In consequence, the expenditure of Kshs.230,000,000 amounts to unauthorized excess vote.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that during the Financial Year 2016/2017, an amount of Kshs. 230 million was transferred to Kenya Wildlife Service for compensation of Wildlife victims.

The State Department did not have a dedicated expenditure item for wildlife compensation; all the requests for compensation used to be done through the expenditure item for legal dues/fees, arbitration and compensation payments. The budget allocation under legal dues was not adequate to cover the compensation claims. This necessitated our request for additional funding under drought mitigation programme.

It was worth noting that most human wildlife conflicts are because of animals wandering into farms to look for food due to drought. Attached please find the breakdown and authority for the drought fund.

Committee Observations and Findings

- **(i) The Committee observed that Treasury's authority was not sought in the above expenditure.**
- **(ii) The matter remains unresolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they comply with the International Public Sector Accounting Standards (IPSAS) cash basis, which requires preparation of budget comparative utilization statement pursuant to PFM Act Section 194(5), 2012.

322. Outstanding Imprests

The State Department of Natural Resources financial statements indicate outstanding imprest (Note 9) of Kshs.1,958,192 as at 30 June 2017. However, the imprest register was not up to date resulting in the risk of non-recovery of imprests issued and loss of funds through improperly supported imprest surrenders.

Consequently, it has not been possible to confirm the accuracy, completeness and recovery of the outstanding imprest balance of kshs.1,958,192 as at 30 June 2017**.**

Key Audit Matters

Key audit matters are those matters that, in my professional judgement, are of most significance in the audit of the financial statements. These matters were addressed in the context of the audit of the financial statements, and in forming my opinion thereon, and I do not provide a separate opinion on these matters. For each matter below, a description of how the audit addressed the matter is provided in that context.

I have fulfilled the responsibilities described in the Auditor's Responsibilities for the Audit of the financial statements section of the report, including in relation to these matters. Accordingly, the audit included the performance of procedures designed to respond to the assessment of the risks of material misstatement of the financial statements. The results of the audit procedures, including the procedures performed to address the matters below, provide the basis for my audit opinion on the accompanying financial statements.

No.	Key Audit Matter	How the Audit Addressed the Key Audit Matter
1.	**Grants and Other Transfers**	
	The mandate of the Department includes conservation and management of forests, wildlife and biodiversity resources. The Department has four semi-autonomous government institutions that further government policy and the Department's objectives. The Department also uses other government departments to undertake its mandate. The statement of receipts and payments reflects grants and transfers totaling 7,026,080, 026 consisting of transfers to other government units and other grants and transfers of Kshs.6,478,832,768 and Kshs.547,247,258 respectively for the year ended 30 June 2017. We considered this to be a key audit matter due to the accountability framework and timing of such transfers. The effectiveness of the transfers payments can be, or can appear to be, more difficult to substantiate, since they usually do not involve receipt of specific goods or services. There is also the risk that the amounts may not be used for the agreed purposes and not contribute to the mandate of the department. Further, unapproved transfers may be made to the entities or transfers made are not linked to Department's mandate and strategic objectives.	• Reviewed the mandate and the strategic plan of the Department. • Reviewed the objectives of the various programs where transfers were made. • Obtained and reviewed the approved estimates of the department to identiFinancial Year amounts budgeted. • Confirmed from the financial statements of the semiautonomous Government Agencies, the amounts reported as grants received from the State Department. • Confirmed from the vote-book the amount recorded under Recurrent and

	In addition, some of the transfers and grants are contributions to programs amounting to Kshs.547,247,258 which involve multiagency interventions. For instance, grants and transfers for drought preparedness has encountered increasing support from governments in recent years at various.	Development vote as transfers and grants by the State Department. • Examined eligibility of expenditure reported grants and transfers expenditure and whether the expenditure complied with relevant GOK regulations and law. • Audit marked drought contingency expenditure and wildlife security fence project for further review in subsequent audits.
2.	**Green schools and commercial tree growing programme (2016-17 financial year)**	
	One of the principal mandate of the State Department is to protect Kenya's remaining forests and increase forest cover to 10% over the next 20 years though a national planting scheme and by providing alternative to over intensive farming and ending clearances for luxury development and industrial projects. As such, a School Greening Programme was rolled out under Ministry of Environment and Natural resources in the financial year 2015-16 and was to be implemented in three phases. The objectives of the programme were to promote green initiatives (tree planting) in schools (public primary) and to set up infrastructure for schools (water tanks and roof water harvesting) for supporting school greening activities. As at 30 June 2017, a total of Kshs.494,567,159 had been spent on the programme. We considered this as a key audit area because of the impact the project has on the public. The programme targeted a total of 931 schools (841 from the high potential counties and 90 from ASAL counties). However, as at 30 June 2017, only 258 schools had been covered under the programme that is 53 schools in 2015/2016 and 205 school in the year under consideration. There is a risk that the program's intended objectives may not be achieved despite the amount of money spent.	• Checked objectives of green schools and commercial tree growing programme. • Analyzed the master list on schools selected • Checked if the schools targeted fall within the Eastern regime rainfall, normally during the months of October to December or Western regime rainfall that is experienced within the months of March to June • Verified price for seedlings with majority being purchased are within market rate in the local area. • Obtained a report on how the management have identified the specific forest and public schools to be a beneficiary of the programme.

	The programme is also rain dependent. Therefore, there is a risk of loss of tree seedlings and funds due to lack of rains. The seedlings are purchased from the local areas hence there are no structured market prices for seedlings. The seedlings are purchased from the local areas hence there are no structured market prices for seedlings.	• Obtained copies of professional opinion approved by Accounting Officer green school programme. • Audit marked green schools and commercial tree growing programme as a keep in view (KIV) item in 2017/2018 audit.
3.	**Fixed Assets Management**	
	The statement of receipts and payments reflects acquisition of assets figure of Kshs.282,107,946 for the year ended 30 June 2017. Due to the use of cash basis of accounting, the management control of these assets presents a great challenge and risk to the State Department management. We considered this to be a key audit matter since there is a risk that assets acquired are not recorded in the fixed asset register. This also increases the risk of loss of fixed assets. There is also a risk that the assets may not be insured thereby posing challenges in replacing the assets. In addition, there is a risk that such assets may not be used for the activities of the State Department. As reflected in Annex 2 to the financial statements, the Department did not disclose any information on the assets acquired over time.	• Verified that assets are managed in a way which ensures that the National Government entity achieves value for money in acquiring, using and disposing of those assets. • Confirmed preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse; • Verified movement and that conditions of assets can be tracked. • Confirmed that processes and procedures both electronic and manual are in place for the effective, efficient, economical and transparent use of the government entity's assets.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the State Department for Natural Resources had an outstanding imprest balance amounting to Ksh.1, 958, 192.00 as at 30th June,2017 however most of the outstanding imprests has since been cleared apart from an amount of Kshs. 312,300.00. The list of outstanding imprest holders has since been forwarded to Human Resources Management for recovery

Committee Observations and Findings

(i) **The Committee observed that all outstanding imprest has since been surrendered except for Ksh.312, 300 that is still outstanding.**
(ii) **The matter remains unresolved.**

Committee Recommendations

The Accounting Officer should ensure that the unsurrendered imprest of Ksh.312, 300 is recovered within three months after the adoption of thios report failure to which the responsible officer should be surcharged.

Other Matter

323. Public Participation in the State Department Budget Implementation

Article 201(a) of The Constitution of Kenya requires that there should be openness and accountability, including public participation in financial matters. Further, Section 36 (3) (d) of the Public Finance Management Act, 2012 provides for public participation in the budget process. There is no evidence of public participation in the budgetary information used to prepare the financial report presented.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Article 201(a) of this Constitution requires that there should be openness and accountability in public financial matters. The State Department for Natural Resources through Environmental Protection, Water and Natural Resources sector with the National Treasury invited the general public for public hearing for the financial year 2016/2017 and the Medium Term. The stakeholder and general public provided their comments at the plenary and also through Treasury website which were incorporated in the 2016/2017 budget and the medium term.

Committee Observation and Findings

The Committee observed that the paragraph was for information purposes for the Principal Secretary.

324. Internal Controls Not Implemented

The following observations were made during a review of the internal control systems of the State Department:

a) No risk assessment was carried out to identiFinancial Year and address key areas of concern and document specific controls in response to identified risks – there is no evidence that management assessed the internal controls applicable to address any material weaknesses that could be inherent in the controls.

Submission by Accounting Officer

The Accounting Officer submitted that they bwere in agreement with (a) and (b) above. However, the State Department was relatively new. During the course of the year, our Internal Auditors alerted us on the role of management as regards the risk management process.

b) The State Department has no formal, documented and tested disaster recovery plan/emergency procedure in place and therefore in case of an emergency, the personnel involved might not be aware of what is expected of them.

Submission by Accounting Officer

The Accounting Officer submitted that they undertook the following activities to strengthen the internal control systems and risk management process.

There was training on risk management processes in Naivasha that involved all Heads of Departments and the AIE Holders. The second training was scheduled to take place by August 2017 i.e. before the start of the New Year 2017/2018 operations. This however was not possible due to elections and resources constraints.

Committee Observations and Findings

- **(i) The Committee observed that the state department was fairly new and that is why the internal controls were not implemented by the time of audit.**
- **(ii) The Committee observed that the State Department has however made efforts to address the matter.**
- **(iii)The Committee marked the matter as resolved.**

325. Financial Statements and IFMIS

325.1. Notes to the financial statements and IFMIS Notes

Inconsistencies on numbering notes to financial statements and notes to financial statements as per IFMIS system were noted and not rectified by management.

325.2 Variance between Notes to the Financial Statements and Notes as per IFMIS Reports

It is a requirement that all the figures in the financial statement be expounded in a way of note. Notes in support of the figures in the financial statement were presented together by 30 September 2017. However, we noted two sets of notes in support of financial statements had variances as analyzed below:

	Note as Financial Statements/ Statements	**Notes as IFMIS /IFMIS Statements**	**Amounts per Notes in the Financial Statements Kshs.**	**Amount as per IFMIS Notes Attached in the Financial Statements Kshs.**	**Variance Kshs.**
Other Revenue	2	11	500,000	-	500,000
Use of goods and Services	4	13	402,337,553	404,416,175	(2,078,622)
Accounts ReceivableOutstanding Imprests	9	23	2,000,800	2,998,045	(997,245)
Accounts Payable	10	24	1,497,888	3,996,960,185	(3,995,462,297)
Bank Balances	8A	22A	11,926,625	3,973,398,962	(3,961,472,337)
Cash in Hand	8B	22B	15,650	7,821,008,767.1	(7,820,993,117)
Surplus for the Year			**12,445,186**	**10,366,565**	**2,078,621**

In addition, the State Department relied on manual accounting to prepare the financial statements hence the above variances with IFMIS information have not been reconciled or explained.

Submission by Accounting Officer

The Accounting Officer submitted that the financial Statements and notes as per IFMIS Reports. It is true that the IFMIS note attached to the Financial Statements had an omission of Kshs. 500,000.00 under other revenue. This was an omission that was later captured in the IFMIS system.

It was true that there was a variance Kshs. (2,078,622.00) under Use of Goods and Service. The Ministry's IFMIS cashbook is still being reconciled in co- ordination with the National Treasury's IFMIS team and the Financial Reporting Unit.

Variance of Kshs. (997,245) Accounts Receivable – outstanding imprest:- The Ministry's IFMIS cashbook is still being reconciled in co- ordination with the National Treasury's IFMIS team and the Financial Reporting Unit.

Variance of Kshs. (3,995,462,297) Accounts payable: The Ministry's IFMIS cashbook is still being reconciled in co- ordination with the National Treasury's IFMIS team and the Financial Reporting Unit.

Variance of Kshs. (3,961,472,337) in Bank Balances: The Ministry's IFMIS cashbook is still being reconciled in co- ordination with the National Treasury's IFMIS team and the Financial Reporting Unit.

Variance of Kshs. (7,820,993,117) in cash in hand: The Ministry's IFMIS cashbook is still being reconciled in co- ordination with the National Treasury's IFMIS team and the Financial Reporting Unit. Bank balances, it is true that reconciled closing balances as per the Financial Statements and the Manual Cash Book availed for audit review did not agree with the balances disclosed in the IFMIS system generated Cash Book

The balances shown in the IFMIS generated cashbook are not reconciled due to systems challenges with the cash management module. These challenges with the cash management module include; Missing online Bank Statements and Creation of system acquired liabilities Missing transactions when Bank Statement are loaded.

The IFMIS Department has continued to address these challenges with aim of reconciling these differences. The balances in the Financial Statements are fully supported by certificate of balances and bank reconciliation statements as at 30th June, 2017.

Committee Observations and Findings

(i) **The Committee observed the necessary adjustments have since been made and verified.**
(ii) **The Committee marked the matter as resolved.**

326. Pending Bills

Pending Bills amounting to Kshs.52,689,629 chargeable to recurrent and development account and relating to financial year 2016/2017 were not paid during the year but were instead carried forward 2017/2018. Had these bills been paid and expenditure charged to the accounts for 2016/2017 the statement of receipts and payments would have recorded a deficit of Kshs.40,224,443 instead of a surplus of Kshs.12,445,186 now shown.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that there was pending bills amounting to Kshs. 52,689,629.00 chargeable to recurrent and development accounts. However, this would not have resulted into a deficit, as the unutilized balance on the two accounts was over Kshs. 60 million. We did not receive the entire exchequer as requested for amounting to about Kshs. 53 million. The pending bills amounting to Kshs. 52,689,629 were later paid in the subsequent financial year

Committee Observations and Findings

(i) **The Committee observed that all pending bills were paid as first charge in the subsequent Financial Year.**
(ii) **The Committee marked the matter as resolved.**

DONOR FUNDED PROJECTS

INSTITUTIONAL STRENGTHENING OF THE OZONE DEPLETING SUBSTANCES PROJECT (UNEP PROJECT ACCOUNT NO. UNEP/KEN/SEV/62/INS)

Unqualified Opinion

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

LAKE VICTORIA ENVIRONMENTAL MANAGEMENT PROJECT PHASE II (IDA CREDIT NO. 4532-KE AND IDA CREDIT NO. 5634-KE)

Basis for Qualified Opinion

327. Special Account Statement - Amounts Withdrawn and Not Claimed

The special account statement reflects amounts withdrawn and not claimed as at 30 June 2017 as US Dollars 533,760 (Kshs.55,302,882). This amount is eligible for refinancing but documentation to claim the amount had not been provided as at 30 June 2017.
Consequently, the validity of amounts not claimed could not be confirmed.

328. Budget Execution

The project had budgeted Kshs.273,440,114 for other grants and transfers payments. However, only Kshs.77,811,681 (28%) was utilized. Consequently, and due to this low absorption rate, the project may not realize its objectives within the set timelines.

KIMIRA OLUCH SMALLHOLDER FARM IMPROVEMENT PROJECT (ADF LOAN NO. 2100150012296)

Basis for Qualified Opinion

329. Inaccuracies in the Financial Statements

329.1 Under Statement of Receipts and Payments

Note 1.7 to the financial statements relating to funding summary, reflected total amount received as Kshs.5,954,223,123 while in the statement of receipts and payments, the total cumulative loan and counterpart receipts is captured as Kshs.2,654,310,486 resulting to an unreconciled and unexplained difference of Kshs.3,299,912,637.

329.2 Statement of Cash flows

The following differences were noted between the certified financial statements of 2015/2016 and the comparative balance brought forward and presented in the financial statements of 30 June 2017.

	Certified financial Statements 30. June.2016 Kshs.	**Comparative Balance 30. June.2017 Kshs.**	**Difference Kshs.**
Net cash flow from financial activities	77,882,203	234,205,120	(156,322,917)
Net increase (decrease) in cash and cash equivalent	(53,698,859)	52,936,028	(106,634,887)
Cash and cash equivalent at the beginning of the year	84,370,848	31,434,820	52,936,028
Cash and cash equivalent at the end of the year	30,671,989	84,370,848	(53,698,859)

Consequently, the accuracy and validity of the statement of cash flows as presented cannot be confirmed.

330. Pending Accounts Payable (Bills)

Included in note 7.10 to the financial statements is an amount of Kshs.1,180,492,625 in respect of pending bills. However, the funding summary under note 1.7 to the financial statements reflected undrawn balance to date of Kshs.811,458,898 while note 7.9A relating to bank accounts reflected Kshs.38,474,878 both totalling to Kshs.849,933,776 which is not enough to clear the pending bills thus resulting to a short fall of Kshs.330,558,849.
Consequently, the accuracy of the pending bills could not be ascertained.

331. Under Funding

During the year under review, the project was allocated a sum of Kshs.1,671,118,900 to finance pending bills and meet other operating expenditure. However, only Kshs.187,000,000 was made available to the entity representing a shortfall of Kshs.1,484,118,900.
Consequently, the completion of the Project has been delayed by underfunding and at the same time increasing the cost of the Project.

332. Disbursements not Supported by Authority to Incur Expenditure (AIEs)

Included in the statement of receipts and payments is an amount of Kshs.187,000,000 received during the year from the Ministry of Devolution and Planning that has not been supported by authority to incur expenditure as required by Regulation 52(1) of the Public Finance Management (National Government) Regulations, 2015.
It is not clear how the Project would use the funds without authority.

333. Long overdue Advances

Included in the cash and cash equivalent balance of Kshs.44,562,586 is an imprest and advances amount of Kshs.5,629,581 which relates to salaries for the period July 2014 to June 2015 paid by the Project for fifteen staff contracted by the parent ministry and which the ministry was required to refund to the Project account with effect from 1st July 2015. This balance has remained outstanding in the project books for over two years.
Consequently, the reasons for non-refund of imprest and advances amount of Kshs.5,629,581 could not be confirmed.

334. Stalled Minor Works

The Ministry of Environment, Water and Natural Resources entered into nine (9) contracts with five (5) contractors on 20th December 2013 for the construction of in-block irrigation infrastructure in the two schemes at a combined cost of Kshs.1,543,034,317. As at 30 June 2017, the project consulting engineer had certified works worth Kshs.1,092,362,399 out of which unpaid certificates amounted to Kshs.345,820,688. However, the contractors abandoned the sites and therefore no additional construction works were carried out during the year ended 30 June 2017. Consequently, the residents of Oluch and Kimira have not received value for money yet the Project is almost coming to an end.

335. Non-Submission of Special Account No.01257485050 Statements

During the year under review, the project did not avail statements for special account for the financial year 2016/2017. It was therefore not possible to determine how the transactions for the Special Account No.01251485050 were accounted for.
Consequently, the propriety of the transactions in the Special Account for the year ended 30 June 2017 could not be confirmed.

Other Matter

336. Project Implementation Progress

According to the Project implementation progress report dated July 2017, out of the targeted 5,382 farmers only 565 farmers were benefiting from the scheme representing only 10.5% and yet the project end date is 30 June 2018.

Consequently, the Project may not reach all the intended beneficiaries.

337. Project Governance System

It was further noted that the internal audit was reporting to the Project Manager directly instead of Project Steering Committee, contrary to paragraph 1.8 of the financial statements.
As a result, the Project in the year 2016-2017 had no proper governance system in place and thus resulting to delay in delivery of services and benefits to farmers.

WATER AND SANITATION SERVICE IMPROVEMENT PROJECT-ADDITIONAL FINANCE IDA CREDIT NO. 5103-KE

Unqualified Opinion

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

NAIROBI RIVERS BASIN REHABILITATION AND RESTORATION PROGRAM: SEWERAGE IMPROVEMENT PROJECT

Unqualified Opinion

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

Other Matter

338. Transfer of Assets

Section 5.2(1) of the other conditions under the agreement between the Republic of Kenya and African Development Fund states that, 'the borrower will provide evidence in form and substance acceptable to the Fund that by 31 December 2013 the transfer of assets from Urban Water Supply and Sewerage and City Council of Nairobi to Athi Water Service Board has taken place. By the time of the audit, however, the scheduled transfer had not taken place.

Consequently, this was in contravention of the loan Agreement.

Committee Observation and Finding

The Committee observed this paragraph was for information purposes for the Principal Secretary.

23.0. MINISTRY OF LANDS AND PHYSICAL PLANNING

FINANCIAL STATEMENTS FOR VOTE 1112

Dr. Nicholas Muraguri, the Principal Secretary and Accounting Officer for the Ministry of lands and Physical Planning (Vote 1112) appeared before the committee on 14th August 2019 to adduce evidence on the Audited Financial Statements for the Ministry of lands and Physical Planning (Vote 1112) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1.	**Mr. Andrew Nyambeche**	**-**	**Deputy Director Supply Chains Management Service**
2.	**CPA Mary Wanyonyi**	**-**	**Assistant Accountant General and Head of Accounting Unit**
3.	**CPA Consolata Opondo**	**-**	**Principal Accountant**
4.	**CPA Jane W. Mburu**	**-**	**Principal Accountant**
5.	**Mr. Robert Birundi**	**-**	**Senior Accountant**
6.	**Mr. George Mose**	**-**	**Senior Accountant**

Basis for Qualified Opinion

339. Fixed Assets

339.1 Summary of Fixed Assets

As previously reported, the financial statements for the year ended 30 June 2017 does not include a summary of fixed assets as an annex contrary to the prescribed reporting template as issued by Public Sector Accounting Standards Board of the National Treasury. In the current year, assets amounting to Kshs.1,420,287,680 were procured by the Ministry but assets register was not maintained as required by Regulation 143 of Public Finance Management (National Government) Regulations 2015. Consequently, the management failed to comply with Regulation 143 of Public Finance Management (National Government) Regulation 2015 which requires maintenance of fixed asset register

Submission by Accounting Officer

The Accounting Officer reported that the Ministry had initiated the process of developing Fixed Assets Register to conform to the prescribed reporting template issued by the Public-Sector

Accounting Standards Board. However due to a number of challenges experienced in developing the asset register, the exercise has not been finalized.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining that the Ministry initiated the process of developing a Fixed Asset Register as prescribed in the reporting template and intends to engage a consultant to finalize the compilation of the fixed assets register was persuasive.

(ii) The matter remains unresolved pending completion of the development of the fixed asset register.

Committee Recommendations

The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.

339.2 Construction of Buildings

Included in the statement of receipts and payments for the year ended 30 June 2017 is acquisition of assets amounting to Kshs.1,420,287,681. Included in this figure is construction of buildings of Kshs.77,233,293 as per Note 10 to the financial statements. This figure could however, not be confirmed since installation of access control and biometric equipment at Ardhi House and Survey of Kenya amounting to Kshs.58,811,632 was irregularly charged to the item/account for construction of buildings and no such authority had been obtained from the National Treasury.

Submission by Accounting Officer

The Accounting Officer reported that during the year under review some offices required minor refurbishment and alterations to facilitate the installation of access Control and Biometric equipment at Ardhi House and Survey of Kenya. This therefore explains why the cost of such minor alterations and refurbishment were charged to construction of buildings.

Committee Observations and Findings

(i) **The submission tabled by the Accounting Officer explaining that the expenditure for stationery amounting to Kshs.58,811,632, charged to the item for construction of civil works was satisfactory; and**

(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

The Accounting Officer must, within three (3) months of adoption of this report, provide an explanation to the Cabinet Secretary to the National Treasury for failure to seek authorization to charge Kshs.58,811,632 to the item for construction of civil works contrary to the provisions of sections 197(1)(k) and 68(2)(l) of the Public Finance Management Act, 2012.

339.3 Purchase of Specialized Plant, Equipment and Machinery

Included in the statement of receipts and payments for the year ended 30 June 2017 is acquisition of assets amounting to Kshs.1, 420,287,681 out of which Kshs.152, 265,644 was used for purchase of specialized plant, equipment and machinery during the year. However, an amount of Kshs17,865,000 had no supporting documents such as payment vouchers.

Consequently, it has not been possible to confirm the validity and accuracy of fixed assets worth Kshs.76, 676,632.

Submission by Accounting Officer

The Accounting Officer admitted that payment vouchers amounting to Kshs.17, 865,000.00 had not been availed for audit review. However, payment vouchers of Kshs.14, 250,000 have since been availed to the auditor.

S/NO	NAME	PV. NO.	AMOUNT	APPENDIX
1	MFI document Solutions Limited	001923	1,218,000.00	1(a)
2	Azzur Investments	002364	1,900,000.00	1 (b)
3	Click n tell	002171	7,200,000.00	1 (C)
4	True Services International Limited	002652	1,925,000.00	1 (d)
5	MFI document solutions Limited	000979	2,007,000.00	1 (e)
		TOTAL	**14,250,000.00**	

Further, payment vouchers for Kshs.3,615,000.00 have been reversed in the system.

S/NO	NAME PV.NO.		AMOUNT	APPENDIX
1	Emart Services	002361	285,000.00	2 (a)
2.	Global Reach Technologies	001740	1,770,000.00	2 (b)
3	Brolink Agencies	001750	1,560,000.00	2 (C)
			TOTAL	**3,615,000.00**

Committee Observations and Findings

(i) **The Committee observed that the Ministry took a very long time to avail the payment vouchers to the Auditor General for audit verification.**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

340. Use of Goods and Services

340.1 Foreign Travel and Subsistence

Included in foreign travel and subsistence amount as disclosed in Note 6 to the financial statements is local travel and subsistence amount of Kshs.500,632 and standing imprest reimbursement of Kshs.221,484 paid, which had not been accounted for by 30 June 2017 contrary to the requirements of Regulation 93(5) and (11) of Public Finance Management (National Government) Regulations, 2015.

Consequently, it has not been possible to confirm the accuracy of Kshs.722,116 included in the financial statements.

Submission by Accounting Officer

Local Travel and Subsistence Allowance - Kshs. 500,632

The Accounting Officer reported that the charge was erroneous and undertook to avoid the error in future.

Standing Imprest Reimbursement – Kshs. 221,484.00

The Accounting Officer reported that the expenditure had been accounted for but was wrongly charged to foreign travel. The amount in question relates to airport transfers which was related to foreign travel and was erroneously paid through a standing imprest due to the urgency of the matter, instead of a temporary imprest, the management regretted the error.

Committee Observations and Findings

(i) The Committee observed that the charge of Kshs. 500,632 was erroneous under local travel and subsistence and undertook to avoid the error in future.
(ii) The Committee observed that the amount of Kshs. 221,484.00 had been accounted for but was wrongly charged to foreign travel and paid through standing imprest instead of temporary imprest, which was later corrected.
(iii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must, at all times, ensure that they abide by the requirements of Regulation 93(5) and (11) of Public Finance Management (National Government) Regulations, 2015.

340.2 Fuel, Oils and Lubricants

Included in fuels, oils and lubricant amount of Kshs.8,530,800 in Note 6 to the financial statements is an amount of Kshs.6,529,120 which was posted to a wrong item/account – other operating expenses and which could therefore not be confirmed. Consequently, it has not been possible to confirm the accuracy and validity of Kshs.6,529,120 included in the financial statements.

Submission by Accounting Officer

The Accounting Officer stated that the National Titling Program and the digitalization program involves a lot of travelling mostly to very remote areas that require officers to be facilitated with vehicles. This explains why fuel used in the activities was directly charged to supplies for production as a line item, which falls under other operating expenses.

Committee Observation and Findings

(i) The submission tabled by the Accounting Officer explaining why fuel used in the activities was directly charged to supplies for production as a line item was satisfactory; and

(ii) The Committee marked the matter as resolved.

341. Cash and Cash Equivalents

341.1 Bank Reconciliations

The statement of assets and liabilities as at 30 June 2017 reflects cash and cash equivalents balance of Kshs.331,667,785 and which varies with the reconciled cash book balances of Kshs.332,202,938. The resultant variance of Kshs.535,153 has not been explained or reconciled.

Consequently, it has not been possible to confirm the accuracy of Kshs.535,153 included in the financial statements.

Submission by Accounting Officer

He reported that the Kshs.331,667,785.00 reflected in the Financial Statement was the actual Bank Balance as shown below:

Development Bank Account	9892.40
Recurrent Bank Account	40,152.15
Deposit Bank Account	331,416,702.70
Recurrent Cash Balance	201,038.00
	331,667,785.25

Cashbook reconciled Balances of Kshs.332,202,938.00 is as analyzed below:

Development Cashbook Balance	601,760.13
Recurrent Cashbook Balance	55,565.71
Deposit Cashbook Balance	331,545,612.70
	332,202,938.54

Thus, the resultant difference of Kshs.535,153.00 is due to reconciling items that had not been cleared in the Cashbook then.

However, the unreconciled items have since been investigated and postings done in the Cashbook.

Committee Observations and Findings

(i) **The Committee observed that the resultant difference has since been reconciled and the Auditor General confirmed the same.**
(ii) **The Committee marked the matter as resolved.**

341.2 Deposits Account

As previously reported, the deposit account balance amounted to Kshs.331,416,703.00 as per Note 11 to the financial statements. The deposit account's bank reconciliation statement consisted of the following outstanding effects which have been outstanding since 2013/2014 financial year and for which no explanation was given by the management.

Item	Amount 2015/2016 Kshs.	Amount 2016/2017 Kshs.	Movement Kshs.
Receipts in bank statement not in cashbook	**1,015,410,406**	**185,400**	**1,015,225,006**
	220,854,334	**276,000**	**220,578,334**
	43,232,134	**38,310**	**43,193,824**
	1,279,496,874	**499,710**	**1,278,997,164**

The balances significantly reduced by Kshs.1,278,997,164 in the current financial year without the Ministry explaining how the figures were cleared. Further, included in the deposit account bank reconciliation statement are receipts in cashbook not yet recorded in bank statement amounting to Kshs.38,310 dated 30 June 2017 and payments in bank statement not recorded in cashbook amounting to Kshs.276,000 dated between 24 April, 2017 and 06 June 2017 respectively. Further, receipts in bank statement not in cashbook amounted to Kshs.185,400. The bank balance as per bank statement of Kshs.331,416,703 differs from the bank certificate balance of Kshs.338,672,195 by Kshs.7,255,492.

The Ministry has not explained nor sought explanation from the bank for the variance between the two balances. In addition, in 2016/2017 financial year, the Ministry opened a new deposit cashbook without indicating opening balances as was carried forward from 2015/2016 financial year. The deposit cashbook for the year ended 30 June 2016 was not availed for audit review.

Submission by Accounting Officer

Outstanding Effects for 2015/2016 Deposit Account

The Accounting Officer reported that the outstanding effects have since been cleared. He tabled a copy of the Bank Reconciliation report.

The reduction of the Outstanding Balances by Kshs.1,278,997.164 in 2016/2017 Financial Year

The Accounting Officer submitted that during the F/Y 2016/2017, the reorganization of the government ministries, Departments and Agencies occasioned the subsequent transfer of some departments from the parent ministry of Lands, Housing and Urban Development. This included the State Departments of Public Works, Housing and Urban Development which were transferred to the Ministry of Transport and Infrastructure. The effect is that the old Ministry Deposit Account was closed, and the New Ministry of Lands and Physical planning opened a new Deposit Account. The outstanding bank balances at the old account were thus analyzed and shared amongst the State Departments to be carried forward to the new accounts. This therefore explains why the 2016/2017 F/Y deposit balances were significantly reduced. He submitted that the 2016/2017 deposit account is new and did not incorporate the uncleared effects of 2015/2016 F/Y which were balances of the parent ministry of Lands, Housing and Urban Development.

Receipts in Cash book not recorded in the Bank Statement – Kshs.38,310

He admitted that in the financial year ended 30th June, 2017 bank reconciliation report reflected receipts in the cashbook not recorded in the bank statements amounting to Kshs. 38,310.00. he submitted that there is an ongoing analysis of which the management will ensure that the receipts are cleared by 31st August 2019.

Payments in the Bank Statement not recorded in the Cash book – Kshs.276,000
Management Response

He submitted that that the payments have since been recorded as shown here below:

DATE PAID	PAYEE	AMOUNT	DATE POSTED	P.V. NO.	APPENDIX
24/04/2017	Aaron Maundu Kimoni	88,200.00	30.05.2019	Dep 00115	**4 (a)**
23/04/2017	Joseph Mbithi Mutua	88,200.00	30.05.2019	Dep.00116	**4 (a)**
6/7/2017	Joseph Aswani Kweyu	99,600.00	25/03/2019	Dep.0083	**4 (b)**
	TOTAL	**276,000.00**			

Receipts in Bank Statement not recorded in Cash Book – Kshs.185,400.00

He submitted that the receipts have since been recorded in cash book shown here below:

Receipt date	Nature of receipt	Amount	Date posted in Cash Book	APPENDIX
12.06.2017	EFT collection – Kenya Institute of Survey and Mapping	5,400.00	31.05.2019	**5 (a)**
17.07.2017	EFT collection - Civil Servant Housing Scheme Fund	180,000.00	18.09.2017	**5 (b)**
	TOTAL	**185,400.00**		

Bank Balance as per Bank Statement Kshs.331,416,702.70

He admitted that the bank reconciliation report of the period to 30th June, 2017 reflected a balance of Kshs.331,416,702.70 as the closing balance in the bank instead of kshs. 338,672,194.85 as reflected in the bank certificate. We wish to clariFinancial Year that the figure of Kshs. 338,672,194.85 refers to the closing balance at the bank as at the closure of business on 30th June, 2017 which was the cut-off date, whereas the figure of Kshs.331,416,702.70 refers to the closing balance at the bank adjusted for payments made on 30th June, 2017 but cleared in the following month of July 2017 but related to the F/Y 2016/2017. This is therefore to further clariFinancial Year that the difference between the two figures was occasioned by timing differences between the date of payment and the date when the payments actually cleared at the bank.

Opening Balance for the Financial Year 2016/2017

He admitted that in the 2016/2017 the deposit cash book was opened without the balance brought forward from 2015/2016 Financial Year. This was occasioned by the reorganization of the Government Ministries, Departments and Agencies that were formerly under the Ministry of Lands Housing and Urban Development to the Ministry of transport and infrastructure. This included the state departments of Public works housing and urban development. As a result, the old deposit account for the old Ministry was closed and a new account for the Ministry of Lands and Physical Planning was opened, and hence the need to analyze and share the deposit account balances appropriately as shown in the table below:

S/No.	Details	Account No.	Amount
1.	Ministry of Lands and Physical Planning	1000302828	331,629,048.60
2.	State Department for Housing & Urban Development	1000302895	724,130,952.40
3.	State Department for Public Works	1000302957	1,033,315,578.25
	Total		**2,089,075,579.25**

As shown in the above tabulation the requisite share for the Ministry of Lands and Physical Planning was determined to be Ksh.331,629,048.60 which was transferred to the new Deposit Account for the Ministry on 13th December, 2016. This transaction was then posted to the cash book on 26th January 2017.

Missing Deposit Cashbook for the Year Ended 30th June, 2016

He admitted that the Deposit Cashbook for the Period to 30th June, 2016 was not availed to the auditors for audit review. He reported that the Cashbook has since been availed for audit review.

Committee Observations and Findings

- **(i) The submission tabled by the Accounting Officer explaining the transactions on the Deposit Account was persuasive.**

- **(ii) The Committee marked the matter as resolved.**

341.3 Development Account – Uncleared Effects

Included in the Development account as per note 11 to the financial statements are bank reconciliation statements in which payments in cashbook not recorded in bank statement amounts to Kshs.4,611,523 some of which have been outstanding since 24 November 2016. Further, there were receipts in cashbook not in bank statement totaling to Kshs.3,814,980 dated from19 May 2017 to 28 June 2017. Payments in bank statement not recorded in cashbook amounted to Kshs.3,637,149 and were dated between 23 December 2016 and 06 July 2017 and receipts in bank statement not in cashbook amounting to Kshs.2,240,874 dated between 05 January 2017 to 05 July 2017 which remained uncleared by June 2017. The Ministry has not given reasons as to why the reconciliation items have not been cleared.

Submission by Accounting Officer

The Accounting Officer admitted that the Development Bank Account had uncleared effects as at 30th June, 2017. However, the uncleared effects have since been cleared as per the attached Bank Reconciliation of June 2019.

Committee Observations and Findings

(i) The Committee observed that the uncleared effects had been cleared though after a long period of time.
(ii) The Committee marked the matter as resolved.

341.4 Recurrent Account – Bank Reconciliation

Included in Note 11 to the financial statement is Central Bank recurrent balance of Kshs.40,152 which differs from the bank certificate of balance of Kshs.32,375,186 by Kshs.32,335,034. The difference has not been explained.

In the circumstance, it has not been possible to determine the accuracy of cash and cash equivalent balance of Kshs.331,667,785 included in the statement of financial assets and liabilities as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer admitted that the Financial Statements reported Central Bank recurrent balance of Kshs.40,152.00 which differs from the Bank Certificate of Kshs.32, 375,186.00 thus resulting to a difference of Kshs.32, 335,034.00. He reported that the Bank Certificate Balance was issued as at 30th June, 2017 which is the cut-off date and thus the difference arose due to payments that had not cleared as at 30th June 2017 but cleared the July 2017 though they related to the Financial Year 2016/17.

Committee Observations and Findings

(i) **The Committee observed that the bank Certificate Balance was issued as at 30th June, 2017 which is the cut-off date and thus the difference arose due to payments that had not cleared as at 30th June 2017 and they were cleared in July.**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

24.0. STATE DEPARTMENT FOR INFORMATION, COMMUNICATION, TECHNOLOGY AND INNOVATION

FINANCIAL STATEMENTS FOR VOTE 1122

Mr. Jerome Ochieng, the Principal Secretary and Accounting Officer for the State Department of ICT (Vote 1122) appeared before the committee on 16th May 2019 to adduce evidence on the Audited Financial Statements for the State Department of ICT (Vote 1122) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Col. (Rtrd) Cyrus Oguna - Government Spokesman**
2. **Mr Eric Kiraithe - Chief Administrative Secretary**
3. **Mr. Robert Mugo - Director Shared Services**
4. **Dr. Katherin W. Getao - Chief Executive Officer ICT Authority**
5. **Mr. C. W. Kariuki - Chief Finance Officer**
6. **Ms. Jacqueline Nzomo - Finance Officer**
7. **Mr. Anthony Njenga - Assistant Accountant General**
8. **Mr. Joseph Mwangi - Planning**
9. **Ms. Jane M. Musundi - Senior Principal Finance Officer**
10. **Ms. Rosemary R. N. Ndiritu - Director, Corporate Services ICT Authority**
11. **Ms. Juliana N. Yipan - Secretary Administration ICT Authority**
12. **Ms. Sally Washiko - Personal Assistant to Principal Secretary**
13. **Ms. Mwikamba Mghenyi - ICT Department**

Basis for Qualified Opinion

354. Acquisition of Assets

Included in the assets figure of Kshs. 2,904,012,001 under note 6 to the financial statements is a figure of Kshs. 2,873,149,809 in respect of financial assets described as domestic public non-financial enterprises National Optic Fibre Backbone Infrastructure (NOFBI) Phase II whose nature and breakdown was not availed for audit verification. Further, State Department did not avail assets register for its assets acquired. Although the State Department has explained that invoices, certificates of acceptance and payment notification from ERD have been attached, no analysis was availed for audit review.

In the circumstances it is not possible to confirm the propriety of expenditure on financial assets totaling Kshs. 2,873,149,809 for the year ended June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that under acquisition of assets figure of Kshs.2, 904,012,001 under note 6 to the financial statements is a figure of Kshs.2,873,149,809 in respect of financial assets described as domestic public non-financial enterprises NOFBI Phase II whose nature breakdown was not availed for audit verification. The figure of Ksh 2,873,149,809 relates to payments made for National Optic Fibre Backbone Infrastructure (NOFBI) Phase II which is a project whose primary goal is to lay the backbone fibre optic cable countrywide. Implementation started in 2006 and by 2017, 6,400 km of fibre networks had been laid for both backbone and metro trunk across the country covering phase I and phase II. The network connects Government HQs buildings in both National and counties offices.

The Ministry is currently implementing NOFBI Phase II Expansion that aims to lay additional 2,500km of fibre networks connecting counties and sub county hqs, schools, hospitals, police stations among other public buildings. The break down, copies of the payment vouchers (originals sent to ERD of the National Treasury for payment), copies of journal entries and map showing NOFBI transmission network have been attached for review. The assets register has since been compiled and forwarded for audit verification.

Committee Observations and Findings

- **(i) The Committee observed that copies of the 8 payment vouchers for delivery of fibre and other equipment and also supporting documents attached in the response add up to Kshs 2,873,149,809.**
- **(ii) The Committee observed that the auditors needed more time to veriFinancial Year and confirm the nature of the financial assets and the original payment vouchers.**
- **(iii) The Committee observed that a copy of fixed assets list attached had no cost element and date when assets were acquired, and they were not able to physically veriFinancial Year assets in the counties or sites where they are held.**
- **(iv) The matter remains unresolved.**

Committee Recommendations

The State Department should demonstrate a business relationship between Government and Internet Service Providers (ISPs).

355. Transfers to Other Government Units

Included in grants and transfers to other government entities figure of Kshs. 22,950,890,772 under note 5 to the financial statements is an amount of Kshs. 3,109,834,436 in respect of ERD direct payments whose nature and supporting analysis was not availed for audit review.

In the circumstances, it was not possible to confirm the propriety of ERS payment totaling Kshs. 3,109,834,436 for the year ended 30th June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that included in grants and transfers to other government entities figure of Kshs.22, 950, 890,772 under note 5 to the financial statements is an amount of Kshs.3, 109,834,436 in respect of External Resource Department (ERD) direct payments whose nature and supporting analysis was not availed for audit review. The above figure of Ksh 3,109,834,436 relates to payments made under Kenya Transparency & Communication Infrastructure Project (KTCIP).

The project supported operations of the ICT sector that included connectivity of all the 47 counties with the integrated financial management information system (IFMIS), bandwidth subsidy, Kenya Education Network and capacity building. The full list and copies of the payment vouchers and Journal Entries (JEs) have since been compiled and availed for audit verification. The originals of these copies were forwarded to External Resource Department (ERD) of National Treasury for payment.

Committee Observations and Findings

- **(i) The Committee observed that Kshs.3, 109,834,436 in respect of External Resource Department (ERD) direct payments nature and supporting analysis was not availed for audit review.**
- **(ii) The Committee observed that the copies of payment vouchers and support documents were later submitted but it was not possible to veriFinancial Year supplies and works done and original payment vouchers.**
- **(iii)The matter remains unresolved.**

Committee Recommendations

The Accounting Officer should, within three (3) months of the tabling this report, provide the relevant documents to the Auditor General, to enable verification of supplies, works done and original payment vouchers.

356. Withholding Tax on Payments

Included in the use of goods and services figure of Kshs. 277,099,981.55 under note 4 to the financial statements as an amount of Kshs. 25,360,446 in respect of other operating expenses. The figure of Kshs. 25,360,446 also includes an amount of Kshs. 12,790,976.60 paid to a clearing firm being customs clearance fees for contract No. 00Y40413100020 and whose supporting documents were not availed for audit review.

In the circumstances, it has not been possible to confirm the authenticity of the payment of Kshs. 12,790,979.60 for the year ended June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that under the Use of Goods and Services figure of Kshs.277, 099,981.55 under note 4 to the financial statements is an amount of Kshs25, 360,446 in respect of Other Operating Expenses. The figure of Kshs.25, 360,446 also included an amount of Kshs.12, 790,976.60 paid to a clearing firm being customs clearance fees for contract No.00Y40413100020 and whose supporting documents were not availed for review. The above figure of Ksh.12,790,976.60 relates to reimbursement for clearance fees paid to Huawei Technologies Co. Ltd that had cleared goods using its funds and being a development partner funded project, the contractor is exempted from paying clearance fees.

The Ministry reimbursed as per the provisions of the commercial contracts under custom clearance section 3 (**The Client**). The list, copies of the supporting documents and supplier tax exemption certificate attached has been submitted for audit verification.

Committee Observations and Findings

- **(i) The Committee observed that copies of payment vouchers, listing and support documents amounting to Kshs 12,790,976 have been availed and verified together with the letter of exemption for duty from the National Treasury.**
- **(ii) The Committee marked the matter as resolved.**

357. The Year's Adjustments

The statement of assets and liabilities as at 30th June 2017 reflects the year's adjustments balance of Kshs. 2,666,805 whose nature and analysis was not availed for audit review.

In the circumstances, it is not possible to confirm the accuracy, validity and completeness of the State Department's financial statements for the year ended 30th June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of assets and liabilities as at 30 June 2017 reflects the year's adjustment balance of Kshs.2, 666,805 whose nature and analysis was not availed for audit review. This figure resulted from difference in IFMIS that they were unable to flag off during auto reconciliation.

However, reconciliations are ongoing with a view of establishing the source of these transactions.

Committee Observations and Findings

- **(i) The Committee observed that reconciliations to establish the sourcw of the transactions are still ongoing; and**
- **(ii) The matter remains unresolved.**

Committee Recommendations

The Accounting Officer must, at all times, ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for under Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

358. Other Matters

Budgetary Control and Performance

The State Department of ICT and Innovation had a total budget of Kshs. 28,380,839,291 voted for the financial year 2016/2017 comprising of Kshs. 27,234,916,269 for development and Kshs. 1,145,923,022 for recurrent votes respectively. The budget absorption in the State Department was as follows

	Revised printed budgeted allocation 2016/2017	**Actual expenditure 2016/2017**	**Under Absorption**	**Absorption in %**
	Kshs	Kshs	Kshs	%
Recurrent	1,145,923,022	965,846,991	180,076,031	84%
Develop-ment	27,234,916,269	25,288,289,604	1,946,626,665	93%
Total	**28,380,839,291**	**26,254,136,595**	**2,126,702,696**	

It has not been explained why the state department did not fully utilize the budget allocation as at 30 June 2017. This is an indication of lack of adequate planning in budget making process to prioritize goods and services for efficient and effective delivery to citizens.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the State Department for ICT and Innovation had a total (recurrent and development) Budget of Ksh. 28, 380,839,291 with a total expenditure of Ksh. 26,254,136,595 leaving a balance of Ksh. 2,126,702,696 (7.5%) unspent.

The under absorption was partly due to delays in the implementation of the World Bank funded Project (KTCIP). The loan balance of Ksh. 1.5 billion was written off since the project ended in December, 2017. The balance of the under absorption of Ksh 577,577,199 was caused by lack of exchequer. The supplementary II budget was approved in late May, 2017, yet some projects such as Ajira Digital Programme had been provided for under supplementary budget. This caused delays in the start of the project. However, services were substantially delivered resulting in accumulation of pending bills. The pending bill list and the revised supplementary estimates have been attached for review.

Committee Observations and Findings

The committee observed that the paragraph was for information purpose for the Principal Secretary.

359. Recurrent Vote

Item	**Budget 2016/2017**	**Actuals 2016/2017 Kshs**	**Under Expenditure Kshs**	**% Absorption Kshs**
Use of goods and services	50,000,000	16,124,023	33,875,977	32%
Transfer to other government units	24,257,916,269	22,385,190,772	1,872,725,497	92%
Acquit ion of Assets	2,927,000,000	2,886,974,809	40,025,191	98.6%
Total	**27,234,916,269**	**25,288,289,604**	**1,946,626,665**	**93%**

From the above analysis the state department under-utilized the budget under use of goods and services by 55 % and acquisition of assets by 88%. The under absorption of approved budget is an indication of activities not implemented by the State Department which implies non-delivery of planned goods and services to Kenyan citizens for the year ended 30th June, 2017. Therefore, the stakeholders did not obtain value for their resources.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Recurrent Budget performance for the year 2016/2017 had a total Budget estimate of Ksh.1, 145,923,022 out of which ksh.438, 220,449 and Ksh.19, 264,060 were for Use of goods and Services and Acquisition of Assets respectively. It is observed that the under absorption under Use of Goods and Services and Acquisition of Assets was 40% and 12% respectively. The under absorption of recurrent budget under Use of Goods and Services is attributed to the following;

The allocation for electricity and water could not be utilized because the utilities are paid for as part of the rent for Telposta Towers. Delays in submission of invoices by service providers led to under absorption under domestic and foreign travel (provision of air tickets). While the under absorption on rent payments was due to change of Teleposta agents from Llyod Masika to Tysons Ltd that necessitated reconciliation of amounts with the incoming agents before processing payments to the landlord.

Ajira Programme activities commenced in the first week of June, 2017 and ended on 4th July 2017. The delay in start of activities was due late approval of supplementary II budget which re-aligned the budget for Ajira Programme in order to facilitate the trainings. The resultant invoices were received at closure of the 2016/17 financial year. This meant most of the vouchers could not be processed before closure of the financial year. Unpaid invoices were carried forward as pending bills in 2017/18 because the Ministry failed to get exchequer at closure of the financial year.

360. Development Vote

The budget performance analysis for development vote totaling Ksh. 27,234,916,269 was as detailed below:

Item	Budget 2016/2017	Actuals 2016/2017 Kshs	Under Expenditure Kshs	% Absorption Kshs
Use of goods and services	50,000,000	16,124,023	33,875,977	32%
Transfer to other government units	24,257,916,269	22,385,190,772	1,872,725,497	92%
Acquit ion of Assets	2,927,000,000	2,886,974,809	40,025,191	98.6%
Total	**27,234,916,269**	**25,288,289,604**	**1,946,626,665**	**93%**

From the above analysis the State Department under-utilized the budget for use of goods and services by 32%. The under-absorption of approved budget is an indication of infrastructure projects not implemented by the State Department which implies non-delivery of planned goods and services to Kenyan citizens for the year ended 30th June, 2017. Therefore, the stakeholders did not obtain value of their resources.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the development budget performance for the year 2016/2017 had a total budget Estimates of Ksh 27,234,916,269 out of which Ksh 50,000,000 was for Use of Goods and Service. The under absorption under Use of Goods and Services (68%) is due to lack of exchequer at the closure of the financial year.

Committee Observations and Findings

The Committee observed that the paragraph was for information purposes to the Principal Secretary.

25.0. STATE DEPARTMENT FOR BROADCASTING AND TELECOMMUNICATIONS

FINANCIAL STATEMENTS FOR VOTE 1123

Mr. Jerome Ochieng, the Principal Secretary and Accounting Officer for the State Department of ICT (Vote 1123) appeared before the committee on 28th August 2019 and 8th October 2019 to adduce evidence on the Audited Financial Statements for the State Department of ICT (Vote 1123) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1.	**Mr. Maina Obura**	**-**	**Chief Finance Officer**
2.	**Ms. Juliana Yiapan**	**-**	**Secretary Administration**
3.	**Ms. Rachel Ndungu**	**-**	**Principal Accountant**
4.	**Mr. Gwaro Ogaro**	**-**	**Ag Director Government Advertising Agency**
5.	**Mr. Kennedy Omari**	**-**	**Assistant Director Supply Chain Management**
6.	**Ms. Eunice Muthamia**	**-**	**Ag Director Department of Public Communications**
7.	**Mr. Robert Mugo**	**-**	**Director Shared Services**
8.	**Mr. Samson M. Ongalo**	**-**	**Senior Assistant Accountant General**
9.	**Ms. Rachel Ndungu**	**-**	**Personal Assistant**

Basis for Qualified Opinion

361. Accounts Receivables - District Suspense and Outstanding Imprest

As disclosed in note 15 to the financial statements, the accounts receivable balance of Kshs.60,107,859 includes a district suspense figure of Kshs.56,970,810 whose nature and purpose has not been explained or accounted for. Further, the account receivables balance also includes outstanding temporary imprest of Kshs.2,575,971 out of which imprest amounting to Kshs.2,561,471 was due from various officers some of which date back to August 2015. This is contrary to Regulation 93(5) of the Public Finance Management Regulations which requires that a holder of temporary imprest shall account or surrender the imprest within seven (7) working days after returning to the duty station.

In the circumstances, it has not been possible to confirm the propriety of accounts receivables balance of Kshs.60,107,859 as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that the district suspense figure of Kshs.56,970,810 entails outstanding balances from various sub counties and counties which consists Authority to Incur Expenditure (AIE) issued quarterly and not fully accounted through the sub county and county

Treasuries. The Management is constituting a team to visit the respective counties to veriFinancial Year the suspense amount totaling to Ksh.56,970,810 in a view of clearing the suspense**.**

Out of the outstanding imprest totaling Ksh.2,575,971, imprest totaling Ksh.1,855,971 have since been duly surrendered and accounted for. The balance of the outstanding balance totaling Ksh.720,000 have been forwarded to Human Resources Management and Development for salary recovery.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer confirming the propriety of accounts receivables balance of Kshs.60,107,859 as at 30 June 2017, though persuasive, should have been submitted to the Auditor General during the financial year for audit review;

(ii) The Committee also observed that Imprest totaling Kshs.1,855,971 out of the outstanding Imprest of Ksh.2,575,971 had since been duly surrendered and accounted for and that recovery of the remaining balance is still ongoing; and

(iii) The matter remained unresolved.

Committee Recommendations

(i) The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;

(ii) Within three months of the adoption of this report, the Accounting Officer must take action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015; and

(iii) Where the Accounting Officer fails to recover outstanding imprest of Kshs. 710,000.00, the Accounting Officer should be surcharged pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.

362. Pending bills

Included in the pending bills figure of Kshs.1,123,808,354 under Note 20 to the financial statement are bills totaling Kshs.102,945,386 relating to 2015/2016 financial year which have been carried forward to 2017/2018 financial year instead of being cleared on the release/receipt of the first exchequer. This is contrary to the National Treasury circular Ref. No.DGIPE/A/1/10 dated 18 December 2015 which states that all disbursements from the exchequer ought to prioritize clearing bills as per National Treasury regulations on budget implementation on pending bills. The State Department did not clear the prior year pending bills in line with the Treasury circular and the pending bills had accumulated over the two years to Kshs.1,123,808,583 as at 30 June 2017. No satisfactory explanations were given as to why the pending bills for prior years were not cleared from the first release of the exchequer. The State Department of Broadcasting and Telecommunication was therefore in breach of the law.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Included in the pending bills of Kshs.1,123,808,354 under Note 20 to the financial statement are bills totaling Kshs.102,945,386 relating to 2015/2016 financial year which have been carried forward to 2017/2018 financial year instead of being cleared on the release/receipt of the first exchequer contrary to the National Treasury Circular Ref. No.DGIPE/A/1/10 dated 18 December 2015 which states that all disbursements from the exchequer ought to prioritize clearing bills as per National Treasury regulations on budget implementation on pending bills. It is also true that the State Department did not clear the prior year pending bills in line with the Treasury circular and the pending bills had accumulated over the two years to Kshs.1,123,808,583 as at 30 June 2017.

The State Department has paid pending bills totaling to Kshs.83,825,368.60 out of Ksh.102,945,386 relating to 2014/15 financial year. The remaining pending bills relating to financial year 2015/16 totaling to Ksh.19,120,020.40 have not been paid as they lack the proper supporting documents e.g. requisitions from users and space orders.

The State Department has also been facing budgetary constraint mainly Government Advertising Agency (GAA) which has led to increased pending bills and subsequent carryover to the subsequent financial years. Several request have been made to the National Treasury in a view of provision of more funds to clear pending bills. The Department has also formed a pending bill verification committee on 22nd July 2019 with a view of veriFinancial Yearing all the pending bills and ensuring that they have the necessary payment documents payment process start.

Committee Observations and Findings

(i) **The Committee observed that pending bills of Kshs.1,123,808,354 included Kshs.102,945,386 relating to 2015/2016 financial year which have been carried forward to 2017/208;**
(ii) **The Committee also observed that pending bills totaling to Kshs.83,825,368.60 out of Ksh.102,945,386 related to 2014/15 financial year financial year and were not cleared on the release/receipt of the first exchequer contrary to the National Treasury Circular Ref. No.DGIPE/A/1/10 dated 18 December 2015;**

(iii)The Committee further observed that the State Department did not clear the prior year pending bills in line with the Treasury circular and the pending bills had accumulated over the two years to Kshs.1,123,808,583 as at 30 June 2017; and

(iv) The matter remains unresolved.

Committee Recommendations

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills are available, they should form a first charge in the subsequent year's budget thereby impending smooth implementation of the subsequent budget.

363. Summary of Fixed Assets

A summary of fixed assets under Annex 4 to the financial statements reflects total assets figure of Kshs.374,598,535 as at 30 June 2017. The assets totaling Kshs.374,598,535 could not be verified since no assets register or breakdown for each category of assets was availed for audit review as required by Section 143 of the Public Finance Management Act, 2012 which states that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession. Also, under Section 139 of the Public Finance Management Act Accounting Officers of a National Government entity are supposed to take full responsibility and ensure that proper control systems exist for assets. The summary of fixed assets is as detailed below:

Asset class	Historical Cost b/f (Kshs) 2016/2017	Additions during the year (Kshs)	Disposals during the year (Kshs)	Historical Cost c/f (Kshs) 2016/2017
Land				
Buildings and structures				
Transport equipment	290,218,193	14,453,757	304,043,193	
Office equipment, furniture and fittings	32,531,683	2,639,135	33,519,923	
ICT Equipment, Software and Other ICT Assets	33,732,887	716,000	36,142,787	

Other Machinery and Equipment	257,000			
Heritage and cultural assets				
Intangible assets	306,880	488,856		
Total	**356,482,763**	**18,115,772**	**374,598,535**	

In the absence of the fixed assets register, it may not be possible to follow the audit trial of the public resources totaling Kshs.374,598,535 for the year ended 30 June 2017 and the management is in breach of the law.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that, a summary of fixed assets under Annex 4 to the financial statements reflects total assets figure of Kshs.374,598,535 as at 30 June 2017. The assets totaling Kshs. 374,598,535 could not be verified since no assets register or breakdown for each category of assets was availed for audit review as required by Section 143 of the Public Finance Management Act,

The State Department has since prepared and presented to External Auditors a breakdown for each category of Asset for verification.

Committee Observations and Findings

(i) The Committee observed that the items included in the submitted fixed Asset Register were not valued hence not conforming to the Standard format of an Asset Register;
(ii) The matter remains unresolved.

Committee Recommendations

The Accounting Officer should ensure that within three months a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.

364. Unresolved Prior Year Matters

364.1 Repetitive Employment and Retention of Casuals

As previously reported and disclosed in Note 8 to the financial statements, the compensation of employees figure of Kshs.434,092,363 includes an amount of Kshs.7,335,791 relating to basic wages of temporary employees. However, examination of supporting documents indicate that the Ministry hired and retained the same casual workers in 2015/2016 and earlier years contrary to Section E21 (1) of the laid down labor laws and code of regulations, which states that an Authorized Officer or Principal Secretary will be responsible for approving of the hiring of casual workers after ascertaining there is need to hire them and that funds are available within their budgetary provision. Further, Section E23(2) of the Code of Regulations states that the casual workers should be hired on piece/time rated jobs and should be paid in accordance with minimum wage guidelines issued by the Government from time to time.

In addition, the Ministry did not maintain a muster roll or a register to record attendance of the casual workers and therefore it was not possible to ascertain whether those who were paid did the jobs they were assigned.

Further, available information indicates that the casuals were assigned with Integrated Financial Management Information Systems (IFMIS) numbers and paid through the G-Pay system. It was not clear and management has not explained the circumstances under which casuals were given IFMIS numbers and under which authority this was done. In the circumstances, it has not been possible to confirm the propriety of expenditure totaling Kshs.7,335,790 for the year ended 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that the matter was addressed in the report on the examination of the Auditor General on financial statements for the National Government for the year ended 30th June 2016.

364.2 Partitioning and Refurbishment work on 9th and 11th floors Teleposta

Towers As previously reported, the Ministry through restricted tendering awarded a tender for partitioning and refurbishment of 9th and 10th floors of Teleposta Towers to the lowest bidder at a contract sum of Kshs.12,720,769. The tender was however awarded contrary to Section 29(3) of the Public Procurement and Assets Disposal Act, 2015 on use of restricted tendering which requires the entity to:-

i. Obtain written approval of its tender committee and

ii. Record in writing the reasons for using the alternative procurement procedure.

Further, Section 73(2) of the Public Procurement and Assets Disposal Act 2015 provides that a procurement entity may use restricted tendering if the following conditions are satisfied: Competition for contract, because of the complex or specialized nature of the goods, works or services is limited to prequalified contractors;

i. The time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, works or services to be procured; and
ii. There is only a few known suppliers of the goods, works or services as may be prescribed in the regulation.

In addition, the contract price was varied by Kshs.2,819,786 representing 22.16% of the contract sum which is over 15% allowable by the procurement laws. Further, the contract duration was varied from sixteen (16) weeks to twenty-two (22) weeks with completion date being 13 August 2015. However, available information indicate that the project was completed and handed over on 7 January 2017 seventy-seven (77) weeks later.

This was done in breach of Regulation 31 of the Public Procurement and Disposal Regulations 2006 which provides that for the purposes of Section 47(b) of the Act, any variation of a contract shall be effective only if the price or quantity variation is to be executed within the period of the contract. Perusal of the Bill of quantities indicated that the following was included of which no documentary evidence was provided for audit verification to show how the amounts were spent:-

	Kshs
Provide for project management expenses	200,000
Provide for contingencies	500,000
Preliminary expenses	400,000
TOTAL	**1,100,000**

The Ministry was therefore in breach of the public procurement law and regulations thereby casting doubts as to whether the citizens obtained value for money.

Submission by Accounting Officer

The Accounting Officer submitted that the matter was addressed in the report on the examination of the Auditor General on financial Statement for the National Governments for the year ended 30th June 2016.

364.3 Tender for Renovation and Refurbishment Works on the Ministry's Stand- Nairobi Show Ground

As previously reported, the Ministry through restricted tendering awarded the tender to renovate and refurbish its stand at the Nairobi show ground to the lowest bidder at a cost of Kshs.5,472,730. The tender was however awarded contrary to Section 29(3) of the Public Procurement and Disposal Act 2005 on use of restricted tendering which requires the entity to obtain the written approval of its tender committee and record in writing the reasons for using the alternative procurement procedure. Further, Section 73(2) of the Public procurement and Disposal Act 2005 provide that a procurement entity may use restricted tendering if the following conditions are satisfied: - Competition for contract, because of the complex or specialized nature of the goods, works or services is limited to prequalified contractors; the time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, works or services to be procured and that there is only a few known suppliers of the goods, works or services as may be prescribed in the regulations.

In addition, examination of the bill of quantities indicates that the following items were included in the bill of quantities, but no supporting documents were provided for audit verification;

	Kshs
Project management stationery and expenses	250,000
Allow for contractor's profits and overheads 10%	25,000
Insurance for employees'	50,000
Allow for electrical works	500,000
Allow for drainage and Mechanical works	800,000
Allow for landscaping	500,000
Allow for contingencies	300,000
TOTAL	**2,425,000**

Although the contract was to be for a duration of six (6) weeks, no minutes were availed for audit to show the date when the contractor took possession of the site, the commencement and completion dates and whether site inspections were being carried.

In the circumstances, it has not been possible to ascertain if the work was completed within the contract period and the validity of expenditure totaling Kshs.5,472,730 for the year ended 30 June 2016 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the matter was addressed in the report on the examination of the Auditor General on financial Statement for the National Governments for the year ended 30th June 2016.

364.4 Tender for Tilling Works to the Department of Information at Uchumi House

As previously reported, the Ministry through restricted tendering awarded a contract for tilling works at the Department of Information at Uchumi House 5th floor to the lowest bidder at a cost of Kshs.4,850,204. The contract was however awarded contrary to Section 29 (3) of the Public Procurement and Disposal Act 2005 on use of restricted tendering which requires the entity to obtain written approval of its tender committee and record in writing the reasons for using the alternative procurement procedure.

Further, Section 73(2) of the Public Procurement and Disposal Act 2005 provides that a procurement entity may use restricted tendering if the following conditions are satisfied: - Competition for contract, because of the complex or specialized nature of the goods, works or services is limited to prequalified contractors; the time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, works or services to be procured, and if there is only a few known suppliers of the goods, works or services as may be prescribed in the regulation. In view of the above, the Ministry was in breach of the law and it is doubtful if the stakeholders got value for their resources.

Submission by Accounting Officer

The Accounting Officer submitted that the matter was addressed in the report on the examination of the Auditor General on financial Statement for the National Governments for the year ended 30th June 2016.

364.5 Legal fees

As previously reported, information available at the Ministry indicated that on 18 September 2006 the Government of Kenya was sued in the High Court of Justice (Queens Bench Division) England on Anglo leasing related contracts. The Ministry of Information, Communications and Technology with the authority of the Attorney General single sourced and appointed a law firm to represent the Ministry in the High Court of Justice (Queens Bench Division London). The appointment of the Law firm was done on the understanding that the Ministry would be responsible for ensuring that reasonable professional fees were agreed upon, taxed and paid.

The Ministry deposited Kshs.4,000,000 in the Advocates account in respect of legal fees. Thereafter the Legal firm with the authority of the Ministry engaged the services of another Law firm in England for the purpose of defending the Government of Kenya. Documents available indicate that the Kenyan Law firm filed a bill of costs before the Commercial Court at Mililani on 22 December 2009 against the Attorney General on behalf of the Ministry of Information, Communications and Technology. The Ministry filed its submission on 14 November 2011 opposing the said bill of costs. The matter was heard, and a ruling delivered on 13 February 2013 dismissing the bill of costs and awarded the applicant the Kenyan Law firm Kshs.4,000,000 that was earlier deposited in their account as sufficient for the advisory work done for the Ministry on Anglo Leasing related contracts.

The law firm which was aggrieved by the Commercial Court's decision, filed an appeal in the High Court on 7 March 2013 and judgement was made on 31 October 2013 stating that the award of the Commercial Court of Kshs.4,000,000 was inordinately low and subsequently awarded the law firm Kshs.25,000,000 as reasonable instructions fees for the legal services rendered by the Kenyan Law Firm. Although the Ministry paid Kshs.25,000,000 to the Attorney General for onward transmission to the Law firm, no evidence of any contractual agreement between the Ministry and the law firm was availed for audit review. In the absence of the contractual agreement, it has not been possible to establish how the fees of Kshs.25,000,000 was arrived at. In the circumstance, the propriety of expenditure of Kshs.25,000,000 paid to the law firm could not be ascertained to date.

Submission by Accounting Officer

The Accounting Officer submitted that the matter was addressed in the report on the examination of the Auditor General on financial Statement for the National Governments for the year ended 30th June 2016.

364.6 Transfers to Other Government Units

364.6.1 Transfer of Grants to Kenya Yearbook Editorial Board

As previously reported, examination of available records in the Ministry indicates that a total of Kshs.83,198,400 was paid to Kenya Yearbook Editorial Board as grants for the financial year ended 30 June 2015. However, examination of payment vouchers indicates that additional amount of Kshs.34,800,000 was paid as assistance to undertake various activities by the Kenya Yearbook Editorial Board vide payment vouchers No 419 and 501 for Kshs.27,000,000 and Kshs.7,800,000 respectively. The payments were done contrary to the Regulation 71(5) of the Public Finance Management (National Government) Regulations 2015 which provide that a National Government entity is not allowed to give National Government entity cash donations to augment the budgetary resources of a designated department.

In addition, funds appropriated and approved for specific programs by the Ministry of Information, Communications and Technology were paid to Kenya Yearbook Editorial Board contrary to Regulation 54 of the Public Finance Management (National Government) Regulation 2015 which states that except as provided for in the Act and these Regulations, an Accounting Officer of an entity may not authorize payment to be made out of funds earmarked for specific activities for the purpose other than those activities. Further, review of records at the Kenya Year Book Editorial Board indicates that the funds were not in the approved budget for the year ended 30 June, 2015 and the procurement plan for the year did not include the goods and services procured. The Ministry was therefore in breach of the law and no satisfactory explanations have been provided on how the amount of Kshs.34,800,000 was utilized as at the date of this report.

364.6.2. Unclear Transfer of Grants to Ministry Departments

As previously reported, the statement of receipts and payments for the year ended 30 June 2015 reflects Kshs.2,435,625,509 under grants and transfers to other Government Units. Included in the figure of Kshs.2,435,625,509 are grants totaling Kshs.110,000,000 transferred to two (2) Ministry Departments - Government Advertising Agency (GAA) Kshs.83,000,000 and Kenya Institute of Mass Communication (KIMC) Kshs.27,000,000 without budgetary provisions and approval contrary to Regulation 31 (1) of the Public Finance Management (National Government) Regulations 2015 which states that the Accounting Officer shall ensure that the draft estimates relating to her/his department are prepared in conformity with the Constitution and the Public Finance Management Act, 2012 and its Regulations. It was however observed that the two (2) Departments; Government Advertising Agency and Kenya Institute of Mass Communications were still Departments operating under the Ministry of Information, Communications and Technology and therefore do not qualiFinancial Year for grants.

It was not clear, and the Ministry has not explained the circumstances under which Kshs.110,000,000 was transferred to its two (2) internal departments and how the monies were utilized. In the circumstances, it has not been possible to confirm the propriety, regularity and validity of Kshs.110,000,000 transferred to the two (2) Ministry's internal department.

Submission by Accounting Officer

The Accounting Officer submitted that the matter was addressed in the report on the examination of the Auditor General on financial Statement for the National Governments for the year ended 30th June 2016.

364.7 Acquisition of Assets

364.7.1. Un-authorized Expenditure on Purchase of Motor Vehicles

As previously reported, records available at the Ministry indicates that a total of Kshs.104,335,548 was spent on Purchase of Motor vehicles during the year under review against a budgetary provision of Kshs.91,200,000 resulting in unauthorized expenditure of Kshs.13,135,548. The Ministry through letter ref. No. RES112/14/01/28 dated 23 January 2015 obtained authority from the Principal Secretary, National Treasury for purchase of 12 four wheel drive vehicles at a total cost of Kshs.70,695,190 to be distributed as follows: -

i) 4 (four) vehicles to National Optic Fiber back-bone Infrastructure (NOFBI),
ii) 4 (four) for county connectivity project and
iii) 4 (four) for Kenya Transparency Communication Infrastructure Project (KTCIP).

However, the Ministry disregarded the National Treasury authority to purchase twelve (12) vehicles and instead without authority procured twenty three (23) vehicles at a total cost of Kshs.104,335,548 resulting into an additional and unapproved expenditure of Kshs.13,135,548, as at 30 June 2015.

Further a review of the matter during the year under review revealed that the State Department of Broadcasting and Telecommunication procured a Toyota Prado motor vehicle valued at Kshs.13,825,000.00 through unclear procurement procedures. There was no contract agreement between Toyota Kenya and the State Department of Broadcasting and Telecommunication. However, the State Department relied on a contract between the seller and the Ministry of Transport, Infrastructure, Housing and Urban Development Contract number SB/012/2017 to procure the motor vehicle in total disregard of Regulation 56(1) of the Public Procurement and Asset Disposal Act 2015 which provides that a State organ or public entity may seek in writing to use another State organ's, public entity's or regulated professionals body's registration list of all registered persons in the category provided that the list is valid and developed competitively.

In the circumstances, the state department was in breach of the law and the propriety of the over expenditure totaling Kshs.13,135,548 in the year 2016 and current year's expenditure of Kshs.13,825,000.00 on purchase of motor vehicles has not been ascertained as the date of this report.

Submission by Accounting Officer

The Accounting Officer submitted that the matter was addressed in the report on the examination of the Auditor General on financial Statement for the National Governments for the year ended 30th June 2016.

364.7.2 Agency and Disbursement Fees to Huawei Technologies Ltd

As reported in the previous year, examination of payment vouchers revealed that the Ministry paid Kshs.28,218,313 to Huawei Technologies Limited in 2014/2015 financial year in respect of agency fees. A review of the matter during the year 2015/2016 revealed that the Ministry made a further payment of Kshs.6,716,103 to the firm all totaling Kshs.34,934,416 as at 30 June 2016. Although Huawei Tech. (K) Limited were contracted to provide project management services on behalf of the Government through the Ministry Contract No. 00Y404131300200 of 7 July 2010, no documentary evidence was availed to show how the firm was identified and awarded the contract and how the contract price was arrived at. Scrutiny of Ministry records also indicates that the goods were cleared on 28 December 2013, while reimbursement and claim documents were presented in March 2015.

No explanation has been provided as to why the documents took over a year before the same were lodged with the Ministry for payment. Further, no documentary evidence indicating that the goods and services were verified and inspected by an independent inspection team was availed for audit review.

In the circumstances, it has not been possible to confirm the propriety of expenditure totaling Kshs.34,934,416 as at the date of this report.

Submission by Accounting Officer

The Accounting Officer submitted that the matter was addressed in the report on the examination of the Auditor General on financial Statement for the National Governments for the year ended 30th June 2016.

364.8 Kenya Institute of Mass Communications (KIMC).

364.8.1 Construction of Men's Hostel at KIMC

As previously reported, examination of the Ministry records indicates that a Contract No. D32/01/2012-2013 for the proposed erection and completion of Men's hostels at the Kenya Institute of Mass Communication was awarded to a Construction Company at a contract sum of Kshs.188,858,602. However, scrutiny of the contract documents revealed that the contractor did not provide the following goods and services worth Kshs.3,511,300 which were included in the bill of quantities:

		Kshs.
1.	2 No. Laptop Computers-Toshiba or other Equal and approved	250,000
2.	Project Management expenses:	
	-Technical training of the MoPW	206,000
	-Project management expenses	1,030,000
	-Clerk of works allowances	154,500
	-Airtime KES.5000×1person×6×12months	370,800
3.	Performance bond	1,000,000
4.	Provision of site office for project manager	500,000
TOTAL		**Kshs. 3,511,300**

Further, it was noted that although the Contractor was required to provide a performance bond of 5% of the contract sum or Kshs.1,000,000, the amount was irregularly provided for in the bill of Quantities and charged to the Ministry contrary to the contract agreement. No satisfactory explanation has been provided as to why the contractor failed to provide for the performance bond as required and it is doubtful if public resources totaling Kshs.4,511,300 may not have gone into waste.

364.8.2 Failure to Deduct Withholding Tax on Payments to Contractor

As previously reported, examination of Ministry records revealed that the Ministry failed to deduct and remit to Kenya Revenue Authority withholding tax totaling Kshs.5,665,758 upon payment to the contractor contrary to the REQUIREMENT OF Section 35(3) (f) of the Income Tax Act CAP 470 Section 35 (3) (f) which provides for deduction of withholding tax from resident Companies at the rate of 3% of the contract fees. No satisfactory explanation has been provided for the above anomaly and the Ministry was therefore in breach of Income Tax Laws.

Committee Observations and Findings

The Committee observed that paragraph 364 was addressed in the report on the examination of the Auditor General on financial statements for the National Government for the year ended 30th June 2016.

Other Matter

365. Budgetary Controls and Performance

365.1 Recurrent Vote

The management has explained that under- utilization of exchequer arose from delays and frequent interruptions of the IFMS system particularly in the month of June which slowed down processing of payments and as a result request for exchequer to fund expenditure were not received on time. Under collection of AIA by Government Advertising Agency arose due to non-collection by the Agency. In addition, records availed for audit review indicate that Kshs.2,113,857,737 under Recurrent Vote was for use of goods and services.

However, as at the end of the financial year under review only Kshs.1,372,186,819 had been spent representing 65% absorption. It is not clear why the Ministry did not spend Kshs.741,670,918 allocated for goods and services. Further, it was also noted that Kshs.813,600,000 and Kshs.29,363,728 were allocated under transfer to other Government units and acquisition of assets respectively out of which Kshs.773,583,500 and Kshs.18,115,772 equivalent to 95% and 61% respectively had been spent as at 30 June 2017. The under absorption of the approved budget is an indication of activities not implemented by the Ministry which implies non delivery of planned goods and services to the Kenyan citizens for the year ended 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the State department of Broadcasting and Telecommunication had a total budget of Kshs.3,634,431,277 voted to the financial year 2016/17 comprising of Kshs.3,305,431,277 for recurrent Vote and Kshs.329,000,000 for Development Vote respectively and absorption rate of 75% recurrent vote and 97% Development Vote.
The under absorption mainly in recurrent vote was occasioned by down time of IFMIS system and under collection of A in A by the Government Advertising Agency.

365.2 Development vote

The State Department of Broadcasting and Telecommunication had a budget allocation of Kshs.329,000,000 under the Development Vote for the year 2016/2017.

The under absorption of the development budget is an indication that planned development activities were not fully realized It was true the State Department of Broadcasting and Telecommunication had a budget allocation of Kshs.329,000,000 under Development Vote and spent Kshs.319,000,000 representing 97% absorption. The under absorption was as a result of IFMIS downtime thereby affecting delivery of goods and services to the citizens.

Committee Observations and Findings

It was observed that the paragraph 365 was for information purposes to the Accounting Officer. The Accounting Officer was directed to take note of the Comments of the auditor General and improve on the same.

TRANSPARENCY COMMUNICATION AND INFRASTRUCTURE PROJECT (TCIP) FOR THE SIX (6) MONTHS PERIOD ENDED 31 DECEMBER 2016

Basis for Adverse Opinion

366. Late Submission of the Financial Statement

The financial statements for Transparency Communications and Infrastructure Project which were supposed to be submitted to the Office of the Auditor-General on or before 30 September 2017, were received on 18 October 2017. No explanation was given as to why the financial statements were not submitted on time. In the circumstances, the project management was in breach of the Constitution, Section 47(1) of the Public Audit Act, of 2015 and the Public Finance Management Act, 2012.

Submission by Accounting Officer

The Accounting Officer submitted that in July 2017 4 out of the 7 staff in the Finance Department were suspended to pave way for investigations into irregular payments. The staffs suspended were the Director Corporate Services under whom the Finance Department falls, the acting Finance Manager, the Accountant and an Accounts Assistant. These staffs were taken through a disciplinary process and their services terminated. They were charged in a court of law and their case is currently ongoing. The remaining 3 staffs were Accounts Assistants who had recently joined the organization and were too new and junior to prepare the final accounts. A new Finance Manager joined on 2nd October 2017 and was able to finalise and submit the accounts by 18th October 2017.

The Management regrets the late submission and sincerely apologise for this issue having taken place. The State Department will ensure that it does not happen again.

Committee Observations and Findings

(i) The Committee observed that Department submitted the financial statements late and that the project management was in breach of the Constitution, Section 47(1) of the Public Audit Act, of 2015 and the Public Finance Management Act, 2012;
(ii) The Committee also observed that the Department had suspended the Director Corporate Services under whom the Finance Department falls, the acting Finance Manager, the Accountant and an Accounts Assistant;
(iii)The matter remains unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

367. Procurement of Goods and Services - Telcom Services

The statement of receipts and payments for the year ended 30 June 2017 reflects Kshs.3,133,384,811 in respect of telecom services. However, examination of telecom services revealed that the Project Management awarded several contracts in six months from July to December 2016 as highlighted below:

367.1 Provision of Dedicated Hosted Hardware Infrastructure Tender No. ICTA/KTCIP/DP/03/2016-2017

On 9 December 2016, the Authority management through direct procurement method awarded a contract for provision of dedicated hosted hardware infrastructure at a contract price of USD 664,667.00 (equivalent to Kshs.68,460,701) for a duration of 18 months. The contract was however not included in the Project's annual procurement plan and thus was not budgeted for contrary to Section 53 (2) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer shall prepare an annual procurement plan which is realistic in a format set out in the Regulations within the approved budget prior to commencement of each financial year as part of the annual budget preparation process.

The direct procurement method was also contrary to Section 91(1) of the Public Procurement and Assets Disposal Act, 2015 which provides that open tendering shall be the preferred procurement method for procurement of goods, works and services of such magnitude. Further, no tender evaluation and inspection and acceptance committees' minutes were availed for audit review in violation of the public procurement and disposal regulations. The Authority is therefore in breach of the Public Procurement and Asset Disposal Act and regulations and World Bank procurement procedures. In the circumstances, it has not been possible to confirm, the validity of expenditure totalling Kshs.68,460,701 on provision of dedicated hosted hardware infrastructure for the period to 31 December 2016.

Submission by Accounting Officer

The Transparency and Communication Infrastructure Project (TCIP) is a World Bank International Development Association (IDA) funded project whose Financing Agreement was signed in May 2007. Two other financing agreements were signed in May 2012 and May 2014. Clause 4.2.f of the Public Procurement and Asset Disposal Act of 2015 excludes procurement and disposal of assets under bilateral or multilateral agreements between the Government of Kenya and any other foreign government, agency, entity or multilateral agency unless otherwise prescribed in the Regulations. Page 10 of the May 2007 Financing Agreement has a section on Procurement. Clause A.1. states that all goods, works and telecom services required for the project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Section 1 of the Procurement Guidelines and with the provisions of this Section. Clause B of the same section defines Particular Methods of Procurement and included therein under clause B.2.b is Direct Contracting. Page 9 of the Procurement Guidelines have a section on Procurement Plans which states that a procurement plan shall be prepared at the beginning of the project and updated annually. The plans, updates or modifications are subject to the Banks prior review and no objection before implementation. Page 29 of the Guidelines states that the borrower shall submit for review and no objection a justification and rationale for direct contracting.

The Shared Services component is defined in clause 3b on page 6 of the May 2014 Financing Agreement**.** The associated budget is found on page 15 of the same document. The available budget at the time of the procurements can be found on page 2 of the May 2016 Aide Memoire. The Procurement Plan is for Shared Services is Annex B of the same document.

The justification for direct contracting was that Safaricom were the only ones who could provide this service as captured in Annex 4 of the December 2016 Aide Memoire.

367.2 Implementation of Framework Contracts and Shared Services Platform Tender No. ICTA/KTCIP/ICB/DC/2/2016

On 30 June 2016 the Authority awarded a contract for supply of 16,000 licenses under phase I (one) to provide communication and collaboration between the various government ministries to a firm at a contract price of USD 5,974,204.81 equivalent to Kshs.615,343,095. It was however noted that the contract was not included in the annual procurement plan and was therefore not budgeted for contrary to Section 53 (2) of the Public Procurement and Asset Disposal Act, 2015 which states that, an Accounting Officer shall prepare an annual procurement plan which is realistic in a format set out in the regulations within the approved budget prior to commencement of each financial year as part of the annual budget preparation process. The contract was awarded through direct procurement method as opposed to open tendering as required by Section 91 (1) of Public Procurement and Asset Disposal Act, 2015 which provides that open tendering shall be the preferred procurement method for procurement of goods, works and services of such magnitude. In addition, no tender evaluation and inspection and acceptance committees' minutes and evidence of tender security was availed for audit review. Further, no evidence to show that the services were requisitioned for as required by the Public Procurement and Disposal regulation 2006. The Authority is therefore in breach of the law and World Bank procurement procedures.
In the circumstances, it has not been possible to confirm, the validity of expenditure totalling Kshs.615,343,095 on the shared services platform for the six months' period to 31 December 2016.

Submission by Accounting Officer

The Accounting Officer submitted that the issues of project components, requisition, budget, procurement plan, applicable laws and procurement procedures have been addressed in the Management responses for 367.1 above and apply here as well.

The justification for direct contracting Microsoft was:

i) Microsoft is the unique supplier of the MS Windows and MS Office applications, which are already widely used within Government.
ii) The applications are proprietary to Microsoft who is the original developer of the applications.
iii) The Government of Kenya has invested USD 15 million and is already using Microsoft operating system and desktop applications in most of it computers
iv) The Microsoft shared services will addresses common enterprise IT concerns such as standardizing of software on PC's and device technologies. It will also help manage both software assets and services centrally;
v) By implementing shared services platform, there will be a 65% saving to Government on Hardware alone

367.3 Provision of Hardware Licenses – Shared Services Platform – Tender No.ICTA/KTCIP/DC/1/2016

Included in the cost of telecom services figure of Kshs.3,133,384,811 is an amount of Kshs.834,829,652 (USD. 8,105,142.26) in respect of a contract awarded to a firm on 23 November 2016 to provide hardware for licenses for the phase I of the shared services platform which was to provide communication and collaboration between the various government ministries. This project was however not included in the project annual procurement plan and was therefore not budgeted for in contravention of Section 53 (2) of the Public Procurement and Asset Disposal Act, 2015. In addition, direct procurement method was used instead of open tendering method for a project of this magnitude as required by Section 91 (1) of the Public Procurement and Asset Disposal Act, 2015. In addition, no tender evaluation and inspection and acceptance committees' minutes and tender security for the entire procurement process was availed for audit review. The Authority is in breach of the law and World Bank procurement procedures.

In the circumstances, it has not been possible to confirm, the validity of expenditure totalling Kshs.834,829,692 on hardware licenses for the six months' period ended 31 December 2016.

Submission by Accounting Officer

The Accounting Officer submitted that the issues of project components, requisition, budget, procurement plan, applicable laws and procurement procedures have been addressed in the Management responses for 367.1 above and apply here as well.

The justification for direct contracting Oracle was:

i) Oracle Cooperation is the vendor and the sole proprietor and developer of the software.
ii) The Government of Kenya has already invested over US 30M in the Oracle financial management system - IFMIS. This system was procured through international competitive bidding.
iii) The project has supported the integration IFMIS to third party systems such as Kenya Revenue Authority, CS-DRMS, GHRIS, e-Promis, PMIS, Budget module and the e-Banking system.
iv) The Oracle Public Sector Revenue Management module will be a seamless integration in to the existing Oracle IFMIS System in Government.

367.4. Supply of Geographical Information System and Cloud Hosting for ICTA Tender No. ICTA/KTCIP/DC/03/2016-2017

lncluded in the cost of Telecom services figure of Kshs.3,133,384,811 is an amount of Kshs.178,880,067 (USD 173,670.56) in respect of a contract awarded to a firm on 14 November 2016. The contract was not in the project annual procurement plan and therefore was not budgeted for in contravention of Section 53 (2) the Public Procurement and Asset Disposal Act, 2015. Further, procurement method was used contrary to Section 91 (1) of Public Procurement and Assets Disposal Act, 2015 which provides that open tendering shall be the preferred procurement method for procurement of goods, works and services of such magnitude. In addition, no tender evaluation and inspection and acceptance committees' minutes were availed for audit review. The project management is in breach of the law and World Bank procurement procedures.
In the circumstances, it has not been possible to confirm, the validity of expenditure totalling Kshs.178,880,067 on supply of geographical system and cloud hosting for the six-month period ended 31 December 2016.

Submission by Accounting Officer

The Accounting Officer submitted that the issues of project components, requisition, budget, procurement plan, applicable laws and procurement procedures have been addressed in the Management responses for 367.1 above and apply here as well.

The Open Data component is defined in clause 1d on page 5 of the May 2014 Financing Agreement. The associated budget is found on page 15 of the same document. The available budget at the time of the procurements can be found on page 2 of the May 2016 Aide Memoire. The Procurement Plan is for Shared Services is Annex B of the same document.

The justification for direct contracting ESRI was:

i) The ESRI software suite is a World Leading Geographic Information System for various industries, ranging from Government to Private Sector Industries. Many Government Projects that utilize spatial data also use these products including the Kenya Municipal Program and Kenya Informal Settlements Improvement Programs to name a few. By this it is our contention that there is a good amount of operational familiarity with the software and among our target data Government producers. Therefore, limiting friction in adjustments required to learn new tools in addition the training that we have planned for being of intermediate to advanced content vs beginner content.
ii) The Solution will embed seamlessly with both the existing service provider and beyond the life of the existing Socrata Contract, as the spatial data visualisations and enhancements will carry over.

iii) The solution provides a basic template what can be set up and installed within minutes; while simultaneously allow the open data team to customize the pages. Using standard web scripting code. Flexibility that has historically been lacking with the current provider.

iv) The solution will provide a strong foundation for spatial data dissemination with the enterprise server software that has been created. This will allow us to disseminate spatial data securely while adhering to the access requirements just as enabling both view and download as well as view only experiences that are required to enhance discoverability of the most elusive spatial datasets.

v) ESRI East Africa is the Sole Licenced Vender of this Product in the Whole of East Africa.

vi) Equivalent Open source mapping products would need to be custom built through a consultancy and which would again limit the exposure and experience of the Open Data Team to only be product users and tester.

vii) With the Time constraints facing the initiative it is further unlikely that the available Human Resource can be trained and effectively develops a suitable Open Source Solution that can be tested and deployed by December 2016.

viii) Finally, unlike the previous request for a No objection the management would have had to manage the deliverables from multiple vendors. ESRI for the software components while an additional third part for the Server. In this case for this request ESRI East Africa has agreed to provide both the software and server solution meaning we need only to work with one supplier.

367.5. Procurement of Consultancy Services - Tender No. ICTA/ TCIP/RFP/28/2015- 2016

On 15 May 2016, the Project management entered into a contract with a firm for provision of consultancy services on monitoring and evaluation review of the project at a contract price of Kshs.69,795,413. Examination of the contract documents revealed that one of the objectives of the consultant was to provide recommendations to improve the design and performance of the implementation of the project which was coming to an end on 31 December 2016. It was however noted that this contract was not in the Project annual procurement plan contrary to Section 53 (2) of the Public Procurement and Asset Disposal Act, 2015 which requires that an Accounting Officer shall prepare an annual procurement plan which is realistic in a format set out in the regulations within the approved budget prior to commencement of each financial year as part of the annual budget preparation process. Consequently, it has not been possible to confirm the validity of expenditure of Kshs.69,795,413 and whether the stakeholders received value for money on procurement of the consultancy services.

Submission by Accounting Officer

The Accounting Officer submitted that the issues of project components, requisition, budget, procurement plan, applicable laws and procurement procedures have been addressed in the Management responses for 367.1 above and apply here as well.

Section II of the May 2014 Financing Agreement relates to Project Monitoring, Reporting and Evaluation. Clause A2 on page 10 states that a comprehensive mid-term review of the Project will be carried out on or about 18 months after the Amendment Effective Date. This consultancy was captured in the Procurement Plan which is Annex B of the Aide Memoire of February 2016.

i) To determine extent of the project's achievement against the objectives laid down in the project document i.e. how far the project has been able to demonstrate the use of ICT for improved Governance/ service delivery and increased connectivity in Government and institutions of higher learning through the KTCIP project initiatives;
ii) To provide recommendations to improve the design and performance of the implementation of the KTCIP Project;
iii) To provide recommendations to inform future KTCIP Programming
iv) To generate knowledge about good practices and lessons learned

On page xi, rating for various project components are given ranging from 30% (Digital Villages) to 201% (institutions of higher learning connected). On page xii the overall project is rated at 2.3 out of 3 or 76%. Constraints and challenges as well as recommendation on how to address them can also be found on page xii. Therefore, the M&E Review met its objectives.

Committee Observations and Findings

(i) The Committee observed that the exclusion of Public Procurement and Assets Disposal Act under bilateral agreements had been explained;
(ii) The Committee also observed that supporting documents on procurement, cost and justification had since been provided and verified; and
(iii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

368. Failure to Use Enterprise Resource Planning System (ERP)

During the 2015/2016 financial year the Authority procured an Enterprise Resource Planning Software (ERP) from a firm at a cost of Kshs.62,952,452 through tender No. ICTA/KTCIP/ICB/32/2015-2016 for supply, delivery, installation and commissioning of the system. The ERP system was to integrate the activities of all departments including procurement, human resource and finance. A review of the system during the time of audit revealed that it was not operational. Available information indicated that no deadline for final changeover and commissioning of the new system was mentioned in the contract document. It is not clear and management has not explained why the supplier was paid the full contract sum of Kshs.62,952,452 while the system is not operational contrary to the terms and conditions of the contract agreement.

In the circumstances, it has not been possible to ascertain if the ministry obtained value for money from the Enterprise Resource Planning Software worth Kshs.62,952,452 procured during the six months period ended 31 December 2016.

Submission by Accounting Officer

The Accounting Officer submitted that whereas it is true that the system is not fully operational, it is not true that the vendor has been paid in full. The RMS Project Status Report of June 2017 shows the various pending issues at the time of the FINANCIAL YEAR 2016/2017 audit including missing functionality, usability challenges, incomplete or missing training and non-submission of system documentation and user manuals. Due to these issues the final payment of Kshs 12,590,890 equivalent to 20% of the total contract amount was withheld. On 3rd October 2017 the CEO of Millennium Instrumentation the system vendor wrote to ICT Authority claiming that outstanding issues had been resolved and demanding payment of their outstanding dues. ICTA's CEO responded to on 11th October 2017 stating that a number of key issues still remain outstanding but that ICTA remains committed to ensuring that the system is fully developed. As of 4th September 2019, the system had not yet been handed over and the vendor wrote to ICTA CEO requesting them to facilitate training on the system and handover as well as payment of their outstanding invoice.

Committee Observations and Findings

(i) The Committee observed that the State Department retained Ksh12,590,890 equivalent to 20% of the contract sum due to various pending issues including missing functionality, usability challenges, incomplete or missing training and non-submission of system documentation and user manuals; and

(ii) The Committee marked the matte as unresolved.

Committee Recommendations

The Accounting Officer must ensure that within three months of adoption of this report all pending issues including missing functionality, usability challenges, incomplete or missing training and non-submission of system documentation and user manuals are settled and fixed before release of the retention of 20% amounting to Ksh12,590,890

369. Lack of Support Documentation

The statement of receipts and payments for the 6 months period ended 31 December 2016 reflects total receipts of Kshs.3,993,111,915 which includes amounts utilized at the National Treasury for direct payments totalling Kshs.3,003,608,153. This amount was directly paid to various contractors for contracts entered into by project management instead of remitting the funds to the project Bank accounts as required under schedule 2 (c) of the financing agreement. It is not clear and management has not explained why payments vouchers for the project activities were forwarded to the National Treasury for payment instead of paying directly from the project account.

Further, the amount of Kshs.3,993,111,915 includes an amount of Kshs.3,369,725 under proceeds from domestic and foreign grants whose supporting documents or analysis were not availed for audit review. In the circumstances, it has not been possible to confirm the accuracy, validity and completeness of total receipts figure of Kshs.3,993,111,915 reflected in the project financial statements for the six (6) month period ended 31 December 2016.

Submission by Accounting Officer

The Accounting Officer submitted that the World Bank Country Director for Kenya wrote a letter to the Cabinet Secretary National Treasury dated 19th May 2014 RE: IDA Credit Financing 5408-KE, 5092-KE and 4284-KE (Kenya Transparency and Communications Infrastructure Project) (Amending and Restating Financing Agreement) Additional Instructions: Disbursement. Clause I of the letter relates to Disbursement Arrangements and under clause I.(i) Direct payments is listed as one of the disbursement methods. Clause I.(ii) states that the Disbursement Deadline Date is 4 months after the Closing Date specified in the Financing Agreement. The closing date in the Financing Agreement dated May 2014 is specified as 31st December 2016.

It was agreed that since the project was closing, and the project account was to be closed the remaining payments be done via direct payment method as captured in the Aide Memoire of

December 2016. On the same page it also states the estimated amount of Direct Payments as US$ 31 million (approximately Kshs 3.1 billion).

The amount of Kshs. 3,369,725 was demurrage charges which were paid for goods which were part of the project. However, penalties are not included in the eligible expenditure as defined in Section IV of the Financing Agreement. Therefore, these expenses which had been paid were reimbursed to the project account.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer confirming the accuracy, validity and completeness of total receipts figure of Kshs.3,993,111,915 reflected in the project financial statements for the six (6) month period ended 31 December 2016 had been availed for verification/audit review, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that reconcillairions are done in time and then complete financial statements submitted to the auditor general within (3) three months after the close of the as provided for under Article 229 (4)(h), and section 81 (4)(a) of the PFM Act 2012.

370. Failure to Withhold and Remit VAT and Unclear Refund of PAYE

370.1 During the period under review the project management deducted withholding VAT at the rate of 6% from its suppliers amounting to Kshs.202,708,480. However, no documentary evidence in form of withholding tax certificates from Kenya Revenue Authority (KRA) were availed for audit review. Failure to remit withholding tax to KRA may attract penalties which could have been avoided. Consequently, the management is in breach of the law. In addition, it was observed that a consultant was refunded a total amount of Kshs.1,190,326 in respect of Pay As You Earn (PAYE) deducted in prior years. No satisfactory explanation was provided as to why the consultant was refunded the amount and the source of funding. It was also not clear if the money deducted as PAYE had been remitted to KRA and if so whether a refund of the same from KRA had been received in the Authority.

In the circumstances, it has not been possible to confirm the propriety of the refund of Kshs.1,190,326 made to the consultant and the Project management is in breach of Tax laws.

Submission by Accounting Officer

The Accounting Officer submitted that they deducted taxes from all our contractors and paid KRA as captured in the various Withholding Tax Certificates attached this report

The consultant had been engaged as an Independent Consultant – Procurement in September 2014. PAYE had erroneously been included in his contract despite the Bank having amended the May 2014 Financing Agreement to include 100% of Consultants fees including taxes.

Committee Observations and Findings

(i) The Committee observed that the amended Financing Agreement which occasioned refund to the consultant had been availed and verified to be correct;
(ii) The Committee also observed that Withholding Tax certificates reflected Kshs.95,034,365 instead of Kshs.202,708,480; and
(iii) The Committee marked the matter as resolved.

Committee Recommendation

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

371. Unsupported Expenditure

The statement of receipts and payments for the six months period ended 31 December 2016 reflects training cost of Kshs.156,098,775 which includes an amount of Kshs.24,862,703 being training expenditure for Integrated Financial Information Management System (IFMIS) held in Arusha Tanzania on diverse dates during the period under review. However, no information supporting this expenditure such as list of participants and the cost for each participant were availed for audit review. In the circumstances, it has not been possible to confirm the validity of expenditure totalling Kshs.24,862,703 reflected on project financial statement for the six months period ended 31 December 2016.

Submission by Accounting Officer

The Accounting Officer submitted that training was part of the capacity building activities for the IFMIS as defined in the May 2012 Financing Agreement. The cost per person of the training was US$2,800. Subsistence allowance was paid as per the participants respective job groups. The training was done in 3 groups of 15 each and the list of participants was tabled.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer confirming confirm the validity of expenditure totalling Kshs.24,862,703 reflected on project financial statement for the six months period ended 31 December 2016 had been availed for verification/audit review, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

372. Unclear Cash Transactions

Examination of the Project bank account revealed that on 18 July 2016, an amount of Kshs.1,778,875,000 was withdrawn from the project bank account no 0300085005 at Citibank upper Hill, branch. Further, on 22 December 2016 Kshs.1,540,500,000 was deposited into the same account. No explanation has been provided for the nature and source of these funds and no evidence of any authority to use the project funds on unrelated activities was availed for audit review. Further, on 28 April 2017 an amount of Kshs.85,904,541 was transferred from the Project Citi Bank account No.0300085005 to Kenya Information Communication Technology Authority (ICTA) Bank account No.0300085016 at Citi Bank upper Hill branch. It is not clear and management has not explained why the amount was transferred to the Authority account at the time when the project was about to come to a closure.

In addition, it was noted that the project management opened and operated a bank account No.0300084007 designated as MOICT-TCIP at Citibank Upper hill Branch, without authority from the National Treasury as required by Section 28 (1) of the Public Finance Management Act, 2012 which states that the National Treasury shall authorize opening, operating and closing of the bank account and sub accounts for all National Government entities.

Also, the project management transferred Kshs.6,892,088.00 to the project account on 24 April 2017 when the project was under the grace period. No evidence on how these funds were utilized was availed for audit review as this transaction was done after the closure of the project. In the circumstances, it has not been possible to confirm the accuracy, validity and completeness of the project transactions for the six (6) months period ended 31 December 2016.

Submission by Accounting Officer

The Accounting Officer submitted that the two transactions were erroneously done on the TCIP project account instead of the GoK account by CitiBank who clarified this through an email on 17 Nov 2017. The bank statements also show that both transactions were immediately reversed with transaction reference numbers KE1FINT161971469 and KE1FINT163553286 respectively.

KRA issues only one Payment Registration Number (PRN) per month to an organization therefore all tax payments are lumped together and paid in one transaction which can only be done from one bank account. The payments had already been made from the GoK account and therefore were being reimbursed from the project account as it was being closed at the end of the disbursement grace period. The details of the Kshs. 85,904,541 was tabled.

As per Section V Part B of the May 2007 Financing Agreement a project bank account was to be opened and maintained until the end of the project for purposes of financing the Recipients contribution of expenditures. An initial amount of KShs 1.4 million was to be deposited into the account and thereafter replenished in quarterly interval. Approval from the then Ministry of Finance was granted on 2nd August 2007 and application to open the account along with a cheque for Kshs 1.4 million done on 16th August 2007.

Transfer of Kshs. 6,892,088.00 to the project account was part of the final reconciliation and payment activities.

Committee Observations and Findings

(i) The Committee observed that the issues were corrected and the amount of Kshs.1,778,875,000 reversed by Citibank; and
(ii) The Committee marked the matter as resolved.

373. Digital Village Fund Surrender Value and Accrued Interest

The Project received a grant of Kshs.108,495,790 received from World Bank/IDA for onward lending to digital village entrepreneurs to establish information hub that offer ICT services. The entrepreneurs are supposed to pay back the loans for future lending to other entrepreneurs. On 3 November 2010, the Authority entered into a contract with Family Bank to operationalize the disbursement of loans to entrepreneurs for a period of 24 months. Available records indicate that as at 30 June 2016 Family Bank had disbursed loans totalling Kshs.75,844,647 out of which

Kshs.45,193,389 had fallen in arrears representing 60% of the total loans disbursed. The balance of Kshs.30,651,258 remained with the bank even though Family bank was supposed to disburse the whole amount.

In addition, a report by Deloitte and Touché who were engaged by the Authority to conduct a comprehensive monitoring and evaluation assessment on Pasha Digital Village fund project, revealed that the Pasha projects had been facing challenges and lacks efficiency, inflexibility of the loan repayment and weak relationship of the Authority with the Family Bank. Due to closure of the project, the Kenya Information Communication Technology Authority vide its letter ref no. ICTA/FIN/001 dated 26 April 2017 instructed family bank to reconcile the final fund balance and transfer the amount to ICTA account No.030085016 at Citibank upper Hill.

The final fund balance as at that time was Kshs.82,884,004 including interest earned over time of approximately Kshs.19,581,602. The total amount of Kshs.82,884,004 was transferred to the ICTA account by Family bank as per the instruction. It is however not clear and the management has not explained how the amount of Kshs.82,884,004 transferred to the Authority was utilized. Further, the interest earned of Kshs.19,581,602 has not been disclosed in either the project or Authority financial statements and if the loan arrears totalling Kshs.45,193,389 will ever be fully recovered.

In the circumstances, it has not been possible to confirm the accuracy, validity and completeness of the project financial statements for the six months period ended 31 December 2016.

Submission by Accounting Officer

The Accounting Officer submitted that the project was financed by World Bank (IDA) under TCIP project. Family Bank ltd was chosen as the Financial Institution to administer the revolving fund as per contract signed on 3rd November 2010 for a period of 24 months (2 years). The ICTA transferred Ksh. 108,495,790 to Family Bank for the project to be disbursed in three phases subject to satisfactory performance of the project. The financial facilities committee approved a total of Ksh 75,844,647.00 (Ksh 47,889,147 lot 1; Jan 2011 and Ksh 27,955,500.00 lot 2; Nov 2011).

The loan repayment period was 36 months at an interest rate of maximum 10.5%.

The project experienced poor loan repayment with only 7entrepreneurs categorized as normal as at 31st December 2014 with the remaining loans either substandard, watch, doubtful or loss category. Consequently, phase three was put on hold and Ksh.32,651,143 remained at the family Bank. The Bank managed to Collect Ksh. 50 M by the time the project was closed. Ksh. 82 Million was handed over to ICT Authority. The Authority declared the Cash to Treasury and the Money is still with the ICT Authority.

Committee Observations and Findings

- **(i) The Committee observed that Kshs.82,884,004 was transferred to Information Communication Technology Authority - ICTA;**
- **(ii) The Committee also observed that the Loan Balance of Kshs.45,193,389 was still outstanding;**
- **(iii) Further, the Committee observed that the Evidence of the amount declared to the National Treasury was not attached; and**
- **(iv) The matter remains unresolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

26.0. STATE DEPARTMENT OF SPORTS DEVELOPMENT

FINANCIAL STATEMENTS FOR VOTE 1132

Amb. Kirimi P. Kaberia, the Principal Secretary and Accounting Officer for the State Department of Sports and Development (Vote 1132) appeared before the committee on 11th June 2019 to adduce evidence on the Audited Financial Statements for the the State Department of Sports and Development (Vote 1132) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. Mr. Kassim M. Farrah	**-**	**Secretary Administration**
2. Mr. John O. Nyabwori	**-**	**Chief Financial Officer**
3. Mr. Michael Rabai	**-**	**Chief Executive Officer**
4. Mr. Otis Mutwiri	**-**	**Principal Accountant**
5. Mr. Regina Gachoka	**-**	**Chief Operations Officer**
6. Mr. Peter Ngéntu	**-**	**Assistant Secretary**
7. Ms. Beatrice Njuguna	**-**	**Procurement**
8. Mr. Peter Mbugua	**-**	**Personal Assistant to Principal Secretary**
9. Mr. George Oyugi	**-**	**Finance Officer**
10. Ms. Michelle Woyengo	**-**	**Finance**
11. Mr. Melvin Rupia	**-**	**Supply Chain Manager**
12. Mr. James Odongo	**-**	**Deputy Chief Economist**

Basis of Qualified Opinion

374. Unaccounted for Fixed Assets

The State Department of Sports Development - Summary of Fixed Assets Register reflects Kshs. 2,192,785,665 in of respect fixed assets as at 30 June 2017 which also included additions of Kshs. 9,489,194 during the year under review. However, the fixed assets register was not updated to include assets worth Kshs. 67,584,884 acquired for use during the IAAF World under 18 Championships Nairobi 2017 by the Ministry of Sports, Culture and The Arts through the Local Organizing Committee. The assets consisted of laptops, furniture, printers, television sets, air conditioners, and bedside cabinets among others.

In the circumstances, it has not been possible to confirm the ownership, location, existence and security of the fixed assets worth Kshs. 67,584,884 as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that the updated fixed assets register available for audit and verification.

Committee Observations and Findings

(i) **The fixed assets register was not updated to include assets worth Kshs. 67,584,884 acquired for use during the IAAF World under 18 Championships Nairobi 2017 by the Ministry of Sports, Culture and The Arts through the Local Organizing Committee; and**
(ii) **The explanation by the Accounting Officer was satisfactory therefore the Committee marked the matter as resolved.**

Committee Recommendations

The Accounting Officer should be reprimanded by the Cabinet Secretary for the National Treasury for failing to ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the Accounting should within three (3) months of tabling this report embark on preparing complete assets register which should be availed to the Auditor-General for audit review.

375. Improper Use of Motor Vehicle

The State Department of Sports Development took possession of a Toyota Prado registration number KCE 902 purchased by National Sports Fund at a cost of Kshs.7,828,350 in the year 2015. The vehicle is still being used by the State Department while the National Sports Fund continues to suffer from acute shortage of motor vehicles for their operations. Further, the National Sports Fund continued to incur insurance and depreciation expenses without benefiting from its use. In the circumstance, the motor vehicle valued at Kshs.7,828,350 has not been used for the intended purposes and the Fund has not obtained value for money since purchase of the vehicle in 2015.

Submission by Accounting Officer

The Accounting Officer submitted that it was necessitated by few vehicles compared to requirements by the offices of CS, CAS and PS. However, the vehicle has since been returned to the SAGA.

Committee Observations and Findings

The explanation by the Accounting Officer was satisfactory therefore the committee marked the matter as resolved.

376 Outstanding Accounts Receivable Balances

376.1 District Suspense

As previously reported, the statement of assets and liabilities for the year ended 30 June 2017, reflects accounts receivable balance of Kshs. 21,631,123. Included in this balance is a district suspense balance of Kshs. 20,756,326 in respect of disbursements to the districts to support their operations. However, the respective districts have not accounted for the amounts disbursed.
In the circumstance, it has not been possible to confirm recoverability of long outstanding disbursements totaling Kshs. 20,756,326 shown as district suspense as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that the balances were inherited from the old Ministry. The State department has liaised with its sister department to confirm the outstanding expenditure status.

The districts with outstanding AIE balances have been identified. The ministry officials visited and collected data. In liaison with the National Treasury, the expenditure will be captured in the 2018/19 FINANCIAL YEAR Financial Statements. Analysis of expenditure indicates Ksh 102,541.50 remains uncleared from the suspense

Committee Observations and Findings

The explanation by the Accounting Officer was satisfactory. However, the committee marked the matter as pending until the expenditures of Ksh. 102,541.50 is audited and cleared in the FINANCIAL YEAR 2018/19 audit.

Committee Recommendation

The Accounting Officer should avail the documentation within 3 months after the adoption of this report failure to which he wil be surcharged.

376.2 Salary Advances

As previously reported, the accounts receivables balance of Kshs. 21,631,123 as at 30th June 2017 includes salary advances balance of Kshs. 417,961. Out of the amount of Kshs. 417,961 are salary advances of Kshs. 340,943 which have been outstanding since FINANCIAL YEAR 2015/2016 and earlier years. No reasons have been given for the non-recovery of these long outstanding salary advances.

Submission by Accounting Officer

The Accounting Officer submitted that reminder letters made to Governments departments in which the respective officers are for onward transmission to the Department. The same has been forwarded to the respective Ministry's where the officers are to ensure the salary is recovered and a follow up is being sort. He reported that a Considerable effort made in recovery with the current figure standing at 17,753. Follow up mechanisms are in place for full recovery

Committee Observations and Findings

- **(i) The Committee observed that an amount of Ksh. 17,753 is still outstanding to date.**
- **(ii) The explanation by the Accounting Officer was unsatisfactory therefore The matter remains unresolved.**

Committee Recommendation

The Accounting Officer to fast track recovery process and report to the Auditor-General for review and submission to the National Assembly.

377. IAAF World Youth Championships - Nairobi 2017

During the period under review, the State Department of Sports Development - Ministry of Sports Culture and The Arts allocated Kshs.3,501,135,612 for the purposes of preparing for the IAAF World Youth Championships 2017 held In Nairobi from 12 July to 16 July 2017.

A Local Organizing Committee (LOC) comprising of the State Department, government sports organizations, security departments and other sports stakeholders involved in the championships was formed. Authority to Incur Expenditures (AIEs) were allocated by the State Department for Sports Development.

Audit of the expenditure incurred under the State Department of Sports Development amounting to Kshs.1,712,918,380 revealed the following:

377.1 Single Sourcing of Goods and Services

The Ministry of Sports Culture and the Arts through the Local Organizing Committee of the IAAF World Under 18 Championships Nairobi 2017 spent Kshs.1,712,918,380 to prepare for the championships. Included in Kshs.1,712,918,380 expenditure was Kshs.349,633,321 which was incurred through direct procurement without meeting the conditions set out in Section 103 (2) of the Public Procurement and Asset Disposal Act, 2015.

Submission by Accounting Officer

The Accounting Officer submitted that a total of Kshs.71,849,125.00 was spent on Hotels. These were IAAF identified hotels as per EOA and IAAF inspection reports with due consideration of the location, distance and security arrangement in place.

Contracted directly were IAAF Event Sponsors – Safaricom, Sarova, and Parapet at a cost of Kshs.145,335,365.25. This was guided by EOA and IAAF sponsorship contract between IAAF and the IAAF Event Sponsors that was in conformity with other existing procurement regulations.

Single sourcing/Direct procurement was also used to address urgent needs that were critical to delivering the event

Committee Observations and Findings

- **(i) The Committee observed that matters relating to the sourcing of hotels and event partners have been explained.**
- **(ii) The Committee marked the matter as resolved.**

377.2 Procurement of Transport Services

Further, included in the figure of Kshs.349,633,321 was Kshs.66,005,000 relating to procurement of taxi services from a company at a cost of Kshs.23,825,000 above the market rate. It was noted that this company was also given another contract for the dry cleaning and laundry services worth Kshs.30,820,762 under Sports Kenya by the Local organizing Committee.

In the absence of a competitive procurement process, it has not been possible to confirm the validity of the direct procurements totalling Kshs.349,633,321 as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that prices obtained were the bare minimum negotiated given the TORS required. The prices quoted included costs of fleet management, route scheduling, vehicle tracking and security vetting. Restricted tendering was chosen because there is a security element on it.

It was worth noting that the costs were higher because of high demand given that this was the electioneering period.

Committee Observations and Findings

(i) **The Committee observed that the explanation has been provided to the auditor for verification.**
(ii) **The matter remains unresolved.**

Committee Recommendations

The Accounting Officer should within three months after the adoption of this report ensure that the verifcation process is completed and the same is submited to the National Assembly through the Clerk.

377.3 Unsupported Expenditure

The Local Organizing Committee through the Ministry of Sports Culture and the Arts incurred expenditures totaling Kshs.204,077,129 which were not supported with relevant supporting documents. In the circumstances, and validity of the Kshs.204,077,128.85 expenditure could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that the relevant documents that were not provided during the time of audit have since been availed to the auditor.

Committee Observations and Findings

(i) **The Committee observed that expenditures totaling Kshs.204,077,129 were not supported with relevant supporting documents.**
(ii) **The Committee observed that the relevant supporting documents have been submitted to the auditor for verification**
(iii) **The matter remains unresolved.**

Committee Recommendation

The Accounting Officer should within three months after the adoption of this report ensure that the verifcation process is completed and the same is submited to the National Assembly through the Clerk.

377.4 Advance Payment Above Allowed Threshold of 20% of the Contract Sum

The Local Organizing Committee entered in several contracts during the preparation for IAAF World Under 18 Championships - Nairobi 2017. Advance payments of the contract prices totaling Kshs.19,540,982 were made in excess of 20% contrary to Section 147 (1) of the Public Procurement and Assets Disposal Act, 2015.

Further, all the advance payments were not supported by a bank guarantee as required. No plausible reasons have been provided for the excess advance payments totaling Kshs.19,540,982.

Submission by Accounting Officer

M/S Prowatt Ltd (Installation and Commissioning of LED Screens)

The Accounting Officer submitted that the procurement was informed by the IAAF Assessment which confirmed incompatibility of the existing screens at the stadium with the IAAF Team technology.

- There was no time to bring the LED screens by ship thus the need to bring the by Air.
- Sapphire is AGPO prequalified and was contracted to supply uniforms for LOC members. The firm contracted had little time to deliver the contract and hence we had to honour the 50% demand notice by the time we were hosting the event,
- After SRL is an accredited IAAF Supplier and the contract was between After and IAAF which stipulated the payment instalment.

Committee Observations and Findings

The Committee observed that the explanations have been provided to the auditor for verification.

377.5 Procurements from Non-Tax Compliant Suppliers

The Local Organizing Committee entered in several contracts in their preparation for IAAF world under18 championship Nairobi 2017 with entities that were not tax compliant contravening Section 55(1) of the Public Procurement and Assets Disposal Act, 2015.

It is therefore evident that due diligence was not done in the identification of suppliers for goods worth Kshs.73,400,108.

Submission by Accounting Officer

The Accounting Officer submitted that the firms involved were Protel Studios (Media Agency Services), Cloudera (ICT Equipment) and Ms Francjos (Stationery).

All the three companies had shown acknowledgement from K.R.A and the said Tax Compliance Certificate have since been Provided.

Committee Obsevations and Findings

(i) **The Committee observed that the relevant documents to confirm compliance by the respective firms have been provided to the auditor for verification.**
(ii) **The matter remains unresolved pending completion of the verification process.**

Committee Recommendation

The Accounting Officer should within three months after the adoption of this report ensure that the recovery process is completed and the same is submited to the National Assembly through the Clerk.

377.5.1 Unaccounted for Medical Supplies

An amount of Kshs.5,477,035 was paid by the Ministry for the supply of medicine and medical equipment. However, no inspection and acceptance report and counter receipt voucher (S13) were availed for audit verification to confirm that that the medicine and medical equipment were received and taken on charge.

Submission by Accounting Officer

The Accounting Officer submitted that the medication was delivered and received and verified and certified through signing by the medical team. The inspection and acceptance report together with S13 have been provided.

Committee Obsevations and Findings

(i) **The committee observed that the necessary documents have been provided to the auditor for verification.**
(ii) **The committee marked then matter as unresolved.**

Committee Recommendation

The Accounting Officer should within three months after the adoption of this report ensure that the verifcation process is completed and the same is submited to the National Assembly through the Clerk.

377.5.2 Purchase of Mobile Phones

An amount of Kshs.3,363,951 was paid to a company for the supply of mobile phones. However, the expenditure was not supported with a list of the officials supplied with the phones and the phones were also not availed for audit verification.

In view of the foregoing, it has not been possible to confirm receipt and distribution of the mobile phones worth Kshs.3,363,951 and thus the authenticity of the procurement.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that phones were distributed to the LOC and IAAF Staff during the event to enhance communication. Retrieval of phones has commenced considerable progress made.

Committee Observations

(i) **The Accounting Officer submitted that expenditure of Kshs.3,363,951 was not supported with a list of the officials supplied with the phones and the phones were also not availed for audit verification.**
(ii) **The committee observed that the necessary documents have been provided to the auditor for verification.**
(iii) **The Committee marked then matter as unresolved.**

Committee Recommendation

Within one (1) upon adoption of this report, the Accounting Officer should recover all the mobile phones from the respective Officers.

377.6 Supply and Delivery of Petroleum Products in Bulk

The Local Organizing Committee adopted a contract between the State Department of Public Works-Supplies Branch and a company for the supply and delivery of petroleum products in bulk totaling Kshs.11,123,960.

According to the adopted contract, a discount of Kshs.4.25 on the Energy Regulatory Commission unit prices was to be offered for every litre of diesel or petrol supplied. A review of the fuel analysis indicate the Local Organizing Committee was not availed thus discount, and yet it was in the contract. It is not clear why the LOC procured fuel in bulk yet it had hired Buses, Minibuses, Vans, Saloon Cars and Luxury Cars which drew fuel.

The validity of this expenditure could not be ascertained in the foregoing circumstances.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the discount of Kshs 4.25 was as per the signed contract. The firm is being pursued to refund the discount or provide the fuel in lieu of the same.

Committee Observations and Findings

(i) **The Committee observed that the supplier has been formally engaged with a view on agreeing on the contractual obligation of each party.**
(ii) **The Committee marked the matter as resolved.**

377.7 Delayed Completion of Refurbishment of Stadion Hotel

On 29 May 2017, the Ministry of Sports Culture and The Arts through the Local Organizing Committee signed a contract with a company for the refurbishment of Stadion Hotel. The works were to take 24 weeks from the date of signing the contract.

An audit review of the project expenditure revealed that a total of Kshs.58,578,486.41 had been paid representing 32% of the total Contract sum of Kshs.185,165,000. Further, the project was yet to be completed 42 weeks after the agreement date.

The continued delay in completing the works costed Sports Kenya, the manager of the facility, loss of revenues and further denying the public usage of the facility.

Submission by Accounting Officer

The Accounting Officer submitted that the delay in completion was attributed to unanticipated works realized after start of work. For instance, four of the five buildings under refurbishment had leaking roofs.

Currently, the project is complete as evident from the completion certificate.

Committee Observations and Findings

- **(i) The Committee observed that the project was later completed and was in use.**
- **(ii) The Committee marked the matter as resolved.**

377.8 Procurement of Motor Vehicles

The IAAF World Under 18 Championships Local Organizing Committee paid Kshs.13,825,000 to a company for the purchase of a Toyota Prado, and Kshs.19,603,071 for the supply of three Nissan Urvans. The vehicles were purchased following the adoption of the supply contracts between the government Supplies Branch and the two firms. However, vehicles logbooks and inspection certificates from the Chief Mechanical and Transport Engineer were not availed for audit verification. The Vehicles were also not availed for physical verification.

In absence of the vehicles logbooks and inspection certificates from the Chief Mechanical and Transport Engineer, it has not been possible to ascertain the existence, ownership and soundness of the motor vehicles.

Submission by Accounting Officer

The Accounting Officer submitted that the respective logbooks were availed for physical inspection. Also, the vehicles are available at the Ministry for verification.

Committee Observations and Findings

- **(i) The Committee observed that the relevant documents have been provided to the auditor for verification**
- **(ii) The matter remains unresolved.**

Committee Recommendation

The Accounting Officer should within three months after the adoption of this report ensure that the verifcation process is completed and the same is submited to the National Assembly through the Clerk.

377.9 Refurbished Works – Parking Lights Theft

The Local Organizing Committee carried out refurbishments of the Kasarani Stadium in preparation of hosting the IAAF World Under 18 Championships Nairobi 2017. The refurbishment consisted of painting, electrical fittings and installations, landscaping, mechanical works among others. Physical inspection of the refurbished works revealed that one hundred and thirty (130) parking lights installed at the Stadium with an estimated value of Kshs.3,615,950 were stolen.

Correspondences available indicate that theft was reported to Kasarani Stadium Police Station vide OB 19/19/1/2018 and subsequently, the security firm requested to replace the security lights in manageable phases after getting the samples.

No evidence has been given to confirm the lights have been replaced or restored.

Submission by Accounting Officer

The Accounting Officer submitted that Sports Kenya has withheld a total of Ksh 3.9 Million outstanding payment due to the company till replacement is made.

Committee Observations and Findings

The Committee observed that the relevant documents have been provided to the auditor.

Committee Recommendation

The Accounting Officer should within three months after the adoption of this report ensure that the verifcation process is completed and the same is submited to the National Assembly through the Clerk.

377.10 Irregular Pending Bills

Bills amounting to Kshs.138,152,157 chargeable to both the recurrent and development Vote 1132 were not settled during the year but were instead carried forward to 2017/2018 financial year. Had these bills been cleared and charged to the Vote, the statement of receipts and payments for 2016/2017 would have reflected a deficit of Kshs.130,654,829 instead of a net surplus of Kshs.7,497,328 now shown. Further, the pending bills were not supported with documents such as delivery notes, invoices, contracts and local service/purchase orders as required.

Consequently, the validity and value for money of the expenditure on pending bills cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the pending bills were caused by inadequate budgetary provision. The supportive documents i.e. delivery notes, invoices, contracts and local services, purchase orders for the respective bills have been availed

Committee Observations and Findings

- **(i) The Committee observed that the relevant documents were provided to the auditor and verified.**
- **(ii) The Committee observed that a request for more funding to settle these bills has been made to The National Treasury.**
- **(iii)The Committee marked the mater as resolved.**

Additional Submissions

Submission by Wondajoy Party World Limited

Mr. Maina Wandere the Chief Executive Officer and a Director at Wandajoy Party World Limited appeared before the Committee and submitted as follows:

1. That he was aware that the IAAF world Youth Championships event that took place in the year 2017 in Nairobi.
2. That Wanderjoy Party world Limited was registered in the year 2000 and is in the business of providing event services ranging from supply of Audio-Visual systems, security Screening, toilet services, tents and drapery among others on a large scale to government Institutions, Parastatals and private individuals.
3. That he was sub- contracted by Inter Management Group Kenya Ltd which was the main supplier and provided service to the local Organizing Committee and the IAAF Committee through the Inter Management Group Kenya Ltd.
4. That he was paid the amount due and owed to him by the Local Organizing Committee for the services rendered which totaled KShs. 14,251, 110.40.
5. That he also offered his services to the IAAF organizing Committee for the Kenya village under 18 Championship held at the Kenyatta University grounds offering various services among others village displays and tents.
6. That an amount of KShs. 21,929,800.00 was still outstanding from the services he rendered to the IAAF Committee.
7. That he obtained a Commitment Letter from the IAAF Organizing Committee.

Committee Observations and Findings

- **(i) The Committee observed that Mr. Wandere did not have sufficient knowledge of the procurement process since he was sub-contracted by the main supplier.**

(ii) **The Committee observed that there was no tendering process involved when procuring the services of Wandedrjoy Party world Ltd and that it was based on a framed contract between the Ministry of Interior and Wanderjoy Party World Limited.**

(iii) **The Committee observed that there was no direct connection between the State Department of Sports and Wanderjoy Party World Limited rather the contract held with the State Department of Sports and Inter Management Group Kenya Ltd.**

(iv) **The Committee marked the matter as resolved.**

Mr. Peter Muchira, the Chief Executive Officer and Accounting Officer for Inter Management Group Limited appeared before the committee accompanied by the following officer

1. Mr. Charles Gacheru - Director

He submitted that:

1. IMG has been in business of Public Relations and events since 2004 with a turnover of 200 to 300M. The Company has about 15- 20 Staffs of which some are some are hired temporary during Big Events.
2. That the IMG Ltd was appointed as events Managers for the IAAF event held in 2017
3. The appointed was through a competitive tender process
4. IMG received a request for proposal from the Local Organising Committee on the 22nd February, 2017 with a RFP Tender Document Ref WU182017/17/2016-17 that was required to be submitted be submitted on 1st March, 2017.
5. IMG received award on 1st May 2017 and submitted acceptance on 4th of May, 2017 and a contract was signed on 1st of June 2017.
6. The role of IMG was to Coordinate with the Local Organising Committee and deliver events as per agreed agreement in Areas of Transport, Competition Management, volunteer Management, Security, Accommodation, Marketing, Ticketing Protocol, Hospitality and Media
7. As events Manager IMG was Coordinating various
8. IMG was manging Events though some of the supplier were procured by LOC/ Ministry including Wonder Joy.
9. Tender sum was 13,161,000 for professional fees.

Committee Observations and Findings

The Committee markied the matter as resolved.

Other Matter

Budget and Budgetary Performance

378. Receipts

Analysis of actual receipts against the budgeted amounts revealed that the State Department received Kshs.5,489,570,500 against the budgeted receipts of Kshs.5,528,131,688 resulting in a shortfall of Kshs.38,561,188 as tabulated below.

Receipts	Budget (Kshs.)	Actual (Kshs.)	Excess/(shortfall) (Kshs.)	Variance %
Transfers from National Treasury	5,527,731,688	5,489,364,000	(38,367,688)	0.7%
Other Receipts	400,000	206,500	(193,500)	0.49%
Total	**5,528,131,688**	**5,489,570,500**	**(38,561,188)**	**0.7%**

However, no explanatory note to the financial statements was provided for the shortfall of Kshs.193,500 or 49% under other receipts as required.

Submission by Accounting Officer

The Accounting Officer submitted that the shortfall of Kshs. 193,500 relates to under collection under A-I-A charges and other administrative fees. This was attributed to the office of Sports Registrar being new and was not yet fully operational.

379. Expenditure

Analysis of actual expenditure against the budgeted amount revealed that the State Department spent Kshs.5,482,073,173 against the budgeted amount of Kshs.5,528,131,688 resulting in an under expenditure of Kshs.46,058,515 or 0.83%.

Expenditure	Budget (Kshs.)	Actual (Kshs.)	Over/(Under) (Kshs.)	Variances %
Compensation of Employees	276,598,418	276,353,702	(244,716)	0.09%
Use of Goods and Services	1,433,856,332	1,409,811,805	(24,044,527)	1.68%
Expenditure	Budget (Kshs.)	Actual (Kshs.)	Over/(Under) (Kshs.)	Variances %
Transfers to other government units	3,782,694,880	3,772,293,495	(10,401,385)	0.27%
Other grants and Transfers	10,380,558	10,322,897	(57,661)	0.56%
Social Security and Benefits	3,802,114	3,802,080	(34)	0.00%
Acquisition of Assets	20,799,386	9,489,194	(11,310,192)	54.38%
Total	5,528,131,688	5,482,073,173	(46,058,515)	0.83%

Under use of goods and services, the Department had huge increase in expenditure from Kshs.140,023,680 in 2015/2016 to Kshs.408,931,765 in 2016/2017 for hospitality an increase of 192% increase. Further, foreign travel and subsistence increased from Kshs.478,142,061 in 2015/2016 to Kshs.698,341,636 in 2016/2017 an increase of 46%. The huge increases remain unexplained.

The failure to spend Kshs.46,058,515 or 1% on some budgeted expenditure items implies that some planned activities were not realized.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the Ministry failed to spend 1% due to:

Under-acquisition of Assets – Procurement of an automation and digitization system for the Sports registrar was done late in the financial year under review and hence it did not utilize the funds as budgeted for under development

Under use of goods and services – The Ministry under spent by Kshs. 24,044,527 due to late procurement of goods and services and under exchequer issue.

Committee Observation and Findings

The Committee observed that the paragraph was for information purposes for the Principal Secretary.

27.0. STATE DEPARTMENT OF CULTURE AND ARTS FINANCIAL STATEMENTS FOR VOTE 1133

Ms. Jospeta O. Mukobe, the Accounting Officer for the State Department of Culture and Arts (Vote 1133) appeared before the committee on 4th July 2019 to adduce evidence on the Audited Financial Statements for the State Department of Culture and Arts (Vote 1133) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). She was accompanied by the following officials:

1. **Mr. Jacob Munge - Chief Finance Officer**
2. **Mr. Geoffrey Namachaiya - Financial Controller**
3. **Mr. Spanud Ongalo - Director Administration and Human Resource**
4. **Ms. Jane N. Nzau - SDS**
5. **Mr. Stephen N. Muthuma - Principal Finance Officer**
6. **Mr. Daniel Silobe - Ag. Manager**
7. **Mr. Nathan Mwiti - Supply chain manager**
8. **Mr. Nelson Mose - Assistant Accountant General**
9. **Ms. Ann Mwangi - Chief Accountant**

Basis for Qualified Opinion

385. Variances between the Statement of Assets and Liabilities and the Trial Balance

The financial statements as at 30 June 2017 reflect net assets balance of Kshs. 9,466,970. However, a comparison of the IFMIS generated trial balance and the statement of assets and liabilities as at 30 June 2017 revealed the following variances:

Item	**Trial Balance (Kshs.)**	**Statement of Assets & Liabilities (Kshs.)**	**Variance (Kshs.)**
Development Bank	82,100,595	2,188,808	79,911,787
Cash on Hand	14,700,000	311,570	14,388,430
Other Debtors	-	-	-
Imprests	2,056,805	2,056,805	-
Deposits	14,975,016	14,975,016	-
Totals	**113,132,416**	**19,532,199**	**94,300,217**

The variances totaling Kshs. 94,300,217 have not been reconciled or explained. In the circumstances, the accuracy and completeness of the total net assets balance of Kshs. 9,466,970 reflected in the statement of assets and liabilities as at 30 June 2017 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the differences totaling to 94,300,217 arose due to the State Department not having rolled out the auto reconciliation module within IFMIS and therefore the reconciliation being done manually resulting into huge variances. We have since engaged experts from the National Treasury upon installation of the auto reconciliation module and we are still consulting how to iron out the variances.

Committee Observations and Findings

(i) At the time of audit, the statement of assets and liabilities as at 30th June 2017 had variances totaling Kshs. 94,300,217 have not been reconciled or explained and was attributed to auto-reconciliation module within IFMIS;

(ii) The State Department has since engaged experts from the National Treasury upon installation of the auto reconciliation module and are still consulting how to iron out the variances; and

(iii) Therefore, the matter remains pending until the variance is reconciled.

Committee Recommendations

(i) The Accounting should within three (3) months of tabling and adoption of this report ensure that the statement of assets and liabilities are reconciled in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012; and

(ii) The Cabinet Secretary, National Treasury ensure that the IFMIS provides an efficient financial management for both the national and county governments to ensure transparent financial management and standard financial reporting as contemplated by Article 226 of the Constitution. Further, Accounting Officers must desist from undertaking their financial operations including adjustments off the IFMIS system to ensure complete reporting.

386. Fixed Assets Acquisition

Note 8 reflect acquired fixed assets balance of Kshs. 135,805,512 as at 30 June 2017. The assets include construction and civil works of Kshs.31,783,335; purchase of specialized plant, equipment, and machinery of Kshs.74,174,834 and purchase of vehicles, and other transport equipment – Kshs.15,990,630. However, no details of the fixed assets were provided in Annex 4 – summary fixed assets. In addition, the fixed assets register is not complete with the necessary information. In consequence, the existence, ownership, validity and value for money for the expenditure on fixed assets acquisition of Kshs. 135,805,512 cannot be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that summary of fixed assets, details have been provided. In addition, the fixed asset register has since been completed and availed for audit review.

Committee Observations and Findings

(i) At the time of audit, the Accounting Officer did not provide details of the fixed. In addition, the fixed assets register is not complete with the necessary information. In consequence, the existence, ownership, validity and value for money for the expenditure on fixed assets acquisition of Kshs. 135,805,512 could not be ascertained; and

(ii) The summary of fixed assets, details have since been provided. In addition, the fixed asset register has since been completed and availed for audit review. Therefore, the matter remains pending until an audit review is undertaken and report provided in the subsequent audit report.

Committee Recommendations

The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the Accounting should within three (3) months of tabling this report, ensure that a complete assets register is prepared and submitted to the Auditor-General for audit review.

387. Uzalendo Festival and Renovation of Three (3) Monuments

During the year under review, an amount of Kshs.28 Million was disbursed to the National Museums of Kenya (NMK) by the State Department of Culture and Arts to finance Uzalendo Festival which was to be held at Uhuru Gardens for three (3) days from 10 December, 2016 at a cost of Kshs.20 Million while the balance of Kshs.8million was to cater for the renovation of monuments. Available information revealed that National Museums of Kenya contracted a company as event organizers for Uzalendo Festival at a cost of Kshs.20 million.

However, the respective payment vouchers totaling Kshs.20 million were not adequately supported by expenditure receipts and invoices as required under clause four (4) of the contract agreement. Further, no documents have been provided for audit review on the renovation of monuments of Kshs. 8,000,000. In the circumstances, it has not been possible to confirm the validity and value for money of the Kshs. 28 million expenditure.

Further, Kshs.8 million meant for the renovation of monuments was utilized for the rehabilitation of Ainsworth House at Kshs. 1,530,711 and rehabilitation of Directors Office at Kshs. 1,663,315, building of boundary wall at National Museums of Kenya (NMK) at Kshs. 4,193,300 and payment for construction permit to the County Government of Mombasa at Kshs. 653,131. No explanation has been given for utilization of funds meant for rehabilitation of monuments for other activities.

Submission by Accounting Officer

The Accounting Officer submitted that the National Museums of Kenya contracted Moving Media Ltd as event organizers of the Uzalendo Festival at a cost of Kshs.20 million. Payments were made as stipulated in the General Conditions of the contract and no other expenses were incurred outside the contracted sum. The payment vouchers, contract agreement and the invoices have since been availed for audit verification. With regard to Kshs.8 million that was meant for rehabilitation of three monuments, the management of National Museums of Kenya was facing emergencies due to the near collapse of the Ainsworth building that houses the Directorate of Sites and Monuments and the terrorism alerts on public spaces. The amount of Kshs. 1,663,315 and Kshs. 1,530,711 utilized for rehabilitation of Ainsworth house while Kshs. 4,193,300.20 was spent to construct the perimeter wall in order to mitigate the threats.

Committee Observations and Findings

(i) National Museums of Kenya contracted a company as event organizers for Uzalendo Festival at a cost of Kshs.20 million. However, the respective payment vouchers totaling Kshs.20 million were not adequately supported by expenditure receipts and invoices;

(ii) The State Department reallocated Kshs.8 million meant for the renovation of monuments to other renovation works namely rehabilitation of Ainsworth House at Kshs. 1,530,711, rehabilitation of Directors Office at Kshs. 1,663,315, building of boundary wall at National Museums of Kenya (NMK) at Kshs.4,193,300 and payment for construction permit to the County Government of Mombasa at Kshs.653,131. This was in contravention of the provisions of Section 43 (2) (b) of the PFM Act, 2012 that requires the Accounting Officer to seek approval from the National Treasury.

Committee Recommendation

The Committee reprimands the Accounting Officer for re-allocating the Kshs.8 million meant for the renovation of monuments to other renovation works namely rehabilitation of Ainsworth House at Kshs. 1,530,711, rehabilitation of Directors Office at Kshs. 1,663,315, building of boundary wall at National Museums of Kenya (NMK) at Kshs. 4,193,300 and,

payment for construction permit to the County Government of Mombasa at Kshs. 653,131 contrary to the provisions of Section 43 of the PFM Act, 2012.

388. Unsupported Pending Bill

An amount of Kshs. 6,782,758 was on 27 June 2017 paid being balance for advertisement of the Smithsonian Kenya Mambo Poa Festival and hosting Radio Talk Shows held in May and June 2014. It was noted that the invoices worth Kshs.7,868,000 attached to the payment voucher dated back to the year 2014/2015 and had not been appearing in the list of Pending Bills under the Ministry of Sports Culture and The Arts for the subsequent years 2014/2015 and 2015/2016. Further, the payment was not supported with a local service order to show that the services were properly ordered and received by the state department of Culture and The Arts. No justification has been provided for the delay in the payment or for omission of the balance due from the list of pending bills in 2014/2015 and 2015/2016 financial years. Consequently, the validity of the expenditure of Kshs. 6,782,758 cannot be confirmed**.**

Submission by Accounting Officer

The Accounting Officer submitted that the payment voucher of Kshs.6,782,758 paid to the Standard Group Ltd was a pending bill that had not been included in the financial statements of the then Ministry of Sports, Culture and the Arts in the subsequent years 2014/2015 and 2015/2016. However, the Payment Voucher is supported by the AIE holder certiFinancial Yearing the payment and also a space order has been availed for audit verification.

Committee Observations and Findings

Amount of Kshs. 6,782,758 was on 27 June 2017 paid being balance for advertisement of the Smithsonian Kenya Mambo Poa Festival and hosting Radio Talk Shows held in May and June 2014. It was noted that the invoices worth Kshs.7,868,000 attached to the payment voucher dated back to the year 2014/2015 and had not been appearing in the list of Pending Bills under the Ministry of Sports Culture and the Arts for the subsequent years 2014/2015 and 2015/2016.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps up-to-date, reconciled financial statements that includes all the pending bill if any in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented

within three (3) after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

389. Prior Year's Unresolved Issue

389.1. Grounded Motor Vehicles

As previously reported, four (4) Motor vehicles of undetermined value have been lying at the parking yard of Permanent Presidential Music Commission (PPMC) for the last five years (5). The value of the four vehicles continues to depreciate with no indication of whether those vehicles would be repaired or disposed-off.

Submission by Accounting Officer

The Accounting Officer submitted that during the financial year 2016/2017, the vehicles were inspected by the Chief Mechanical and Transport Engineer who recommended that the vehicles be repaired. However, due to lack of funding the vehicles could not be repaired as per the recommendation. Considering the aspect of depreciation, in 2019, I requested the Ministry of Transport and Infrastructure, Housing and Urban Development to re-inspect the said vehicles to enable boarding process. The Ministry recommended them for boarding due to age, wear and tear and the general mechanical condition. It was therefore uneconomical to repair them. She reported that she has since appointed an Ad-hoc Disposal Committee to ensure the exercise is finalized.

Committee Observations and Findings

(i) **Four (4) Motor vehicles of undetermined value have been lying at the parking yard of Permanent Presidential Music Commission (PPMC) for the last five years (5). During the FINANCIAL YEAR /2017, the vehicles were inspected by the Chief Mechanical and Transport Engineer who recommended that the vehicles be repaired. However, due to lack of funding the vehicles were not be repaired as per the recommendation; and**
(ii) **The vehicles were re-inspected at the request of the Accounting Officer to enable boarding process due to age, wear and tear and the general mechanical condition. The Accounting Officer has since appointed an Ad-hoc Disposal Committee to ensure the disposal exercise is finalized.**

Committee Recommendations

The Accounting Officer should ensure that the disposal process of the vehicles is finalized within three (3) months of adoption of this report and submitted for audit in accordance with

public procurement and assets disposal laws pursuant to Article 227 of the Constitution and ensure that the proceeds from all asset disposals are deposited into a bank account of the entity.

Other Matter

390. Budget and Budgetary Performance

390.1 Revenue

The State Department had budgeted for revenue totaling Kshs. 3,463,773,019 against actual receipts of Kshs. 3,417,083,742 resulting in a shortfall of Kshs. 46,689,277 or 1percent as follows:

Submission by Accounting Officer

The Accounting Officer submitted that the shortfall of Kshs. 46,689,277 resulted from non-receipt of exchequer and under collection of A.I.A by the Department of Archives due to reduction in the gate collections and permit for research.

Committee Observations and Findings

The revenue shortfall of Kshs. 46,689,277 resulted from non-receipt of exchequer and under collection of A.I.A by the department of Archives due to reduction in the gate collections and permit for research.

Committee Recommendations

The Cabinet Secretary, National Treasury should ensure that the revenue estimates prepared by the various MDAs are realistic and adheres to the budget credibility principles. Further the Accounting Officers ensures that all collectors revenues in the Departments and SAGA under the State Department, collects and account for all budgeted revenues pursuant to the provisions of Section 76 of the PFM Act, 2012.

390.2 Expenditure

Actual expenditure amounted to Kshs. 3,407,616,774 against the approved budget of Kshs. 3,463,773,019 resulting in an under-expenditure of Kshs. 56,156,245 or 2 percent as follows:

Expenditure Head	Budget Kshs.	Actual Kshs.	Shortfall Kshs.	Shortfall percent
Compensation of Employees	159,404,360	150,508,146	8,896,214	6
Use of Goods and Services	6 663,152,758	624,253,493	38,899,265	6
Transfer to Other Government Units	2,499,857,350	2,496,004,623	3,852,727	-
Other Grants and Transfers	1,045,000	1,045,000	-	-
Acquisition of Assets	140,313,551	135,805,512	4,508,039	3
TOTAL	**3,463,773,019**	**3,407,616,774**	**56,156,245**	**2**

Failure to spend in accordance with the budget implies the organization's goals and objectives were not achieved as planned.

Submission by Accounting Officer

The Accounting Officer submitted that the under expenditure of Kshs. 56,156,245 (2 percent) resulted from the State Department not spending its full allocation for that year after the Ministry was split into two State Departments. It took time for the structures of the new state Department to be put in place in order to start its operations.

Committee Observation and Findings

(i) The State Department's Actual expenditure amounted to Kshs.3,407,616,774 against the approved budget of Kshs.3,463,773,019 resulting in an under-expenditure of Kshs.56,156,245 or 2 percent; and

(ii) The under-expenditure was attributed to the re-organization of the Ministry which was split into two State Departments. It took time for the structures of the new state Department to be put in place in order to start its operations.

Committee Recommendations

The Cabinet Secretary, National Treasury should ensure that the budget prepared by the various MDAs including the National Treasury are realistic and adheres to credible budgeting;

28.0. STATE DEPARTMENT FOR ENERGY

FINANCIAL STATEMENTS FOR VOTE 1152

Dr. Eng Joseph Njoroge and Mr. Andrew Kamau, the Principal Secretary and Accounting Officer for the State Department of Energy and Petroleum (Vote 1152) appeared before the committee on 14th January 2019 to adduce evidence on the Audited Financial Statements for the State **Department of Energy and Petroleum (Vote 1152) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:**

1. **Mr. Moses Gifari - Assistant Act General**
2. **Mr. Charles Wanyoike - Chief Finance Officer**
3. **Mr. Chrispin O. Lupe - Chief Geologist**
4. **Eng. Benson Mwakina - Director Renewable Energy**
5. **Mr. Fredric Kasoni - Personal Assistant to PS**
6. **Ms. Stella Ndumi William - Geologist Petroleum**
7. **Mr. Mathew Musyoka - Deputy Chief Finance Officer**
8. **Mr. Charle Kinyagi - Assistant Accountant General Petroleum**
9. **Mr. Muriithi Ngundo - Chief Accountant**
10. **MR. Justus Omuga - Senior Finance officer**

Basis for Qualified Opinion

392. Land without Title Deeds

As reported in 2015/16, the State Department for Energy does not have title deeds for eight (8) parcels of land it occupies totaling 40.11 hectares valued at approximately Kshs.336,549,200. Information available indicate that the process of acquiring titles for some of the land parcels has been underway for significantly long duration. From the foregoing, it has not been possible to confirm the rightful ownership of these parcels as well as the risk exposure of being encroached upon by squatters and land grabbers**.**

Submission by Accounting Officer

The Accounting Officer was in agreement with this finding and stated state that on the issue of title deeds, the Ministry has, in addition to previous requests to the Ministry of Lands and Physical Planning to fast track the issuance of title deeds in respect of various Energy Centres, formed an Inter-ministerial Committee to address the matter.

The Ministry of Lands and Physical Planning subsequently nominated an officer to sit in the inter-ministerial committee as per their letter Ref. No. MOLPP/AMIN/1/19(26) dated 5th January 2019. Consequently, the first meeting of the committee was held on 8th March 2019.

The Inter-ministerial team under the guidance of the Ministry of Lands and Physical Planning undertook field survey of the energy centres to confirm the actual status and to advise on the way forward. The Inter-ministerial team report dated 18th June, 2019. The Ministry will implement the recommendations of the team.

Committee Observations and Findings

(i) **The Committee observed that the parcels of land still do not have title deeds and the Ministry has formed an Inter-ministerial Committee to address the matter in line with the PAC recommendation in the FINANCIAL YEAR 2015/2016 report.**
(ii) **The Ministry of Lands and Physical Planning subsequently nominated an officer to sit in the inter-ministerial committee as per their letter Ref. No. MOLPP/AMIN/1/19(26) dated 5th January 2019. The first meeting of the committee was held on 8th March 2019;**
(iii) **The Inter-ministerial team under the guidance of the Ministry of Lands and Physical Planning undertook field survey of the energy centers to confirm the actual status and to advise on the way forward; and**
(iv) **The matter remains unresolved.**

Committee Recommendations

(i) **The Accounting Officer should closely monitor the working of the Inter-ministerial Committee and ensure that the lands are secured; and**
(ii) **The Cabinet Secretary responsible for matters of Energy and the Chairperson, National Land Commission should expedite the process of finalization of survey and issuance of title for the land and report back the progress to the National Assembly within three (3) months of the adoption of this report.**

Other Matter

393. Twin Biogas Digesters Plant - Narok County, Siana Primary School

The State Department entered into a local contract on 29 June 2016, for an amount of Kshs.7,923,405 for the supply, construction, testing and commissioning of twin biogas digesters plant in Narok County-Siana Primary School. The objective of the digester was to generate biogas for use by the school using cow dung and sewage. The contract provided for twenty (20) and eight (8) weeks for the construction and testing to its functional use respectively. Available records at the State Department indicate that the contractor had been paid Kshs.5,351,300 as at 30 June 2017, based on engineer's assessment with the balance being payable upon testing of the system.

Although the biogas construction and installation was completed in January 2017, it was yet to be tested the delay in testing resulted from inability of the system to generate biogas as a result of inadequate cow dung supply. According to the project management, the school had at the project design stage undertaken to maintain sufficient herd of cattle to adequately supply the digester. Consequently, it has not been possible to confirm whether value for money will be realized from the expenditure of Kshs.7,923,405 on the biogas project.

Submission by Accounting Officer

The Accounting Officer agreed with this audit finding and offered the following explanation:

1. At the design of the project the school had thirty-two (32) heads of cattle and 1200 pupils and whose feedstock supply would be adequate to run the twin digesters with a retention period of 50 days which is sufficient for the designed size of the twin digesters.
2. During the dry spell in 2016, the school management destocked the 25 head of cattle to avoid death and loss from an abnormally prolonged drought as is the usual practice with pastoralists in such circumstances. This reduced the amount of available dung to run the biogas plant and thereby resulting in delay in testing and commissioning the plants.
3. By March 2018 the school had increased the cattle from Seven (7) to fifteen (15) and it had plans to increase the stock to reach at least 32 which is needed to run the digesters. The latest follow up by the project officers on the 29th-30th April 2019 indicate that the number of cattle had increased to twenty (20).
4. In cases where cow dung is not adequately available on site, it will be ferried from the neighbouring Bomas or slaughterhouses. The School Management agreed to outsource dung from the neighbouring homesteads so that biogas plant can meet the objectives

Committee Observations and Findings

(i) The twin biogas digesters plant has still not been tested and commissioned despite the contractor having been paid Kshs.5,351,300 as at 30th June 2017;

(ii) The project was undertaken without any proper feasibility study and may not be viable since the testing of the system has been inordinately delayed mainly as a result of inadequate cow dung supply; and

(iii) There is an afterthought plan to outsource cow dung from the neighboring Bomas or slaughterhouses and neighboring homesteads so that biogas plant can run;
(iv) The matter remains unresolved.

Committee Recommendation

The EACC should within three (3) months after tabling and adoption of this report, commence a forensic investigation into this project. Any public officer and entity found culpable should be duly recommended for prosecution for committing an offence of financial misconduct leading to incurring wasteful expenditure on behalf of the government and the State Department as provided for in Section 197(1i) of the PFM Act, 2012.

394. Utilization of Training Facility at Mirangiine - Nyandarua County

During the 2013/2014 financial year, the Ministry of Energy and Petroleum commenced the development of a modern office complex and training Centre in Nyandarua County at Mirangiine Energy Centre. The Centre has since been completed but is yet to be utilized due for lack of furniture and fittings.

Although, management has indicated having budgeted for it in the 2017/18 and 2018/19 financial year, no documentary evidence was made available for audit review. Under the circumstances, it has not been possible to ascertain whether the State Department received or will receive value for money on the investment on Mirangiine Energy Centre.

Submission by Accounting Officer

The Accounting Officer agreed with this audit finding and provided the following explanations:

During the financial year 2017/2018 Mirangine Energy Centre was allocated Kshs.9,960,000 under development budget of which Kshs.4,478,060.00 was utilized to procure furniture, fittings and other office equipment necessary to operationalize the Training Facility as evidenced by LPO Nos. 1799295, 1799296 1799298 and 1799299. Some of the furniture and equipment procured and an underground water tank constructed are shown in the photos (Figures 1,2,3,4,5) below:

Figure 1: Furniture in the conference hall

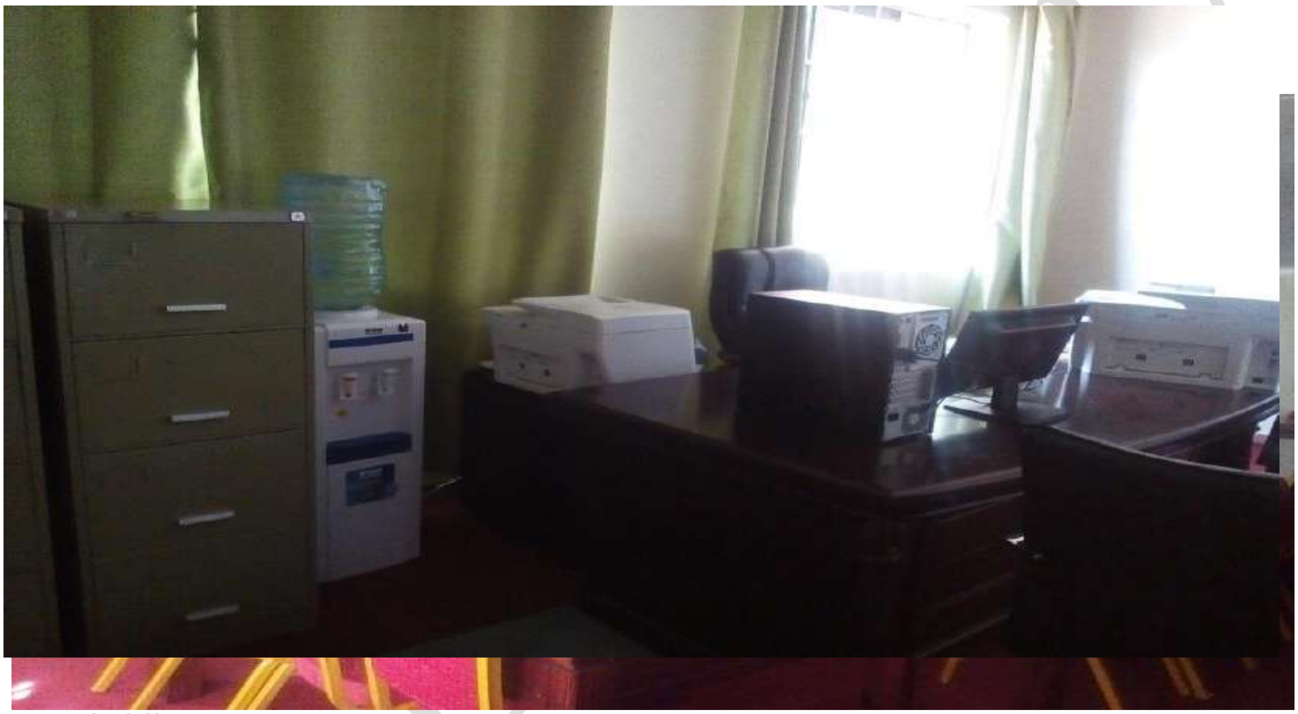

Figure 2: Office equipment

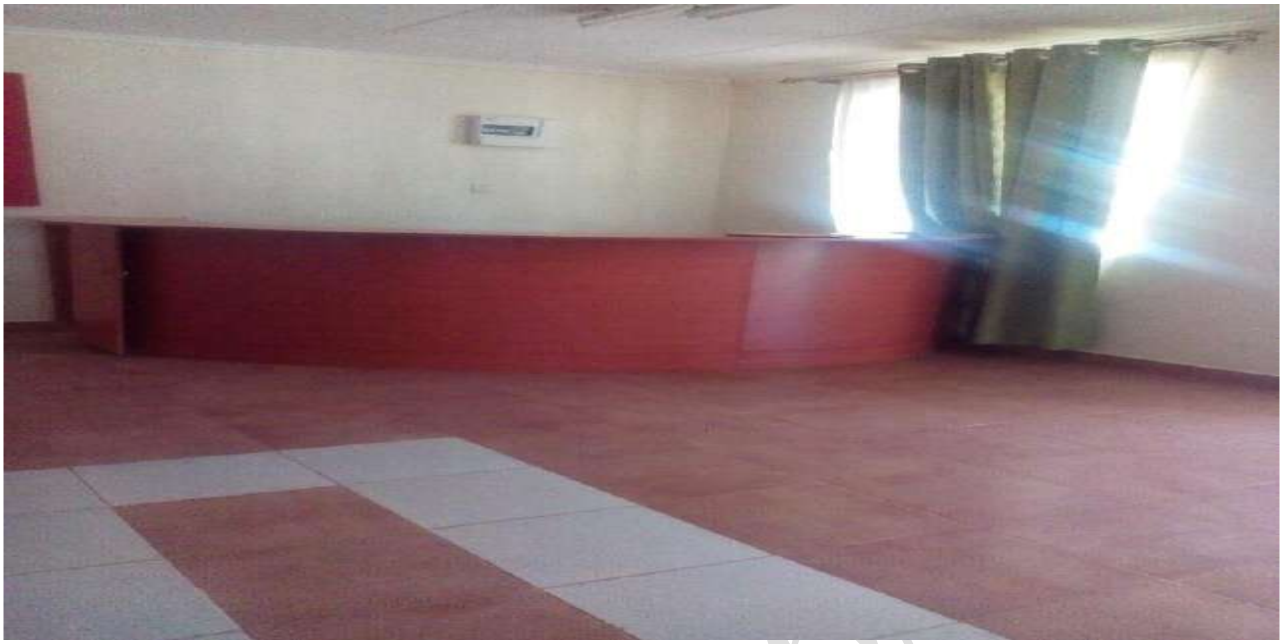

Figure 1: Reception Desk

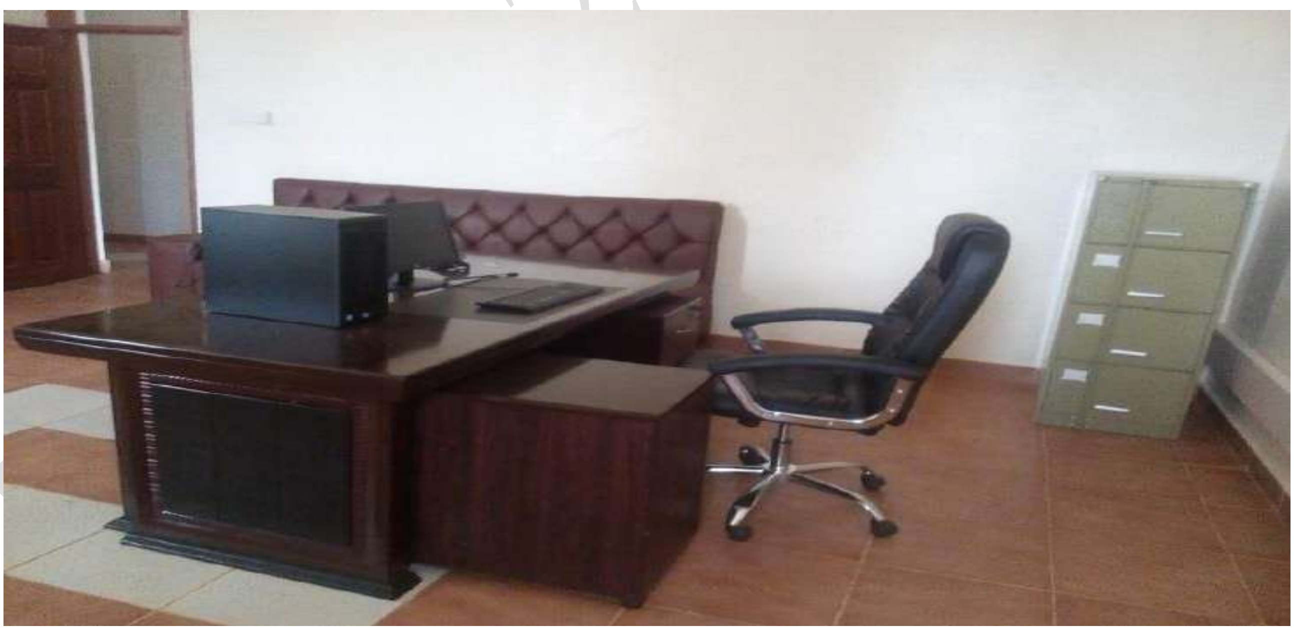

Figure 4: Furnished office

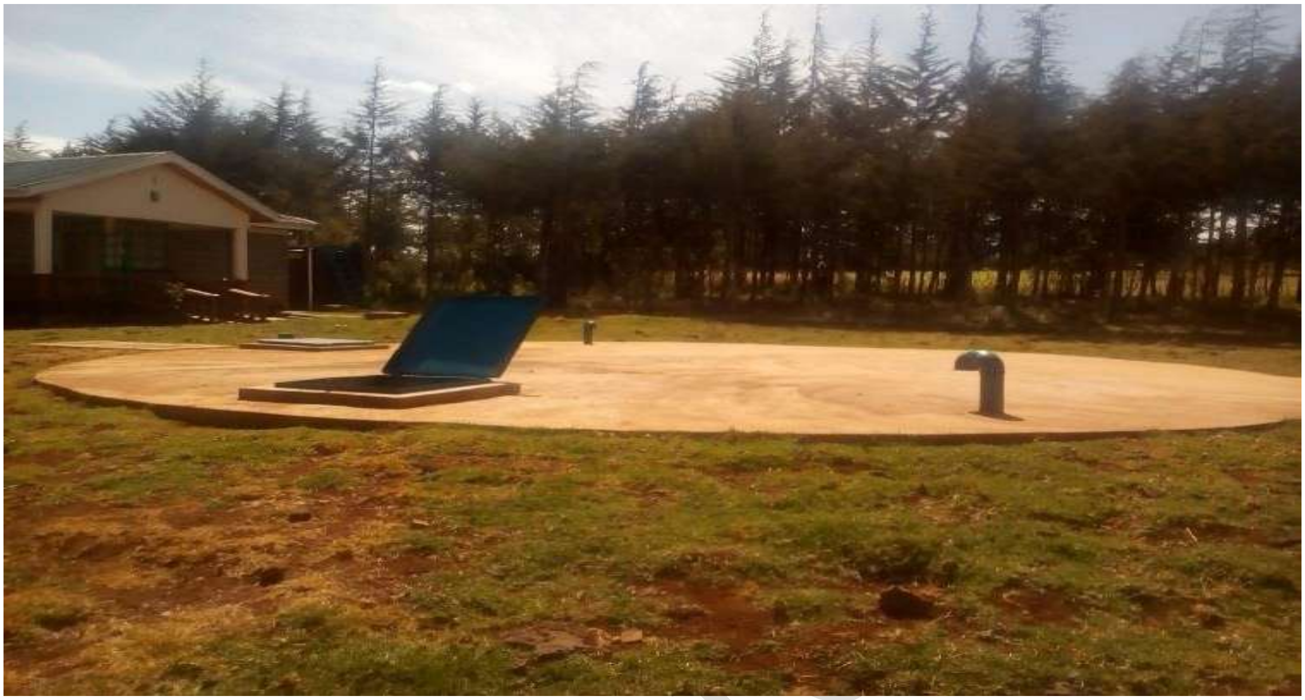

Figure 2: Underground Water Tank

In the budget for the current financial year, 2018/2019, Kshs.1.8 million has been allocated to Mirangine Energy Centre for procurement of remaining supplies including kitchen items.

Committee Observations and Findings

(i) **The Committee observed that a visit to the facility site in February 2019 confirmed that furniture and fittings were in place.**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers should at all time ensure that a proper feasibility study is undertaken before commencing any budgeting and implementation of projects with a view to getting value for money for the project. Further, Accounting Officers must at all times ensure that he/she manages government assets in a way which ensures that the National Government entity achieves value for money in acquiring, using and disposing of those assets as provided for in Section 72(1b) of the PFM Act, 2012.

395. Budget Control and Performance

395.1 Budgetary Absorption

The State Department's total approved budget for the year ended 30 June 2017 amounted to Kshs.111,425,574,252, as disclosed in the summary statement of appropriation: recurrent and development combined. Of the amount, recurrent and development expenditures amounted to Kshs.2,083,052,046 and Kshs.109,342,522,206 representing 2% and 98% of the total budget respectively. However, the total actual expenditure during the period amounted to Kshs. 85,626,375,038 representing under absorption of Kshs. 25,799,199,214 or 23% of the total budget.

The under-absorption of Kshs. 25,799,199,214 may have resulted into slowed down implementation of activities and projects in the Department's annual work-plan, for which the funds were budgeted. This may have impacted negatively on service delivery to the people of Kenya. Consequently, it has not been possible to confirm if the Department's objectives for the year ended 30 June 2017 were achieved.

Submission by Accounting Officer

The Accounting Officer was in agreement with this audit finding and wish to state that the under absorption of Kshs.25,799,199,214 was as a result of delayed exchequer release and delays in the approvals of Supplementary I and II.

Committee Observations and Findings

(i) The total actual expenditure during the period amounted to Kshs. 85,626,375,038 representing under absorption of Kshs. 25,799,199,214 or 23% of the total budget;
(ii) The under-absorption of Kshs. 25,799,199,214 may have resulted into slowed down implementation of activities and projects in the Department's annual work-plan, for which the funds were budgeted; and
(iii) The under absorption of Kshs.25,799,199,214 was attributed to delayed exchequer release and delays in the approvals of Supplementary I and II

Committee Recommendations

The Accounting Officer should ensure that the Ministry prepares a realistic budget and annual implemenation work plan to increase the levels of absoprtion. Further, there is need for timely release of exhequer by the National Tresaury to reduce low absorption of development funds.

395.2 Development Budget

The State Department's development budget for the year amounted to Kshs. 109,342,522,206, as disclosed in the summary statement of appropriation: development. This differs with actual expenditure of Kshs. 83,611,805,951, resulting into under-absorption of Kshs. 25,730,716,255, representing 24% of the development budget.

The under-absorption of Kshs. 25,730,716,255 may have resulted into slowed down implementation of activities and projects in the Department's annual work-plans for which the funds were budgeted. This may have impacted negatively on service delivery to the people of Kenya. Consequently, it has not been possible to confirm if the Department's objectives for the year ended 30 June 2017 were achieved.

Submission by Accounting Officer

The Accounting Officer was in agreement with the audit finding and offered the following explanations:

The under absorption of Kshs. 25,730,716,255 was brought about by the following issues:

1. The under absorption was as a result of delay in exchequer release and approval of Supplementary II. This therefore gave less time to procure goods and services leading to low absorption.
2. Budgetary constraint of counterpart funding and getting no objections from the financiers. These are prerequisite conditions for spending donor funds on projects. Moving forward the Ministry will engage with the implementing agencies and the National Treasury External Resource Mobilization Department to ensure foreign financing budget under projects will be utilized as per counterpart funds available. Further, the Ministry will engage the donors/financiers to fast track the release of letters of no objection to spend the funds.
3. Court cases regarding wayleaves acquisitions also affected implementation of projects. Projects affected by this problem were: Kisii-Awendo Transmission Line; Loyangalani-Suswa Transmission Line; Mombasa-Nairobi Transmission Line among other projects

Committee Observations and Findings

(i) The Committee observed that the Auditor General verified that delays in release of exchequer and court cases regarding wayleaves compensations were valid reasons for the under absorption noted;

(ii) The Committee observed that management has not provided details of donor funded projects whose budgetary absorption was affected by shortfall in counterpart funding and no objection letters; and

(iii) The matter remains unresolved.

Committee Recommendations

(i) Accounting Officer must at all times ensure compliance to the provisions of Section 9(1e) of the Public Audit Act, which gives the Auditor-General powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities; and

(ii) The Accounting Officers should within three (3) months of tabling and adoption of this report ensure that all details of donor funded projects whose budgetary absorption was affected by shortfall in counterpart funding and no objection letters are duly submitted to the Auditor-General for audits.

396. Pending Accounts Payable

The statement of receipts and payments reflects payments totaling to Kshs. 85,626,375,038 for the year ended 30 June 2017. This amount excludes pending accounts payables of Kshs. 40,171,588 disclosed under Note 19.1 to the financial statements which have been carried forward to 2017/2018 financial year. Had the pending accounts payables been settled in the year under review, the statement would have reflected a deficit of Kshs. 39,374,902 instead of the reported surplus of Kshs. 796,686. This is indicative of the State Department failure to adhere to Public Financial Management guidelines on budgeting by incurring expenditure in excess of the approved budget. In addition, failure to settle accounts payables in the year to which they relate adversely affects the following year's budget provision to which they have to be charged.

Submission by Accounting Officer

The Accounting Officer agreed with the audit finding and wish to state that the pending accounts payable of Kshs. 40,171,588 have since been paid in the current financial year 2017/2018. Further, the Ministry has put in place elaborate measures to ensure that work plans and procurement plans are implemented early to enable timely procurement of goods and services and that procurements are done in accordance with the Public Procurement and Asset Disposal Act, 2015 and related regulations.

Committee Observations and Findings

(i) **The Statement of Receipts and Payments excluded pending accounts payables of Kshs. 40,171,588 which was carried forward to FINANCIAL YEAR 2017/201. Had the pending accounts payables been settled in the year under review, the statement would have reflected a deficit of Kshs.39,374,902 instead of the reported surplus of Kshs.796,686;**
(ii) **The committee observed that the accounts payable of Kshs. 40,171,588 has since been paid in the current financial year 2017/2018; and**
(iii) **The Committee marked the matter as resolved.**

Committee Recommendation

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

DONOR FUNDED PROJECTS

KENYA ENERGY-SECTOR ENVIRONMENT AND SOCIAL RESPONSIBILITY PROGRAMME FUND

Unqualified Opinion

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

Emphasis of Matter

a. Interest on Bank Deposits

Included in the other receipts amount of Kshs.15,179,115 reflected in the statement of receipts and payments for the year under review is a receipt of Kshs.13,459,115 which according to note 2 to the financial statements, relate to interest income. Available information indicates that the management of the Fund and Kenya Commercial Bank (KCB) limited agreed on 14 November 2007 that deposits in bank accounts held at KCB Kipande House Branch shall earn interest at the rate of 4% p.a. effective from 15 November 2007. According to the agreement, the accrued interest is payable by the bank annually by 31 December.

Examination of bank statements relating to the calendar years 2007 to 2016 revealed that the Fund received interest totaling Kshs. 92,623,311 during that period. However, management has not provided evidence of how the bank computed the interest amount of Kshs. 92,623,311. A re-calculation performed on the account indicates that interest income due to the Fund from 15 November 2007 to 30 June 2017 should have been Kshs. 134,502,815 thus resulting to underpayment of Kshs. 41,879,504. Consequently, the accuracy of interest income of Kshs. 13,459,115 reflected in the financial statements for the year ended 30 June 2017 and Kshs. 79,164,196 received in prior years could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that with regard to the interest of Ksh. 92,623,311 earned from 2007 to 2016, I wish to state that we have written to the management of the bank on several occasions in regard to this matter, seeking explanation on how the amount was computed. The management of the Bank responded vide their letters dated 27th December, 2018 and 2nd May, 2019 in which computation of the interest of Kshs 92,623,311 was done.

Committee Observations and Findings

(i) The Committee observd that the Kenya Energy-Sector Environment and Social Responsibility Programme Fund received an unqualified opinion in the FINANCIAL YEAR 2016/2017 which is commendable;
(ii) The Committee observed that the management of the Fund and Kenya Commercial Bank (KCB) limited agreed on 14 November 2007 that deposits in bank accounts held at KCB Kipande House Branch shall earn interest at the rate of 4% p.a. effective from 15 November 2007. Examination of bank statements relating to the calendar years 2007 to 2016 revealed that the Fund received interest totaling Kshs. 92,623,311;
(iii) The Committee observed that the re-calculation performed on the account indicates that interest income due to the Fund from 15 November 2007 to 30 June 2017 should have been Kshs. 134,502,815 thus resulting to underpayment of Kshs. 41,879,504;
(iv) The matter remains unresolved.

Committee Recommendation

The Accounting Officer and the Managing Director/CEO, KCB Plc should within three (3) months of tabling and adoption of this report, provide to the auditor General the breakdown of annual interest earned on the Fund from 15 November 2007 to 30 June 2017.

b. Outstanding Contributions to the Fund

As reported in my 2015/2016 Section 3(2)(b) of the Government Financial Management Regulations under the Kenya Energy Sector Environment and Social Responsibility Programme (KEEP) Fund of 2007) and its ten-year action plan (2008-2018) provides for annual contributions by state corporations and agencies under the Ministry of Energy and Petroleum into the Fund. The annual contributions receivable from Kenya Petroleum Refineries Ltd, Kenya Electricity Generating Company Limited, Kenya Pipeline Company Limited, National Oil Corporation of Kenya, Limited, Kenya Power and Lighting Company Limited and Energy Regulatory Commission (ERC) amounts to Kshs.2 Million, Kshs.100 Million, Kshs.51 Million, Kshs.5 Million, Kshs.90 Million and Kshs.2 Million respectively, all totaling Kshs.250 Million.

However, during the year under review, only ERC made its contribution. Available information also indicates that the total contribution outstanding from the state agencies and corporations amounted to Kshs. 2,372,500,000 as at 30 June 2017. Management has not explained why the agencies and corporations have not complied with the KEEP Fund regulations by submitting their annual contributions.

Submission by Accounting Officer

The Accounting Officer was in agreement with the audit finding and offered the following explanations:

The government Financial Management Regulations under the Kenya Energy Sector Environment and Social Responsibility Programme Fund of 2007 section 3(2)(b) provides for contributions by State Corporations and Agencies among other donations. However, these regulations did not set specific amounts of money for these State Corporations.

During the formulation of the first action plan 2008-2018, it was proposed that the state corporations and agencies contribute as follows: -

Kenya Petroleum Refineries	-	Kshs. 2 million
Kenya Power Company	-	Kshs. 90 million
Kenya Electricity Generating Company Ltd	-	Kshs. 100 million
Kenya Pipeline Company	-	Kshs. 51 million
National Oil Corporation	-	Kshs. 5 million
Energy Regulatory Commission	-	Kshs. 2 million

However, the above proposal was not signed by the parties and was therefore not legally bidding.

The Ministry has on several occasions written letters to the concerned Agencies to remind them of their obligations (See ME/5/1/4 Vol. II dated 8th September 2016, MOEP/1/1/8/Vol. 44 (76) dated 18th October 2018).

The only corporations that did not offer explanation were National Oil Corporation and Kenya Pipeline Company. KenGen, through their letter Ref. No.KGN/ECDM/GOK-SC/023/JW dated 21st December 2016 indicated that they were unable to remit their Kshs. 100 million into the Fund due to a constraint that the amount was not provided for in the set tariff structure of their Power Purchase Agreement. Kenya Power through their letter Ref. No. KPL/3B/4/8/BKK/Inn dated 12th February 2019, explained that the fund was not factored in any approved electricity retail tariff.

Kenya Petroleum refineries vide letter Ref No.CEO.155/10/2016 dated 31st October 2016, explained that when KEEP was formed in 2007, KPRL was still a private entity not bound by State Corporation Jurisdictions and hence did not participate in the program at the time, and that their financial situation deteriorated in the years that followed because of the stoppage of refining operations in 2013, and is still facing financial difficulties.

At the end of the first ten-year plan and in view of the challenges hitherto experienced, the Ministry has recently resolved to incorporate representatives of the Agencies into the Fund's Programme Management Committee in the current phase of the Funds activities and as a strategy to enable the Agencies to directly participate in the planning and execution of the activity. This way, it is expected that it will be easier to follow up respective Agency contributions into the fund. It is further noted that as per Executive Order No. 1 of 2017 on reorganization of Government, some of the Agencies such as Kenya Petroleum Refineries, Kenya Pipeline Company and National Oil Corporations are no longer under the Ministry of Energy.

Committee Observations and Findings

(i) **The Committee observed that the Government Financial Management Regulations under the Kenya Energy Sector Environment and Social Responsibility Programme Fund of 2007 was repealed vide the enactment of the PFM Act, 2012 and its subsequent Regulations;**

(ii) **The Committee observed that the Regulations did not set specific amounts of money to be contributed by these State Corporations. During the formulation of the first action plan 2008-2018, it was proposed that the State Corporations and Agencies** contribute specified amounts. However, the proposal was not signed by the parties and was therefore not legally bidding; and

(iii)The Committee observed that the Ministry has resolved to incorporate representatives of the Agencies into the Fund's Programme Management Committee in the current phase of the Funds activities to enable the Agencies to directly participate in the planning and execution of the activity; and

Committee Recommendations

(i) The Cabinet Secretary responsible for energy should within three (3) months of tabling and adoption of this report, initiate the propose of reviewing KEEP Fund Regulations 2007 to align them with the PFM Act, 2012;

(ii) The Accounting Officer should ensure that contribution by each of the State Corporations and Agencies into the KEEP Fund should specified in the new Regulations and made binding to all parties;

(iv) The new Regulations should ensure all State Corporations and Agencies contributing into the Fund are fully represented in all the activities of the Fund to enhance ownership and accountability.

PETROLEUM DEVELOPMENT LEVY FUND – STATE DEPARTMENT FOR ENERGY

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this Fund.

Committee Observations

The Petroleum Development Levy Fund received an unqualified opinion in the FINANCIAL YEAR 2016/2017 which is commendable.

Committee Commendation

The Committee commends the Accounting Officer and staff of the Petroleum Development Levy Fund for the unqualified opinion received in the FINANCIAL YEAR 2016/2017.

KENYA ELECTRICITY EXPANSION PROJECT (IDA CR. NO. 4743-KE)

Unqualified Opinion

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

Committee Observations and Findings

The Kenya Electricity Expansion Project (IDA CR. NO. 4743-KE) received an unqualified opinion in the Financial Year 2016/2017 which is commendable.

Other Matter

397. Special Account - Amount Withdrawn and not Claimed

The statement of special account reconciliation reflects amount withdrawn and not claimed as at 30 June 2017 of USD. 150,780 an equivalent to Kshs. 15,616,285. This amount is eligible for refinancing but documentation for its claim had not been submitted as at 30 June 2017. Consequently, it was not possible to confirm the validity of the amount withdrawn but not claimed amounting to Kshs. 15,616,285.

Submission by Accounting Officer

The Accounting Officer agreed with the finding and stated that out of the USD150,780 (Kshs. 15,616,285), USD.150,746.21 (Kshs15,612.785.37) was claimed during the financial year 2017/2018.

Committee Observations and Findings

- **(i) The Committee observed that the amount of USD. 150,746.21 (Kshs. 15,612.785.37) was claimed during the financial year 2017/2018 and auditor general agreed; and**
- **(ii) The Committee marked the matter as resolved.**

Committee Commendation

The Committee commends the Accounting Officer and staff of the Kenya Electricity Expansion Project (IDA CR. NO. 4743-KE) for the unqualified opinion received in the Financial Year 2016/2017

29.0. STATE DEPARTMENT FOR PETROLEUM

FINANCIAL STATEMENTS FOR VOTE 1153

Mr. Andrew Kamau, the Principal Secretary and Accounting Officer for the State Department of Petroleum (Vote 1153) appeared before the committee on 14th January 2019 to adduce evidence on the Audited Financial Statements for the State Department of Petroleum (Vote 1153) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1.	**Mr. Moses Gitari**	**-**	**Assistant Accountant General**
2.	**Mr. Charles Wanyoike**	**-**	**Chief Finance Officer**
3.	**Mr. Chrispin O. Lupe**	**-**	**Chief Geologist**
4.	**Eng. Benson Mwakina**	**-**	**Director Renewable Energy**
5.	**Mr. Fredric Kasoni**	**-**	**Personal Assistant to PS**
6.	**Ms. Stella Ndumi William**	**-**	**Geologist Petroleum**
7.	**Mr. Mathew Musyoka**	**-**	**Deputy Chief Finance Officer**
8.	**Mr. Charle Kinyagi**	**-**	**Assistant Accountant General Petroleum**
9.	**Mr. Muriithi Ngundo**	**-**	**Chief Accountant**
10.	**MR. Justus Omuga**	**-**	**Senior Finance officer**

Unqualified Opinion

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

Other Matter

398. Budgetary Control and Performance

398.1. Budgetary Absorption

The State Department's total approved budget for the financial year ended 30 June 2017 amounted to Kshs.3,073,101,598 as disclosed in the summary statement of appropriation: recurrent and development combined. Of the amount, recurrent and development expenditures amounted to Kshs.202,851,598 and Kshs.2,870,250,000 representing 6.6percent and 93.4percent of the total budget respectively. However, the total actual expenditure during the year amounted to Kshs. 1,601,596,539 representing under-absorption of Kshs. 1,471,505,059 or 48 percent of the total budget. The under-absorption of Kshs. 1,471,505,059 slowed down implementation of activities and projects in the Department's annual work-plan that the funds were budgeted to finance and thus constrained delivery of the Department's services to the public. Consequently, all the Department's objectives for the year ended 30 June 2017 were not achieved.

398.2. Development Vote

The State Department's development vote budget for the year amounted to Kshs. 2,870,250,000 as disclosed in the summary statement of appropriation: development. However, actual expenditure was Kshs. 1,426,275,377, resulting in under absorption of Kshs. 1,443,974,623 equivalent to 50percent of the budget. Further, included in the budget amount was an allocation for acquisition of assets amounting to Kshs.2,149,500,000 against which actual expenditure incurred amounted to Kshs.729,788,671 resulting in under-absorption of Kshs.1,419,711,329 or 66percent of the budget. Management attributed a significant portion of the under-absorption (Kshs. 1,398,782,790 representing 98.5percent of the shortfall) to failure to procure Liquefied Petroleum Gas (LPG) cylinders because of delay in budgetary allocation by the National Treasury.

Failure by the Department to procure the LPG cylinders for citizens as was planned impeded attainment of its Department's objectives for the year under review.

Committeee Observations and Findings

(i) The State Department for Petroleum, Vote 1153 received an unqualified opinion on its financial statements for the FINANCIAL YEAR 2016/2017 which is commendable;
(ii) The State Department's development vote budget for the year amounted to Kshs. 2,870,250,000. However, actual expenditure was Kshs. 1,426,275,377, resulting in under absorption of Kshs. 1,443,974,623 equivalents to 50 percent of the approved development budget estimates; and
(iii)An allocation for acquisition of assets amounting to Kshs.2,149,500,000 against which actual expenditure incurred amounted to Kshs.729,788,671 resulting in under-absorption of Kshs.1,419,711,329 or 66percent of the approved budget. This was mainly attributed to failure to procure Liquefied Petroleum Gas (LPG) cylinders because of delay in exchequer releases by the National Treasury.

Committee Recommendations

(i) The Committee commends the Accounting Officer and management team for the State Department of Petroleum, Vote 1153 for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2017; and
(ii) The Accounting Officer should ensure that the Ministry prepares a realistic budget and annual implemenation work plan to increase the levels of absoprtion. Further, there is

need for timely release of exhequer by the National Tresaury to reduce low absorption of development funds

PETROLEUM DEVELOPMENT LEVY FUND

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this Fund.

Committeee Observation and Findings

The Petroleum Development Levy Fund received an unqualified opinion on its financial statements for the FINANCIAL YEAR 2016/2017 which is commendable.

Committee Recommendation

The Committee commends the management team for the Petroleum Development Levy Fund for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2017.

PETROLEUM TRAINING LEVY FUND

Unqualified Opinion

There was no material issues noted during the audit of the financial statement of this Fund.

Committeee Observation and Findings

The Petroleum Training Levy Fund received an unqualified opinion on its financial statements for the FINANCIAL YEAR 2016/2017 which is commendable.

Committee Recommendation

The Committee commends the management team for Petroleum Training Levy Fund for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2017.

DONOR FUNDED PROJECTS KENYA PETROLEUM TECHNICAL ASSISTANCE PROJECT (IDA CREDIT NO. 55260- KE)

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this project.

Emphasis of Matter Budget Control and Performance

The statement of comparative budget and actual amounts reveals that the project had received budgeted loan receipts of Kshs.81,000,000 from external development partners but only Kshs.50,501,410 were retained resulting in an unrealized receipt of Kshs.30,498,590 or 38percent. Similarly, out of the budgeted expenditure of Kshs. 81,000,000, actual expenditure amounted to Kshs. 48,349,905 resulting to an under expenditure of Kshs. 32,650,095 or under receipts of 40percent. Consequently, the project did not implement all its activities approved in the budget thus delayed provision of services to the citizens.

Committeee Observations and Findings

(i) The Kenya Petroleum Technical Assistance Project (IDA Credit No. 55260- KE) received an unqualified opinion on its financial statements for the FINANCIAL YEAR 2016/2017 which is commendable; and
(ii) Out of the budgeted expenditure of Kshs. 81,000,000, actual expenditure amounted to Kshs. 48,349,905 resulting to an under expenditure of Kshs. 32,650,095 or under receipts of 40percent. Consequently, the project did not implement all its activities approved in the budget thus delayed provision of services to the citizens.

Committee Recommendations

(i) The Committee commends the management team for Petroleum Training Levy Fund for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2017; and
(ii) The Cabinet Secretary, National Treasury should within three (3) months of adoption of this report put in place framework to address challenges associated with low donor financing absorption. Further, donor financed programmes and projects should only be included in the budget if the MDAs have the capacity to meet the donor conditions.

30.0. STATE DEPARTMENT OF AGRICULTURE

FINANCIAL STATEMENTS FOR VOTE 1161

Prof. Hamadi I. Boga, the Principal Secretary and Accounting Officer for the State Department of Agriculture (Vote 1161) appeared before the committee on 15th August 2019, 7th October 2019 and 11th November, 2019 to adduce evidence on the Audited Financial Statements for the State Department of Agriculture (Vote 1161) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Ms Joyce Mutugi - Senior Assistant Accountant General**
2. **Mr John Munywoki - Senior Chief Finance Officer**
3. **Mr Isaaac Mutungi - Head of Supply Chain Management**
4. **Mr Josiah M. Orina - Senior Accounting Officer**
5. **Mr Erastus K. Sumaili - Chief Accountant**
6. **Mr Dixon K. Korir - Accountant**
7. **Mr Edwin Oseko - Accountant**
8. **Mr Richard Limo - National Cereals and Produce**

Basis for Qualified Opinion

399. Receipts

The statement of receipts and payments reflects amounts of Kshs.477,770,032, Kshs.145,968,360 and Kshs.4,729,258 under proceeds from domestic and foreign grants; proceeds from foreign borrowings; and proceeds from sale of assets respectively. However, these receipts have not been supported with authentic documents, including cash book, bank statement or any other verifiable documentation. No explanation has been provided for failure to support these receipts. Consequently, the accuracy and completeness of the total receipts figure of Kshs.20,957,938,004 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer reported that all the documents supporting the total recepits for the 2016/2017 Financial Year which include receipts, Fo.17 vouchers, cashbook and bank statements have since been submitted to the audit office for verification.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer confirming the accuracy and completeness of the total receipts figure of Kshs.20,957,938,004 were satisfactory; and

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

400. Procurement of Subsidized Fertilizer

The statement of receipts and payments reflects an amount of Kshs.5,878,925,563 under use of goods and services, which includes, as disclosed under Note 7 to the financial statements an amount of Kshs.4,998,996,937 described as other operating expenses. This amount includes expenditure on the procurement of subsidized fertilizer.

A review of records availed for audit revealed that a company contracted to deliver 182,000 bags of various types of fertilizer each weighing 50 kilos during the short rains, at a total cost of US$4,434,733.50 (Kshs.456,777,550.50), did not deliver 17,060 bags costing US$441,001 (Kshs.45,423,103), in the period under review. The firm was, however, paid for the full amount of the contract. No reason has been given for the failure by the contracted company to deliver the consignment in full.

Submission by Accounting Officer

The Accounting Officer reported that all the documents supporting the total recepits for the 2016/2017 Financial Year which include receipts, Fo.17 vouchers, cashbook and bank statements have since been submitted to the audit office for verification.

It was correct that the statement of receipts and payments reflects an amount of Kshs.5,878,925,563 under use of goods and services, which includes, as disclosed under Note 7 to the financial statements an amount of Kshs.4,998,996,937 described as other operating expenses which included expenditure on the procurement of subsidized fertilizer.

It was also correct that a company contracted to deliver 182,000 bags of various types of fertilizer each weighing. 50 kilos during the short rains, at a total cost of US$4,434,733.50 (Kshs.456,777,550.50), did not deliver 17,060 bags costing US$441,001 (Kshs.45,423,103), in the period under review.

The Accounting Officer reported that the Ministry opened a Letter of Credit with Kenya Commercial Bank Limited and the contracted amount paid in full to Kenya Commercial Bank limited in favour of Holbud Limited which had been contracted to supply the fertilizer and that, since the company did not deliver the consignment in full, the money is still with Kenya Commercial Bank and has not been released to the supplier**.**

The ministry is in the process of recalling the money for KCB and surrender the same to the exchequer.

Committee Observations and Findings

(i) The Committee observed that a company contracted to deliver 182,000 bags of various types of fertilizer each weighing. 50 kilos during the short rains, at a total cost of US$4,434,733.50 (Kshs.456,777,550.50), did not deliver 17,060 bags costing US$441,001 (Kshs.45,423,103), in the period under review;

(ii) The Committee observed that the company was paid in full before delivery of the fertilizer; and

(iii)The matter remains unresolved.

Committee Recommendations

(i) Accounting Officers must, at all times, ensure that all requisite information is submitted to the Auditor-General for review in a timely manner.

(ii) The ODPP should, within three (3) months of adoption of this report, take up the matter with a view to prosecuting all those involved in the payment of US$441,001 (Kshs.45,423,103) for undelivered 17,060 bags of various types of fertilizer each weighing. 50 kilos during the short rains for subsidized fertilizer to farmers by the government with a view to prosecuting those found culpable.

401. Outstanding Imprests

The statement of assets and liabilities reflects a balance of Kshs.24,329,660 under accounts receivable – outstanding imprests as at 30 June 2017. No satisfactory explanation has been provided for failure to have the imprests accounted for or surrendered on or before 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that the unaccounted-for amount of Kshs 24,329,660 at the end of the financial year was occasioned by the IFMIS challenges during the end of the financial Year.

He reported that the outstanding imprests amounting to Kshs 24,329,660 were later processed and cleared during 2017/2018 Financial Year.

Committee Observation and Findings

(i) The Committee observed that the unaccounted for Imprest amount of Kshs 24,329,660 at the end of the financial year was occasioned by the IFMIS challenges during the end of the financial Year; and

(ii) The Committee marked the matter as resolved.

402. Pending Bills

As disclosed in Annex 1 to the financial statements, the State Department of Agriculture had pending bills totalling Kshs.419,043,819 that were not settled during the year 2016/2017 but were instead carried forward to 2017/2018. Had the bills been paid and expenditure charged to the accounts for 2016/2017, the statement of receipts and payments for the year then ended would have reflected a deficit of Kshs.174,568,683 instead of the surplus of Kshs.244,475,136 now shown. Failure to settle bills during the year to which they relate distorts the financial statements for that year and adversely affects the provisions for the subsequent year to which they have to be charged.

Submission by Accounting Officer

The pending bills of Kshs 419, 043,819 at the close of financial year 2016/17 was as a result of inadequate exchequer during the year under review. He reported that the pending bills were settled during 2017/2018 financial year.

Committee Observations and Findings

The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills are inevitable, they should form a first charge in the subsequent year's budget thereby impending smooth implementation of the subsequent budget.

403. Prior Year Matter

403.1. Voidable Expenditure – Procurement of Subsidized Fertilizer

In the audit report for 2015/2016, it was indicated that the expenditure of Kshs.5,691,502,730 shown in that year's statement of receipts and payments under use of goods and services included, expenditure of Kshs.5,368,529 relating to other operating expenses, out of which, payments totalling Kshs.4,189,820,270 were made to National Cereals and Produce Board (NCPB) to meet expenses in respect of procurement, handling, storage, transportation, commissions and other charges for subsidized fertilizer. However, included in the payments of Kshs.4,189,820,270 made to NCPB was Kshs.147,574,229 relating to interest on Post Import Facility which arose from a 2013/2014 contractual obligation which the Department failed to honor.

The Department in 2013/2014 had contracted a company to supply and deliver 102,550 metric tons of various types of fertilizer, at an equivalent cost of Kshs.3,782,845,939. The Department subsequently assigned the contract to National Cereals and Produce Board (NCPB), who in turn entered into a Letter of Credit (LC) arrangement with a commercial bank. Upon delivery of the fertilizer and subsequent expiry of the 180 days of the LC, NCPB failed to pay up and the bank converted the LC into a loan chargeable at 14.78% per annum. No satisfactory explanation has been provided to date on why the Department paid interest on a loan arising from a contract that it had assigned fully to NCPB.

403.2. Unsupported Expenditure

(i) Procurement of Seed Potato

As reported in 2015/2016, the State Department paid an amount of Kshs.25,000,000 to a firm to import seed potato from Netherlands in the financial year 2014/2015. However, the supplier appears to have been single sourced as no evidence was provided to confirm that any competitive procurement procedure was followed as required under the then applicable Section 29 of the Public Procurement and Assets Disposal Act, 2015. Further, no invoice, delivery note or any other documentary evidence was provided to support the payment of Kshs.25,000,000 and to confirm that the seeds were indeed received. A review of the position during the audit of 2016/2017 indicates that the issue has not been resolved.

(ii) Procurement of Certified Seeds, Breeding Stock and Live Animals

As reported in 2015/2016, the expenditure of Kshs.700,718,840 for purchase of certified seeds, breeding stock and live animals incurred during the year 2014/2015 included an amount of Kshs.300,000,000 that was not supported with payment vouchers and related documents. A review of the position in 2016/2017 revealed that the expenditure has not been supported to date.

(iii) Purchase and Transportation of Subsidized Fertilizer

As reported in 2015/2016, the State Department disbursed an amount of Kshs.2,129,128,558 to National Cereals and Produce Board (NCPB) as subsidy for purchase of fertilizer to be sold to farmers in the year 2014/2015. However, apart from an invoice and a schedule raised by NCPB, no other verifiable document was produced for audit to confirm the actual quantity of fertilizer bought by NCPB, the quantity sold to the farmers and purchase and selling prices. Consequently, the validity of the expenditure of Kshs.2,129,128,558 on subsidized fertilizer could not be ascertained. A review of the position in 2016/2017 revealed that the expenditure is yet to be supported.

(iv) Bulking of Traditional High Value (Orphaned) Crops

In 2015/2016, it was reported that the State Department entered into a Kshs.30,095,000 Memorandum of Understanding (MOU) with Kenya Agricultural and Livestock Research Organization (KALRO) in which KALRO was to undertake a multiplication of various traditional high value (orphaned) crops including; cassava, sweet potatoes, cow peas, sorghum, finger millet and beans with an objective of promoting their consumption and reducing over-reliance on maize. The crops were to be distributed for cultivation in Arid and Semi-Arid Lands (ASAL) of Baringo, Makueni, Machakos, Tharaka Nithi, Kirinyaga, Kisumu, Homa Bay, Busia, Kwale and Taita Taveta Counties. Although the amount of Kshs.30,095,000 was released in 2014/2015 to KALRO to undertake the project, no evidence was produced to show that the project was carried out, completed and distribution done to the intended areas. A review of the matter in 2016/2017 revealed that the position still remains the same.

(v) Purchase of Tablet Gadgets

As reported in 2015/2016, the Department incurred an expenditure of Kshs.5,584,025 in purchasing 413 tablet gadgets in the financial year 2014/2015. However, no evidence was produced to confirm the requisition for the tablets; whether the gadgets were delivered, received and taken on charge in the stores; and to whom they were distributed. A review of the matter in 2016/2017 revealed that the position remained the same.

403.3. Procurement of Fertilizer

(As reported in 2015/2016 that the Department advertised Tender No. MOALF/SCMD/AGRIB/12/2014-2015, for supply and delivery of 54,950 metric tons of 8 lots - equivalent to 1,042,730 (50kg) bags of fertilizer in the financial year 2014/2015. Out of the 21 firms that responded, 7 were found to be responsive and awarded contracts to supply the fertilizer at different prices per 50 Kg bag, depending on the region or point of delivery.

Lot 1 was won by bidder No.4 to supply fertilizer at a price of Kshs.2,655 per 50 Kg bag being the lowest evaluated bidder at a total of Kshs.265,500,000. Lot 2 was also won by bidder No. 4 at a price of Kshs.2,430 per 50 Kg bag being a total price of Kshs.364,500,000. Information available indicated that bidder No.4 declined to sign a contract agreement even after delivering their acceptance letter. The Ministerial Tender Committee then decided to disqualiFinancial Year the bidder and award the tender to the second lowest bidder, bidder No. 6, at total cost of Kshs.320,000,000 and Kshs.436,850,000 for lots 1 and 2 respectively.

Further, and despite our request to the management to produce tender documents and correspondences relating to the disqualified bidder, no documents and records have been provided to date for audit verification.

In awarding the contract to the second lowest bidder without giving justifiable reasons why the lowest bidder declined to sign a contract, the State Department lost an amount of Kshs.126,850,000, being the difference between the amount paid to the second lowest bidder and the amount that would have been paid to the lowest bidder, as shown below:

Lot No.	Bidder No. 4	Bidder No.6	Difference
1	265,500,000.00	320,000,000.00	54,500,000.00
2	364,500,000.00	436,850,000.00	72,350,000.00
6	**30,000,000.00**	**756,850,000.00**	**126,850,000.00**

A review of the position in 2016/2017 revealed that the matter has not been addressed.

403.4. Funds Disbursed to Establish Revolving Funds

As was reported in 2015/2016, the State Department had entered into two separate Memoranda of Understanding (MOUs) in 2014/2015 with Kenya Agricultural and Livestock Research Organization (KALRO) and Agricultural Development Corporation (ADC) under which the Department was to disburse Kshs.200,789,325 to the two organizations to carry out Potato Seed Multiplication (Bulking). ADC received Kshs.117,500,000 to produce 30,000 (50 Kg) bags of basic seeds, 3,000,000 invitro plantlets and 3,000,000 potato mini-tubers while KALRO received Kshs.27,889,325 to produce 34,000 invitro plantlets, 472,220 mini tubers, 12,400 (50 Kg) bags of basic seeds. The amounts were charged under the item of transfers to other Government Units.

The Department also disbursed another Kshs.55,400,000 to the same institutions: Kshs.50,400,000 to ADC and Kshs.5,000,000 to KALRO for the same purpose but charged the expenditure under the item of specialized materials and services.

Further, the MOUs provided that once the seed bulking was completed, the seeds would be sold to farmers and the proceeds be used to create two Revolving Funds to sustain a continued increase in production of basic seeds and certified seed potato. However, despite the Department having disbursed the total amount of Kshs.200,789,325 and the seed bulking project completed, the two Revolving Funds had not been established as at the end of the financial year 2016/2017.

403.5. Non-Submission of Financial Statements and Failure to Account for Funds by Agricultural Sector Coordination Unit (ASCU)

Agricultural Sector Coordination Unit (ASCU) is an Inter-Ministerial Secretariat established in 2005, under the Ministry of Agriculture, Livestock and Fisheries to facilitate implementation and coordination of agricultural sector strategies in line with Vision 2030. The Unit receives funding from the Government and other development partners and its activities traverse several Ministries.

Since its inception in 2005, the Unit, through the parent Ministry, has not submitted financial statements to the Auditor-General for audit as required by Section 47 of the Public Audit Act, 2015. Although the Ministry had indicated previously that financial statements were prepared for the year ended 30 June 2013, the statements have not been submitted to the Auditor-General for audit.

Further, as reported in 2015/2016, the Unit appointed M/s Deloitte & Touche as its auditors in previous years. However, no explanation has been provided for appointing private auditors without the knowledge, consent and approval of the Auditor-General as required by Section 23 of the Public Audit Act, 2015. Consequently, the amount of Kshs.3,131,420 paid to the firm as audit fees (Kshs.1,610,892 for 2012/2013 and Kshs.1,520,528 for 2011/2012) constitutes an irregular expenditure.

Although the management of the Secretariat has already been summoned and appeared before the Public Accounts Committee of the National Assembly over this matter, and the Committee directed the management to comply with the law and submit all records, documents and information together with financial statements for all the years since inception, the management has not heeded the directive, and the matter remains unresolved.

Committee Oservations and Findings

The Committe observed that a determination on pragraph 403.1 -5 was made in its report for the Financial Year 2015/16.

REVENUE STATEMENTS - STATE DEPARTMENT OF AGRICULTURE

Basis for Qualified Opinion

404. Under-Declaration of Revenue

Records maintained at the National Cereals and Produce Board (NCPB), the agency taxed with the responsibility of selling subsidized fertilizer on behalf of the State Department of Agriculture, indicate that a total of Kshs.605,508,562 was collected on sale of the subsidized fertilizer during the year under review. However, only an amount of Kshs.439,300,200 was remitted to the State

Department of Agriculture as disclosed in the revenue statements for the year ended 30 June 2017. No reconciliation or explanation has been provided for the difference of Kshs.166,208,362. In addition, no reason has been given for failure to remit to the State Department of Agriculture the balance of Kshs.166,208,362.

Submission by Accounting Officer

The Accounting Officer submited that out of this amount, Kshs.439,300,200 was remitted to the State Department of Agriculture as disclosed in the revenue statements for the year ended 30 June, 2017 resulting in a balance of Kshs.166,208,362. He reported that the Ministry and NCPB use different reporting framework. The ministry uses cash basis accounting while NCPB international Finacial reporting standards, and thus leading to the variances.

He reported that the management has writen to the Manager NCPB for an explanation as to why Kshs.166,208,362 has not been surrendered to date.

Committee Observations and Findings

(i) The Committee observed that the balance of revenue amounting to Ksh.166,208,362 had not been surrendered by the time of writing this report; and
(ii) The matter remains unresolved.

Committee Recommendations

(i) The Accounting Officer should ensure that within three months after the adoption of this report, the revenue is remitted by NCPB failure to which he will be reprimanded; and
(ii) The Cabinet Secretary for National Treasury should always ensure that there is a designated receiver of revenue for all National Government entities in line with the provisions of Article 209(1), (2) and (4) of the Constitution of Kenya 2010 and Section 75 of the PFM act 2012.

405. Under-Collection of Revenue

The statement of comparison of budget and actual amounts indicates that the State Department budgeted to raise Kshs.1,840,725,000 as revenue from sale of subsidized fertilizer in 2016/2017 financial year. However, out of the estimated receipts of Kshs.1,840,725,000, an amount of Kshs.439,300,000 (or about 24%) only was collected. No explanation has been given in the notes to the financial statements for failure to collect the entire estimated amount.

In addition, no evidence has been provided to show that the State Department informed the Cabinet Secretary in charge of Finance as required under Regulation 64 (2) of the Public Finance

Management (National Government) Regulations, 2015 that, it was experiencing difficulty in collecting revenues due to the National Government.

Submission by Accounting Officer

The Accounting Officer submited that the short fall was occassioned by failure of NCPB to realize and surrender all revenue as was budgted for in 2016/2017 financial year on proceeds from the sale of Fertilser.

The Management has written to the Managing Director to get an explanation and at the same time instructing him to transfer the proceeds to the fertilizer collection account at Central Bank of Kenya**.**

Committee Observations and Findings

(i) The Committee observed that the balance of Ksh.1,410, 425, 000 being revenue from sale of subsidized fertilizer in 2016/2017 financial year had not been surrendered by the time of writing this report; and
(ii) The matter remains unresolved.

Committee Recommendations

(i) The Accounting Officer should ensure that within three months after the adoption of this report, the revenue is remitted by NCPB failure to which he will be reprimanded; and
(ii) The Cabinet Secretary for National Treasury should always ensure that there is a designated receiver of revenue for all National Government entities in line with the provisions of Article 209(1), (2) and (4) of the Constitution of Kenya 2010 and Section 75 of the PFM act 2012.

406. Presentation of the Revenue Statements

The revenue statements pages do not flow sequentially while others have either been repeated or skipped contrary to the guidelines issued by the Public Sector Accounting Standards Board. No explanation has been provided for this omission.

Submission by Accounting Officer

The Accounting Officer admited that the revenue statements pages did not flow sequentially contrary to the guidelines issued by the Public Sector Accounting Standards Board.

The error was noted with regret and corrective action was undertaken in the revised financial statements that were availed to the auditor for verfication**.**

Committee Observation and Findings

(i) **The Committee observed that the revenue statements pages did not flow sequentially contrary to the guidelines issued by the Public Sector Accounting Standards Board; and**
(ii) **The matter remains unresolved.**

Committee Recommendations

(i) **The National Treasury being the custodian/secretariat of the Public Sector Accounting Standards Board should at all times ensure there is complete compliance to the IPSAS standards of reporting issued from time to time by the Board; and**
(ii) **Accounting Officers must ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring goods and services and that, in the case of goods, adequate arrangements are mad for their custody, safeguarding and maintenance pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.**

STRATEGIC GRAIN RESERVE FUND

Basis for Disclaimer of Opinion

407. Gunny Bags

The statement of financial performance for the year ended 30 June 2017 reflects cost of sales figure of Kshs.11,672,958,682 and other expenditure figure of Kshs.1,849,608,068 respectively, and as disclosed under Notes 6 and 7 to the financial statements, these expenditure items include amounts of Kshs.446,651,961 and Kshs.394,907,461 respectively totalling Kshs.841,559,422, relating to purchase of gunny bags. However, an audit review of procurement records revealed that an expenditure of Kshs.401,460,400 was incurred on procurement of gunny bags during the year 2016/2017.

The difference of Kshs.440,099,022 between the figures disclosed in the financial statements and amounts supported with documentary evidence has not been reconciled or explained. In addition, documents provided for audit indicated that two firms were awarded contracts during the year 2016/2017 to supply gunny bags, where each was to supply 2,700,000 and 525,000 bags, respectively.

However, it is not clear how the two firms were identified as no documentary evidence was provided to show the procurement method and procedures followed. Further, no documents were made available to confirm the agreed pricing or the process followed in arriving at the given price.

In addition, no documents have been provided to confirm that proper contracts were entered into between the Fund/State Department of Agriculture and the suppliers. It is also not clear whether the bags were delivered as no delivery notes and related documents had been made available for audit verification.

Submission by Accounting Officer

The Accounting Officer admitted that the statements of financial performance for the year ended 30th June, 2017 reflects cost of sales of Kshs.11,672,958,682 and other expenditure figure of Kshs. 1,849,608,068 respectively, and as disclosed under Notes 6 and 7 of the financial statement which includes expenditure of Kshs.446,651,961 and Kshs.394,907,461 respectively.

He further admited that an expenditure of Kshs.401,460,400 was incurred on procurement of gunny bags hence a difference of Kshs.440,099,022.

The financial statements have since been revised to reflect the correct financial position and the same has been forwarded to Auditor General for review.

He also admited that the NCPB procurred a total of 2,700,000 gunny bags of 50kgs each at a total cost of 386,100,000 and 525,000 new Polypropylene bags at a total cost of Kshs.15,360,400. He reported that these procurements were done through different procurement methods and at different times as explained in the following pragraphs.

The 2,700,000 gunny bags were supplied by a firm known as Greenland Suppliers, who was awarded the tender having been the lowest evaluated. This was an open tender which was advertised in 2 dailies on the 29th September, 2016. 25 firms participated in this tender. These firms are as listed below:

1. Lad Trade S. A Ltd
2. Lumia General
3. Datema General Supplies
4. Aberpaul Ltd
5. Al Champdany Industries
6. Techno Relief Services Ltd
7. Seedcom Ltd
8. Skywave Africa Ltd
9. Kenhorn Juba Ltd
10. Samich Construction Ltd
11. Bell Industries Ltd
12. Omnex Trading Co.
13. Aquachem
14. Greenland Suppliers
15. Quality Procurement and Management
16. Quality Extended Enterprise Ltd

17. Golden Ruby
18. Mems Investment
19. Bashku General Supplies
20. First quality Suppliers Ltd
21. Alua System
22. Pisu and Company Ltd
23. Libahiya Enterprises
24. Intermed Africa Ltd
25. Towfiq (K) Ltd

After going through the evaluation, Greenland suppliers Ltd were awarded the tender and there after the contract was signed on 18th November, 2016. All the deliveries were made and the supplier paid fully.

Further, the 525,000 gunny bags were supplied by 3 different firms at different dates within the financial year. The first 400,000 pieces of branded woven polypropylene bags were procurred through restrictive tendering method, where seven firms were invited to tender on 8th August 2016 namely:

1. Adack Ltd
2. Rai Plywood Ltd
3. Texplast
4. Polysack Ltd
5. Africa Poysact Ltd
6. Trans Global Distributors
7. Techno Relief Services Ltd

After evaluation Texplast Industries was awarded the tender at a cost of Kshs.28.08 per bag and a contract signed on 30th August 2016.

Another lot of 50,000, 50kgs of branded woven polypropylene bags were requested on 21st March 2017 and were procurred through request for quotations because of the threshold involved and inaccordance to the PPDA Act 2015. Five (5) firms were invited to quote namely;

1. Rai plywood
2. Texplast Industries Ltd
3. Adpack Ltd
4. Trans Gobal Distributors
5. Africa polysack

However, only two(2) firms, namely Rai Plywoods (K) Ltd and Texplast Insdustries responded and returned their quotations. The quotations were analysed and M/S Texplast Industries Ltd was successful, at a cost Kshs.30.70 per bag. The contract was signed on 14th August, 2017. All deliveries were made and contractor paid a total of Kshs.1,537,000.

On 23rd March 2017 45,000, 50kgs pieces of laminated branded woven polypropylene bags were requisitioned for. Again, because of the threshhold invoved, request for quotations was used to procure them. Five firms were invited to quote i.e.

1. Texplast Industries
2. Africa Polysack
3. Trans Global Distribution
4. Rai Plywood (K) Ltd
5. Adpack Ltd

Only 2 firms returned their quotations for this procurement i.e Rai Plywoods (K) Ltd and Texplast Industries. After the quotes were evaluated, Rai Plywood (K) Ltd was awarded the tender at Kshs.38.38 per bag and a contract signed on 14th April 2017. Deliveries were made and contractor fully paid.

Another 20,000, 50kgs pieces of branded woven polypropylene were requested on 25th August 2016. Request for quotation method was used because of the thresholds involved and in accordance with PPDA Act 2015. Seven (7) manufacturing firms were invited to quote as below:

1. Trans Global
2. Techno Relief Services Ltd
3. Adplack Ltd
4. Polysack
5. Africa Poly Sack
6. Texplast Industries
7. Rai Plywood (K) Ltd

After analysis of the quotations, the award was given to Trans Global distriubutors Ltd who had quoted Kshs.28.07 per bag and contract signed on 12th September, 2016. All deliveries were made and contractor fully paid.

Finally, another request of 10,000 pieces of 50kg branded woven polypropylene bags was requested on 29th November, 2016. This procurement was also done through the requsts for quotations because of the thresholds. Six (6) manufactures were invited to quote namely:

1. Texplast Industries
2. Africa Polysack
3. Trans Global
4. Techno Relief Services Ltd
5. Rai Plywood (K) Ltd
6. Adpack

However, only two(2) firms, namely Rai Plywoods (K) Ltd and Textplast Industries returned their bids. Analysis of the quotations were done and Textplast industries Ltd was Successful at a quote of Kshs.30.74 per bag. An LPO was issued on 26th January 2017. Deliveries were done and the firm fully paid.

SUMMARY

N0.	ITEM DESCRIPTION	PROCUREMENT METHOD	AWARDED FIRM	DATE OF AWARD	DATE OF SUPPLY	CONTRACT SUM (KSHS)
1.	Procurement of 2.7 million of standard B-twill jute bags for bagging maize	Open tender	Greenland suppliers	24th October 2016	17th and 18th January, 2017	386,100,000
2.	Procurement of 400,000 pcs of branded woven polypropylene bags x 50kg for bagging maize	Restricted tender	Texplast Industries	19th August 2016	8th September, 2017	11,232,000
3.	Procurement of 50,000 pcs of branded woven polypropylene bags x 50kg for bagging maize	Request for quotation	Texplast Industries	6th April 2017	25th and 27th April, 2017	1,537,000
4	Procurement of 45,000 pcs of laminated branded woven polypropylene bags x 50kg for bagging fertilizer	Request for quotation	Raiply woods Kenya	6th April 2017	2nd and 5th May,2017	1,722,600
5	Procurement of 20,000 pcs of branded woven polypropylene bags x 50kg for bagging maize	Request for quotation	TransglobalDistibutors Ltd	5th September 2016	12th June, 2017	561,400
6	Procurement of 10,000 pcs of branded woven polypropylene bags x 50kg for bagging maize	Request for quotation	Texplast Industries Ltd	26th January, 2017	28th February 2017	307,400
Total Expenditure on Bags						**401,460,400**

Accounting Officer reported that NCPB procured 3,225,000 gunny bags of 50 Kg capacity during the financial year. The break down is as analysed here below:-

Type	Quantity	Unit Price Kshs.	Value Kshs
New Jute bags x 50 Kg	2,700,000	143.00	386,100,000
New Plypropylene bag x 50 Kg	525,000	29.26	15,360,400
Total	**3,225,000**		**401,460,400**

Two firms were awarded the tender to supply these gunny bags namely Greenland Suppliers for jute bags. Three firms supplied the P.P bags as follows.

Type	**Quantity**	**Unit Price Kshs.**	**Value Kshs**
Rai Plywoods	45,000	38.28	1,722,600
Texplast Industries	400,000	28.08	11,232,000
Texplast Industries	50,000	30.74	1,537,000
Texplast Industries	10,000	30.74	307,400
Trans Global Distributors	20,000	28.07	561,400
Total	**525,000**		**15,360,400**

Jute bags totalling to **2,700,000** were procured through open tendering method tender No. NCPB/JB/13/2016-2017. The price per piece was Kshs. 143.00.

45,000 pieces of P.P Bags were procured through request for quotations method. Quotation No. NCPB/PP/06/2016-2017. The price per piece was Kshs. 38.28.

20,000 pieces of P.P Bags were procured through request for quotations method. Quotation No. NCPB/PP/01/2016-2017. The price per piece was Kshs. 28.07.

460,000 pieces of P.P Bags from Texplast Industries above were procured through three methods of procurement namely;

1. 400,000 pieces of P.P bags was procured through restricted tender method. Quotation No. NCPB/PP/01/2016-2017. The price per piece was Kshs. 28.08.
2. 50,000 pieces of P.P bags was procured through request for quotations method. Quotation No. NCPB/PP/05/2016-2017. The price per piece was Kshs. 30.74.
3. 10,000 pieces of P.P bags was procured through request for quotationsmethod. Quotation No. NCPB/PP/02/2016-2017. The price per piece was Kshs. 30.74. All documents detailing the procurement process have been provided for audit verification.

Committee Observations and Findings

(i) The Committee observed that the state department procured B-twill jute bags for bagging maize amounting to Kshs2.7 million through open tender;

(ii) The Committee also observed that the State Department procured 400,000 pcs of branded woven polypropylene bags (50kg) through restricted tender;

(iii) The Committee further observed that the remaining four procurement of branded woven polypropylene bags (50kg) were done through request for quotation;

(iv) In addition, the Committee observed that failure to float one tender for procurement of Gunny bags exhibited unpreparedness and poor planning by the State Department that led to procurement of the same item at different prices.

(v) The matter remains unresolved.

Committee Recommendations

(i) The matter is referred to the Office of the Director of Public Prosecution to consider prosecuting members of the tender committee where breaches of law are established.

408. Financial Performance

The statement of financial performance reflects a deficit of Kshs.3,748,576,470 for the year ended 30 June 2017. The continued loss-making trend has been attributed to the multiplicity of expenses including costs of acquisition of maize, acquisition of gunny bags, storage, fumigation, handling costs, transport costs, agency fees and commissions charged by National Cereals and Produce Board (NCPB). The persistent financial loss is an indication of existence of a material uncertainty that casts significant doubts about the ability of the Fund to continue as a going concern. Further, no evidence has been provided to show any efforts being taken by management to address the problem.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Fund shows an accumulated deficit of Ksh. 3,748,576,470.00 which is attributed to multiplicity of expenses including: cost of acquisition of maize and gunny bags, storage and fumigation, agency fees and commission charged by National Cereals and Produce Board (NCPB).

The deficit was as a result of buying the maize at higher costs and selling at subsidized prices during the period of short supply in the country to ensure maize flour prices are stabilized across the country.

To further streamline the management of the Fund, the Government has established the Strategic Food Reserve Fund Oversight Board through Legal Notice No. 15 of 2015 to oversee the Strategic Food Reserve Fund.

Under the Agriculture Sector Transformation and Growth Strategy further reforms are being proposed to focus the SFRTF on relief and transfer the price stabilisation function to treasury.

Committee Observations and Findings

(i) The Committee observed that the State Department has proposed legislative reforms and will streamline Operation of the Fund;
(ii) The matter remains unresolved.

Committee Recommendations

The Accounting Officer should within three months after the adoption of this report ensure the entity should ensure that NCPB procures competitively and that the costs of maize, gunny bags, storage and fumigation, agency fees and commission charges are within the approved budget.

409. Inaccuracy of the Financial Statements

(i). Trial Balance

The balances and other figures reflected in the financial statements for the year ended 30 June 2017 have not been supported by a trial balance. The basis of the balances and figures reflected is therefore not clear.

Submission by Accounting Officer

The Accounting Officer submitted that the trial balance for Strategic Food Reserve - SFR was availed to the audit office and was verified**.**

Committee Observations and Findings

(i) The Accounting Officer submitted that the trial balance for Strategic Food Reserve -SFR was availed to the audit office and was verified; and
(ii) The committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

(ii). **Revenue**

The statement of financial performance reflects an amount of Kshs.9,773,990,280 in respect of revenue from sale of maize. However, sales records maintained by National Cereals and Produce Board (NCPB) reflect sales revenue of Kshs.10,159,520,003, resulting in an unexplained and unreconciled difference of Kshs.385,529,723.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of financial performance reflected an amount of Kshs.9,773,990,280 in respect of revenue from sale of maize. It is noted that the sales records by National Cereals and Produce Board (NCPB) reflected sales revenue of Kshs.10,159,520,003, resulting in an unexplained and unreconciled difference of Kshs.385,529,723.

He reported that the difference has since been reconciled and the SFR financial statements revised to reflect the correct figure of sales revenue of Kshs.10,159,520,003.

Committee Observations and Findings

(i) The Committee observed that the National Cereals and Produce Board (NCPB) recorded sales revenue of Kshs.10,159,520,003.00;
(ii) The Committee also observed that the statement of financial performance National Cereals and Produce Board (NCPB) reflected an amount of Kshs.9,773,990,280 in respect of revenue from sale of maize;
(iii) In addition, the Committee observed that there was unexplained and unreconciled difference of Kshs.385,529,723 arising from maintained records and statement of financial performance;
(iv) Further, the Committee observed that the difference has since been reconciled and the Strategic Food Reserve (SFR) financial statements revised to reflect the correct figure of sales revenue of Kshs.10,159,520,003; and
(v) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

(ii). Cash and Cash Equivalents

The statement of financial position reflects a cash and cash equivalents balance of Kshs.4,729,514,568 as at 30 June 2017 which, although it agrees with the bank reconciliation statement, differs with the balance of Kshs.4,633,633,398 shown in the cash book. The cash and cash equivalents balance is, therefore, overstated by an amount of Kshs.95,881,170 in the financial statements.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of financial position reflects a cash and cash equivalent balance of Kshs.4,729,514,568 as at 30th June 2017 which, although it agrees with bank reconciliation statement differs with the balances of Kshs.4,633,633,398 shown in the cashbook. The difference of Kshs.95,881,170 represented unpresented cheques as at June 30th 2017 as analysed below:

	Payee	**Amount**
1	National Cereals and Produce Board	1,112,460.20
2	National Cereals and Produce Board	3,333,159.15
3	National Cereals and Produce Board	4,749,577.10
4	National Cereals and Produce Board	5,275,854.00
5	National Cereals and Produce Board	6,062,038.80
6	National Cereals and Produce Board	9,228,298.80
7	National Cereals and Produce Board	10,494,601.20
8	National Cereals and Produce Board	12,461,392.80
9	National Cereals and Produce Board	13,385,137.90
10	National Cereals and Produce Board	13,394,500.00
11	National Cereals and Produce Board	15,901,749.25
12	National Cereals and Produce Board	282,400.00
	Total	**95,881,179.20**

He submitted that records at NCPB confirmed that the purchases were Kshs.9,951,110,016. We have since revised the Financial Statement to reflect the correct position.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the cash and cash equivalents balance of difference of Kshs.95,881,170 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

(iii). Cost of Sales – Purchases

In the statement of financial performance cost of sales figure of Kshs.11,672,958,682 comprises among other figures as disclosed under Note 6 to the financial statements, purchases amounting to Kshs.8,344,961,256. However, records maintained at National Cereals and Produce Board reflect purchases amounting to Kshs.9,951,110,016, resulting to an unexplained and unreconciled difference of Kshs.1,606,148,760.

(iv). Trade and Other Payables

The statement of financial position reflects an amount of Kshs.2,060,694,268 under trade and other payables which, however, differs by Kshs.301,510,867 from the amount of Kshs.2,362,205,135 shown in the records maintained at National Cereals and Produce Board. The completeness and accuracy of the trade and other payables figure of Kshs.2,060,694,268 cannot therefore be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that records at National Cereals and Produce Board confirmed that trade and other payables amounted to Kshs.2,362,205,135 which was for services rendered in 2016/2017 financial year. However, when SGR accounts were prepared NCPB records showed a figure of Kshs.2,060,694,267.36. This figure was provided to SGR when NCPB had not fully concluded preparing its books for the year. Upon completion of the NCPB accounts, the amount owing went up to Kshs.2,362,205,135

We have since reconciled the two figures to correct this anomaly and the financial statements for 2016/2017 Financial Year were revised to reflect the correct position.

Committee Observations and Findings

(i) **The submission and accompanying documents tabled by the Accounting Officer explaining the unexplained and unreconciled difference of Kshs.1,606,148,760 and completeness and accuracy of the trade and other payables figure of Kshs.2,060,694,268 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and**

(ii) **The Committee marked the mater as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

(v). **Handling Costs on Sales and Commission on Sales**

The statement of financial performance reflects an amount of Kshs.1,849,608,068 under other expenditure which includes, as disclosed in Note 7 to the financial statements, an amount of Kshs.944,007,268 relating to handling costs on sales and commission on sales. This amount differs with the amount of Kshs.1,149,921,718 reflected in supporting documents by an amount of Kshs.205,914,450 that has not been reconciled or explained.

Submission by Accounting Officer

The Accounting Officer submitted that the actual expenditure of handling costs and commission on sales was Kshs.1,149,921,718 as supported by documents available for audit verification. The actual posting was done to correct the position in the revised statements as had been previously stated.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the unexplained and unreconciled difference of Kshs.1,606,148,760 and completeness and accuracy of the trade and other payables figure of Kshs.1,149,921,718 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and
(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

(vi). Transport and Handling Costs to Other Depots

Further, the figure of Kshs.1,849,608,068 reflected in the statement of financial performance under other expenditure includes an amount of Kshs.192,372,613 relating to transport and handling costs to other depots, which differs from the amount of Kshs.533,527,249 reflected in supporting documents which results to unexplained and unreconciled amount of Kshs.341,154,636.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the total expenditure amounted to Kshs.1,849,608,068 as had been indicated in the financial statements. However, as the auditor had observed there was an error in posting of the figures on various items. The actual expenditure of transport and handling costs to other depots was Kshs.533,527,249 as correctly stated by the auditor in his audit review and as supported by available documentation at NCPB. The necessary adjustments have been effected in the revised financial statements.

Committee Observations and Findings

(i) The Accounting Officer did not avail to the Committee all the documents in support of all the maize imported worth Ksh.11,672,958,682.00; and
(ii) The Committee marked the mater as resolved.

Committee Recommendations

(i) The Committee shall interrogate the matter further to its logical conclusion during the Financial Year 2017/2018; and
(ii) Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

410. Unsupported Balances

(i). Inventories

The statement of financial position reflects an amount of Kshs.3,561,708,813 under inventories, which includes an amount of Kshs.500,000,000 relating to powdered milk at New Kenya Co-operative Creameries (NKCC). However, no documentary evidence has been provided to support the balance of Kshs.500,000,000 as at 30 June 2017. Consequently, the existence of such stock cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that It is correct that the financial reports for 2016/2017 financial year reflected a a payment to NKCC of Ksh 500,000,000 relating to powdered milk.

New KCC and SFR Board entered into an MOU on 11th May 2016 and SFR Board meeting held on 24th March 2016 resolved that the SFR buys milk from farmers through the New KCC.

The SFR Board gave funds to New KCC on the understanding that powdered milk can be demanded in either physical form or cash equivalent when need arises for the purpose of stabilizing milk prices and refreshening.

New KCC Ltd as per the MOU with the SFR Board was required to account for the funds either in form of milk powder stocks or as cash. As at the cut-off date of the financial year ending 30th June, 2017 New KCC ltd had in the stores, Milk Powder valued at Ksh. 333,477,612 and cash of Ksh. 166,522,3858.

ADDITIONAL INFORMATION FROM THE CHIEF EXECUTIVE OFFICER – NEW KCC

The Dairy Sector is normally affected by weather patterns through the Country. During the rainy season, the production at the farm level increases. Over the years New KCC Ltd has been converting excess milk received from dairy farmers into powder which is stored for use during low season by way of reconstitution. By doing so, New KCC assures Kenyan Dairy farmers a ready market for their produce hence averting losses at the farm level.

With this understanding, Government allowed milk powder to be part of Strategic Food Reserve which is in line with the Big Four Agenda of sustaining food security.

While implementing this, New KCC has experienced challenges in working capital during high season which sometimes leads to milk glut. The Company ends up tying a lot of cash in powder stocks but at the same time, it is expected to pay farmers on timely basis. This therefore, necessitates the intervention of Government to support New KCC to buy excess milk during milk glut situation.

During the Financial Year 2016/2017, NKCC Ltd received funds towards management of the Milk Powder reserves as tabulated below:

Date	**Amount (Kshs.)**
14/9/2016	100,000,000
2/11/2016	200,000,000
2/12/2016	200,000,000
Total Amount	**500,000,000**

New KCC Ltd, as per the MOU with the Strategic Food Reserve Trust Fund was required to account for the funds either in form of Milk powder stocks or as cash. As at the cut-off date of the Financial Year ending 30th June, 2017 New KCC Ltd had in the stores, Milk Powder valued at Kshs. 333,477,612 and cash of Kshs. 166,522,388. The powder stocks were in various stores and the total value of both stocks and cash is as summarized below:

Item	**Amount (Kshs.)**
Milk Powder stocks	333,477,612
Cash at Bank	166,522,388
Total	**500,000,000**

We hereby attach documentary evidence of the stock records/sheets as at 30th June 2017 for your reference (Appendix I). We have also attached bank statement extract, showing availability of cash as at 30th June 2017(Appendix II). We hope the explanation and the evidence attached suffices in support of the funds with New KCC Ltd.

Committee Observations and Findings

(i) The documents tabled by the CEO of NEW KCC Ltd to support the balance of Kshs.500,000,000 and physical stocks of powdered milk as at 30 June 2017 in the Financial Statement were noted. However, their authenticity requires further verification.

(ii) The matter remains unresolved.

Committee Recommendations

1. **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
2. **The Auditor General should within three months upon adoption of this report verify the supporting documents and report back to the Committee.**

ii). Receivables

The statement of financial position reflects an amount of Kshs.5,849,677,056 under receivables. However, no documentary evidence has been provided to support the amount. Consequently, the completeness and accuracy of the receivables balance cannot be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that in the original financial statements presented to the Auditor General, the receivables amount was reflected as Kshs.5,849,677,056.00. However, after the statements were later revised, the receivables amounted to Kshs.6,865,220,613.00 as reflected in the revised statement.

These receivables relate to requests from the Strategic Food Reserve fund by the ministry of Develution and ASALS for the purpose of distributing relief food to commuties who had been affected by drought and lacked food. The Government intervened through the Ministry of Devolution.

Between the years 2009 and 2013 the country experienced frequent and long drought spells resulting in famine in most parts of the country which were followed by floods in Northern Kenya, Eastern, Coastand Western Regions. These affected the food security situation in the country with the number of people requiring urgent relief assistance exceeding the available relief food budget. The two scenarios saw over 3 million in dire need of food relief supplies.

The then Ministry of State for Special programmes requested on several occasions maize from the Strategic Grain Reserve to be used for relief programme in the country. This was estimated to be worth approximately Kshs.6.8 Billion.

As per records held in this office the borrowings were approved by the SGR Trustees and letters communicating the Trustees decisions released to the National Cereals and Produce Board on various dates.

He reported that the State Department for Devolution transferred Ksh. 1,533,966,822 in 2018/19 finacial year which reduced the receivables by the same amount.

(iii). Cost of Sales

The statement of financial performance reflects an amount of Kshs.11,672,958,682 under cost of sales. However, payment vouchers supporting the expenditure totalling Kshs.4,494,724,000 relating to importation of maize, have not been provided for audit verification. Consequently, the validity of the expenditure totalling Kshs.4,494,724,000 cannot be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was correct that an amount of Ksh. 11,672,958,682 were reflected as cost of sales in the ststement of Financial performanace.

Out of the querried expenditure of Kshs.4,494,724,000 in relation to importation of maize, the Ministry has retrieved vouchers worth Kshs.2,483,120,000 as follows:

S/No.	**Payee**	**Amount**
1	Hydery (P) Limited	1,362,120,000
2	Hydery (P) Limited	396,000,000
3	Pembe Flour Mills Ltd	400,000,000
4	Hydery (P) Limited	325,000,000
	Total	**2,483,120,000**

Vouchers worth Kshs.2,011,604,000 have not been traced yet. The remaing vouchers will be availed to the auditors for review once they are traced.

He however stated that all the expenditure of Kshs.4,494,724,000 was utilised to import maize during the 2016/17 financial year maize shortage. All efforts are being made to track the remianing vouchers.

Committee Observations and Findings

(i) The Accounting Officer did not avail to the Committee all the documentation in support of the purported import of maize valued of Ksh. 11,672,958,682.
(ii) The Committe is unable to confirm that the maize was actually impored.

(iii) The matter remains unresolved.

Committee Recommendations

The Committee shall re-open interrogation of the matter to its depth in order to arrive at a logical determination during review of the audited report of the financial year 2017/2018 beginning January 2020.

411. Obsolete and Unfit Stock of Maize

As reported in 2015/2016, a review of quality assurance reports for that year maintained by National Cereals and Produce Board indicated that Celphos, the Board's preferred fumigation chemical had failed to kill weevils. Information available further indicated that although most stations (depots) had requested for a change of the chemical, the Board had not come up with an alternative. Consequently, 754,015 bags of maize valued at Kshs.1,772,055,670 were found to have been damaged beyond the 2.5% acceptable limit and were not fit for human consumption. No evidence has been produced during the audit to show whether the situation has been addressed 2016/2017.

Further, and as reported in 2015/2016, no adjustments have been made in these financial statements to account for the obsolete stock.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that as reported in 2015/2016, a review of quality assurance reports for that year maintained by National Cereals and Produce Board indicated that Celphos, the Board's preferred fumigation chemical had failed to kill weevils damaging 754,015 bags of maize valued at Kshs.1,772,055,670. The fumigation chemicals Celphos was from a reputable industry Twiga Chemicals industry.

The industry had offered the chemical at highly competitive prices and had been procured through the normal procurement process. However, feild control officers had indicated their preservations. NCPB independent chemical analysis test by University of Nairobi and industrial consultancy unit to determine efficacy test on Celphos, Gastoxin and Detia for consumption. The results from the chemical test by University of Nairobi indicated that Gastoxin was better fumigant than detia and celphos. A meeting was arranged and held on 18th June 2014 between NCPB and the manufacturer of Celphos fumigant, M/S Excel Crop care ltd, to discuss the poor performance of their product.

Following the discussion management decided to discontinue the procurement and use of celphos fumigant and pursued other use of alternative brands like gastoxin and detia whose performance is better in July 2014. The performance of the alternative brands has proven to be better and quality of stocks have improved. In August 2014, management decided for procurement of gastoxin fumigant which was effective and since then the board has used the two effective fumigants (Detia and gastoxin).

While addressing the issue of old stocks, management made recommendations to the SGR trustees to approve sale of the old maize whose quality had continued to deteriorate due to age. During 2015/2016 the SFR granted approval 2,404,923 bags x 90 kgs comprising maize older than 2 years in September 2015. This approved quantity included the 754,015 bags mentioned in the report. Sale of the 754,015 bags was successful and all was sold out.

Committee Observations and Findings

The Committee observed that the above query was dispensed during the examination of the accounts of the Financial Year 2015/2016 and a report was tabled and adopted by the House.

AGRICULTURAL INFORMATION RESOURCE CENTRE REVOLVING FUND ACCOUNT

Basis for Disclaimer of Opinion

412. Long Outstanding Receivables

The statement of financial position as at 30 June 2017 shows a balance of Kshs.15,091,667 for receivables from non-exchange transactions, which includes an amount of Kshs.1,654,439, relating to the period from November 1993 to June 2016. No steps appear to have been taken to recover these long outstanding debts. In addition, no provision has been made in these financial statements for the long outstanding amount. The receivables balance of Kshs.15,091,667 is therefore, not fairly stated.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the financial statement had long outstanding debts of kshs.1, 654,439.00 running between period November 1993 and June 2016. I wish to state that we have embarked on debt collection exercise from the government agencies and have written demand notices. However, the Ministry is working on how to provide provision for bad debts with a view of clearing the bad debts from the books.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the completeness and accuracy of the receivables balance of Kshs.15,091,667 as at 30 June 2017 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and
(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

413. Inventories

The statement of financial position also reflects a balance of Kshs.3,940,750 under inventories, which differs with the amount of Kshs.2,230,750 reflected in the schedules provided for audit. The difference of Kshs.1,710,000 between the two sets of records has not been reconciled or explained. Consequently, the completeness and accuracy of the inventories balance of Kshs.3,940,750 as at 30 June 2017 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that there was a variance between the inventory disclosure in the financial statement and stock sheet of kshs.1,710,000.00 before the revision of the financial statements.

However, I wish to report that the variance of stock was corrected in the revised financial statement. The supporting schedules were adjusted accordingly and reflected the correct figure of kshs.3,940,000.00 as was in the statement of financial position. The revised financial statement was submitted to the auditor together with other relevant supporting documents for audit review

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the completeness and accuracy of the inventories balance of Kshs.3,940,750 as at 30 June 2017 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

414. Reserves

The statement of financial position reflects a balance of Kshs.10,794,558 under reserves as at 30 June 2017 (2016 – Kshs.10,094,144). The increase in reserves of Kshs.700,414 has not been supported with any records, movement schedule or any other documentary evidence. In addition, the figure of Kshs.10,794,558 has not been supported with either explanatory note or analysis. Consequently, the validity and accuracy of the reserves balance of Kshs.10,794,558 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that the increase in reserves was due to old debts settled during 2016/2017 financial year.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the validity and accuracy of the reserves balance of Kshs.10,794,558 as at 30 June 2017 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

415. Accumulated Surplus

The statement of financial position further reflects an amount of Kshs.18,003,893 under accumulated surplus as at 30 June 2017 (2016 – Kshs.31,385,587). The significant decrease in accumulated surplus by Kshs.13,381,694 has not been supported with a movement schedule or any other documentary evidence. Consequently, the validity, completeness and accuracy of the accumulated surplus as at 30 June 2017 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that there was significant decrease of Ksh.13,381,694 in accumulated surplus. This decrease was occasioned by minimal funding from GOK.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the validity, completeness and accuracy of the accumulated surplus of Kshs.13,381,694 as at 30 June 2017 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

416. Statement of Changes in Net Assets

The statement of changes in net assets reflects total net assets balance of Kshs.56,736,337 as at 30 June 2017 which, however, differs with the balance of Kshs.28,798,451 shown in the statement of financial position by Kshs.27,937,886. In addition, the statement of changes in net assets reflects under capital replacement development reserve balances of Kshs.12,750,868, Kshs.2,423,078, and Kshs.3,203,589 relating to depreciation reserve, surplus for the period and transfers to accumulated reserves respectively, which have not been supported by any documentation, analysis or explanatory notes. The statement also reflects an amount of Kshs.13,831,694 under accumulated surplus relating to amounts transferred from accumulated surplus that has not been supported with any analysis or any other supporting documentation.

Consequently, the validity, completeness and accuracy of the total net assets balance of Kshs.56,736,337 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was correct the statement of changes in net asset reflected a total net asset a balance of Kshs.50,843,949 as at 30 June 2016 which differed with balance of Kshs.41,479,732 shown in the statement of financial position. Chair, we are doing reconciliation in reference to capital reserves and replacement of prior years after which we will make necessary adjustments in our financial statement.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the validity, completeness and accuracy of the total net assets balance of Kshs.56,736,337 as at 30 June 2017 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the mater as resolved.

Committee Recommendations

(i) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012; and**

(ii) **The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.**

DONOR FUNDED PROJECTS

KENYA CEREAL ENHANCEMENT PROGRAMME (IFAD GRANT NO.2000000623, IFAD LOAN NO.2000001121, ASAP TRUST GRANT N.2000001122)

Unqualified Opinion

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

Emphasis of Matter

Contributions in Kind from Other Financiers

Part I, Clause 2 of the Financing Agreement between IFAD and the Republic of Kenya stipulates the method of counterpart financing for the project and amongst others, requires the recipient to ensure that Programme beneficiaries provide financing for the programme in the approximate amount of Euro 3,563,400. Note 8.6 (B) to the financial statements discloses an amount of Kshs.107,811,460 as having been contributed in kind by Equity Bank Limited (Kshs.58,103,988) and beneficiary farmers (Kshs.49,707,472), respectively.

Although all necessary supporting documents were provided to the Fund management, this amount was not included as part of receipts and payments for the year under review in the Project`s financial statements. The amount is not under the control of the Project management and would not have an effect on the bottom line as it affects both receipts and payments. My opinion is not qualified in respect of this matter.

KENYA AGRICULTURAL PRODUCTIVITY AND SUSTAINABLE LAND MANAGEMENT PROJECT (IBRD GEF GRANT NO. TF 091616)

Unqualified Opinion

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

AGRICULTURAL SECTOR DEVELOPMENT SUPPORT PROGRAMME (GRANT NO. 31100071)

Basis for Qualified Opinion

417. Cash and Cash Equivalents

The statement of financial assets and liabilities reflects a balance of Kshs.59,572,578 in respect of total cash and cash equivalents as at 30 June 2017. However, bank balance of Kshs.44,279,718 reflected in the financial statements and disclosed under Note 11.A. comprise Kshs.42,117,159 attributed to the Donor Account and an amount of Kshs.2,162,559 relating to GOK Account. However, these balances differ with the balances indicated in a Board of Survey Report, which shows a total amount of Kshs.63,890,509 comprising Kshs.59,495,350 for the Donor Account and an amount of Kshs.4,395,159 for the GOK Account. No reconciliation or explanation has been provided for these variances, consequently the accuracy of the bank balance cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was correct, that the cash and cash balances reported in the financial statements defers with the board of survey. Adjustments were carried out after the board of survey and the financial statements were revised to reflect the correct finacial status.

The revised financial statements were resubmitted to the office of the Auditor General for review. The restated bank and cash balances were carried forward to 2017/2018 financial year as the openning balances.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the accuracy of the bank balance total amount of Kshs.63,890,509 as at 30 June 2017 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and
(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012; and

KENYA ADAPTATION TO CLIMATE CHANGE IN ARID AND SEMI ARID LANDS PROJECT (GEF GRANT NO. TF 096908)

Unqualified Opinion

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

DROUGHT RESILIENCE AND SUSTAINABLE LIVELIHOOD PROGRAMME (ADF LOAN NO. 2100150028345)

Basis for Adverse Opinion

418. Accuracy of the Financial Statements

418.1. Trial Balance

The balances reflected in the financial statements are not supported by a trial balance. Consequently, the completeness and accuracy of the financial statements cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was correct that the balances reflected in the financial statements were not supported by a trial balance and the completeness and accuracy of the financial statements cannot be confirmed. The Trial balance was later produced and provided to the audit office of the Auditor General for verification and the matter was cleared.

Committee Observations and Findings

(i) **The submission and accompanying documents tabled by the Accounting Officer explaining the completeness and accuracy of the financial statements, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and**
(ii) **The Committee marked the mater as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

418.2. Variances between Figures in the Financial Statements and Figures in Supporting Schedules

(i) Domestic Travel and Services

The statement of receipts and payments reflects expenditure totalling Kshs.66,843,704 in respect of purchase of goods and services that include an amount of Kshs.41,732,349 relating to domestic travel and subsistence. The latter amount, however, differs by Kshs.8,859,013 from the amount of Kshs.32,873,336 shown in the supporting schedules.

Submission by Accounting Officer

The Accounting Officer submitted that it was correct that the statement of receipts and payments reflects expenditure totalling Kshs.66,843,704 in respect of purchase of goods and services and included is an amount of Kshs.41,732,349 relating to domestic travel and subsistence. The amount, however, differs by Kshs.8,859,013 from the amount of Kshs.32,873,336 shown in the supporting schedules. Chair l wish to report that the variances have since been explained and supported to the satisfaction of the Auditor and eventually cleared.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the difference of Kshs.8,859,013 from the amount of Kshs.32,873,336 as at 30 June 2017 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and
(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

(ii) Printing, Advertising and Information Supplies and Services

The expenditure shown under purchase of goods and services of Kshs.66,843,704 includes expenditure of Kshs.4,069,896 relating to printing, advertising and information supplies and services, which differs by Kshs.3,696,896 from the amount of Kshs.373,000 shown in the supporting schedules.

Submission by Accounting Officer

The Accounting Officer submitted that it was correct that the expenditure shown under purchase of goods and services of Kshs.66,843,704 included expenditure of Kshs.4,069,896 relating to printing, advertising and information supplies and services, which differs by Kshs.3,696,896 from the amount of Kshs.373,000 shown in the supporting schedules. I wish to report that the variances were explained and supported to the satisfaction of the Auditor General.

Committee Observations and Findings

(i) **The submission and accompanying documents tabled by the Accounting Officer explaining the difference of Kshs.8,859,013 from the amount of Kshs.32,873,336 as at 30 June 2017 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and**
(ii) **The Committee marked the mater as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

(iii) Specialized Materials and Services

The expenditure shown under purchase of goods and services of Kshs.66,843,704 includes expenditure of Kshs.1,557,330 relating to specialized materials and services which differs by Kshs.1,143,530 from an amount of Kshs.2,700,860 shown in the supporting schedules.

Submission by Accounting Officer

The Accounting Officer submitted that it was correct that the expenditure shown under purchase of goods and services of Kshs.66,843,704 includes expenditure of Kshs.1,557,330 relating to specialized materials and services which differs by Kshs.1,143,530 from an amount of Kshs.2,700,860 shown in the supporting schedules. These variances were explained and supported to the satisfaction of the Auditor.

Committee Observations and Findings

(i) **The submission and accompanying documents tabled by the Accounting Officer explaining the difference of Kshs.1,143,530 from an amount of Kshs.2,700,860 as at 30**

June 2017 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

(iv) Routine Maintenance –Vehicles and Other Transport Equipment

The expenditure on purchase of goods and services of Kshs.66,843,704, includes expenditure of Kshs.2,573,308 relating to routine maintenance, vehicles and other transport equipment which differs by Kshs.785,078 from the amount of Kshs.3,358,386 shown in the supporting schedules.

Submission by Accounting Officer

The Accounting Officer submitted that it was correct that the expenditure on purchase of goods and services of Kshs.66,843,704, includes expenditure of Kshs.2,573,308 relating to routine maintenance, vehicles and other transport equipment which differs by Kshs.785,078 from the amount of Kshs.3,358,386 shown in the supporting schedules.

He reported that they have since reconciled schedules between supporting documentations and the financial statement and the variance of Kshs 785,078 explained. The documents were availed to the auditor for verification.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the difference of Kshs.785,078 from the amount of Kshs.3,358,386 as at 30 June 2017 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

(i) Office Supplies

The expenditure on purchase of goods and services includes expenditure of Kshs.1,761,540 relating to office supplies which differs by Kshs.58,232 from the amount of Kshs.1,819,772 shown in the supporting schedules.

Submission by Accounting Officer

The Accounting Officer submitted that it was correct that the expenditure on purchase of goods and services includes expenditure of Kshs.1,761,540 relating to office supplies which differs by Kshs.58,232 from the amount of Kshs.1,819,772 shown in the supporting schedules. Mr. Chairman, these variances were analysed and submitted for audit and was cleared.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the difference of Kshs.58,232 from the amount of Kshs.1,819,772 as at 30 June 2017 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

(vi) Purchase of Vehicles and Other Transport Equipment

The statement of receipts and payments reflects an expenditure of Kshs.350,855,239 under acquisition of non-financial assets, which includes, an expenditure of Kshs.6,032,870 relating to purchase of vehicles and other transport equipment. However, the supporting documents for the acquisition of motor vehicles indicates an amount of Kshs.1,535,100. The resulting difference of Kshs.4,497,770 has not been supported.

Submission by Accounting Officer

The Accounting Officer submitted that it was correct that the statement of receipts and payments reflects an expenditure of Kshs.350,855,239 under acquisition of non-financial assets, which includes, an expenditure of Kshs.6,032,870 relating to purchase of vehicles and other transport equipment. It is also correct that the supporting documents for the acquisition of motor vehicles indicates an amount of Kshs.1,535,100 resulting to a difference of Kshs.4,497,770 which was not supported. The variance of Kshs.4,497,770 was analyzed, supported and submitted for audit verification and has since been cleared.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the resulting difference of Kshs.4,497,770 as at 30 June 2017 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and
(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

418.3. Variances Between Figures in the Financial Statements and Figures Disclosed in the Notes to the Financial Statements

(i) Purchase of Goods and Services

The statement of receipts and payments reflects a total expenditure of Kshs.66,843,704 under purchase of goods and services while Note 8.8 shows a corresponding total expenditure of Kshs.55,127,772 hence an unexplained variance of Kshs.11,715,932.

Submission by Accounting Officer

The Accounting Officer submitted that it was correct that the statement of receipts and payments reflects a total expenditure of Kshs.66,843,704 under purchase of goods and services while Note 8.8 shows a corresponding total expenditure of Kshs.55,127,772 hence the unexplained variance of Kshs.11,715,932. The variance was later analysed and submitted to the office of the Auditor General for verification

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the resulting difference of Kshs.4,497,770 as at 30 June 2017 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

(ii) Acquisition of Non-Financial Assets

The statement of receipts and payments reflects total expenditure of Kshs.350,855,239 under acquisition of non-financial assets while Note 8.10 reflects a corresponding total expenditure of Kshs.350,856,239 hence an unexplained variance of Kshs.1,000.

Submission by Accounting Officer

The Accounting Officer submitted that it was correct that the statement of receipts and payments reflects total expenditure of Kshs.350,855,239 under acquisition of non-financial assets while Note 8.10 reflects a corresponding total expenditure of Kshs.350,856,239 hence the unexplained variance of Kshs.1,000. Chair, the variance of Kshs.1,000 has since been explained and supported to the satisfaction of the Auditor.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the corresponding total expenditure of Kshs.350,856,239 on acquisition of non-financial assets as at 30 June 2017 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and
(ii) The Committee marked the mater as resolved.

Committee Recommendations

(i) Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012; and
(ii) The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.

(iii)Accounts Receivable – GOK Balance

The statement of financial assets and liabilities reflects a balance of Kshs.18,897,993 under accounts receivable – GOK balance while the corresponding Note 8.14 reflects a nil balance relating to outstanding imprests and advances. No reconciliation or explanation has been provided for the variance.

Submission by Accounting Officer

The Accounting Officer submitted that it was correct that the statement of financial assets and liabilities reflected a balance of Kshs.18,897,993 under accounts receivable – GOK balance while the corresponding Note 8.14 reflects a nil balance relating to outstanding imprests and advances of which no reconciliation or explanation has been provided for the variance. The variance has since been explained and supported to the satisfaction of the Auditor .

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the balance of Kshs.18,897,993 relating to outstanding imprests and advances as at 30 June 2017 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

(iv) Fund Balance Brought Forward

The statement of financial assets and liabilities further reflects a Fund balance brought forward of Kshs.54,403,152, which differs from the comparative closing balance of Kshs.64,405,575 shown under 2015/2016 and related figure of Kshs.10,584,682 disclosed under Note 8.15. No explanation has been provided for these variances.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of financial assets and liabilities further reflects a Fund balance brought forward of Kshs.54,403,152, which differs from the comparative closing balance of Kshs.64,405,575 shown under 2015/2016 and related figure of Kshs.10,584,682 disclosed under Note 8.15. Mr. Chairman, we have since revised the accounts and the fund balance brought forward has been appropriately adjusted in 2017/18 financial statements.

Committee Observations and Findings

(i) **The submission and accompanying documents tabled by the Accounting Officer explaining the variance of Kshs.10,584,682 between Fund balance brought forward of Kshs.54,403,152 and the comparative closing balance of Kshs.64,405,575 as at 30 June 2017 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and**

(ii) **The Committee marked the mater as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

419. Unsupported Balances

(i) Cash and Cash Equivalents

The cash and cash equivalents balance of Kshs.60,391,944 was not supported by bank reconciliation statements, bank statements and board of survey reports. As result, the existence, completeness and accuracy of the balance as at 30 June, 2017 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that as stated by the auditor that, at the time of submission of accounts, the bank reconciliation statements, bank statements and the board of survey reports were not given. However, these supporting documents were later provided and issue resolved.

Committee Observations and Findings

(i) **The submission and accompanying documents tabled by the Accounting Officer explaining the cash and cash equivalents balance of Kshs.60,391,944 as at 30 June 2017 in the Financial Statement, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and**

(ii) **The Committee marked the mater as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

(ii) Accounts Receivable – GOK Balance

The statement of financial assets and liabilities reflects a balance of Kshs.18,897,993 under accounts receivable – GOK balance which, however, has not been explained or supported by a schedule/analysis or any other documentation. The validity, completeness and accuracy of the receivables cannot be ascertained in the circumstances.

Submission by Accounting Officer

The Accounting Officer submitted that the balance of Kshs.18, 897,993 was explained and supported to the satisfaction of the Auditor.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the validity, completeness and accuracy of the receivables of Kshs.18,897,993 as at 30 June 2017 in the statement of assets and liabilities, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

RICE BASED MARKET ORIENTED AGRICULTURE PROMOTION PROJECT

Basis for Disclaimer of Opinion

420. Failure to Provide Accounting and Other Records

The Project's financial statements for the year ended 30 June 2017 have not been supported by necessary records required for audit including the financing agreement, approved budget, approved work plans, cash books, bank reconciliation statements, bank statements, payment vouchers, supporting schedules and trial balance.

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

Submission by Accounting Officer

The Accounting Officer submitted that the total expenditure of Kshs.28,250,000 was made up of JICA expenditure of Kshs.26,000,000 and GOK expenditure of Kshs.2,250,000. The GOK expenditure was full accounted for and documents provided to the audit.

The JICA Funds were a grant which was expensed by themselves. The expenditure was reported in the JICA/Ministry of Agriculture terminal report in foreign denomination dated 16th November,2016.

He reprted that he had written to JICA Chief representative vide letter Ref. MOALF/OFTA/13/1/22TY dated 22nd October, 2019 requesting for supporting documents for the expenditure**.**

JICA responded vide etter Ref.TC-280(SOV) dated 8th November,2019 in which it indicated that supporting documents are available in their office and can be accessible for inspection subject to prior consultation and reasonable notification.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the validity, completeness and accuracy of the receivables of Kshs.18,897,993 as at 30 June 2017 in the statement of assets and liabilities, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

421. Accuracy of the Financial Statements

421.1 Comparative Figures and Cumulative Balances

The financial statements for the year ended 30 June 2017 reflects comparative figures for 2015/2016 and cumulative balances of which financial statements for the past years have never been prepared and submitted for audit since the inception of the Project in February 2012.

Submission by Accounting Officer

The Accounting Officer submitted that the books of Rice Mapp was audited by the audit office and all documents supporting the expenditure for the Financial Year under review provided for audit and were verified in compliance with the law.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the accuracy of the Financial Statements on Comparative Figures and Cumulative Balances as at 30 June 2017 in the statement of assets and liabilities, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

421.2 Receipts

The total receipts of Kshs.28,250,000 comprising of Kshs.2,250,000 being transfers from Government entities and Kshs.26,000,000 relating to proceeds from domestic and foreign grants reflected in the statement of receipts and payments for the year ended 30 June 2017 have not been supported by any documentation.

Submission by Accounting Officer

The Accounting Officer reported that an expenditure of Ksh 26,000,000.00 was Direct payments by the Donor JICA. The balance of Ksh. 2,250,000.00 was GOK counter fund whose expenditure was accounted for fully.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the proceeds from domestic and foreign grants reflected in the statement of receipts and payments for the year ended 30 June 2017 in the statement of assets and liabilities, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

421.3 Purchase of Goods and Services

The statement of receipts and payments reflects a total expenditure of Kshs.2,249,931 in respect of purchase of goods and services which, as disclosed under Note 8.8, was incurred on several items. However, payment vouchers and related underlying documents have not been provided to support the expenditure.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the auditors from Nairobi had not seen the vouchers at the time they released their report. This is because the audit was done by the auditors in the regional office in Nyeri where all documents were availed for verification.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the total expenditure of Kshs.2,249,931 in respect of purchase of goods and services for the year ended 30 June 2017 in the statement of assets and liabilities, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

421.4 Surplus for the Year

Although the statement of receipts and payments reflects total receipts of Kshs.28,250,000 and total payments of Kshs.2,249,931, surplus for the year ended 30 June 2017 has been shown as Kshs.69.20 instead of Kshs.26,000,069. This anomaly has not been explained nor rectified.

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

Submission by Accounting Officer

The Accounting Officer reported that the project funding had both the Donor fund and GOK components. Donor funds were in form of Appropriation in Aid and were being expended by the Donor while for GOK we received the exchequer. We have since recognized the A.I.A realized during the year and captured the expenditure funded by the Donor JICA and GOK expenditure of Kshs 2,249,931 accounted for.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the completeness and accuracy of the financial statements as at the year ended 30 June 2017 in the statement of assets and liabilities, though persuasive, should have been submitted to the Auditor General during the financial year for audit review; and

(ii) The Committee marked the mater as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

31.0. STATE DEPARTMENT OF LIVESTOCK

FINANCIAL STATEMENTS FOR VOTE 1162

Mr. Henry Kimutai, the Principal Secretary and Accounting Officer for the State Department of Livestock (Vote 1162) appeared before the committee on 24th September 2019 to adduce evidence on the Audited Financial Statements for the State Department of Livestock (Vote 1162) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1.	**Dr. Obadiah Njagi**	**-**	**Director Veterinary Services**
2.	**Ms. Lornah Odero**	**-**	**Director Administration**
3.	**Mr. Joseph Mwangi**	**-**	**Finance Director**
4.	**Mr. Patrick Kitaka**	**-**	**Accountant**
5.	**Mr. Evans N. Muthama**	**-**	**VSDF**
6.	**Ms. Zuena Zainabu**	**-**	**Assistant Accountant General**
7.	**Mr. Henry Momata**	**-**	**Accountant**
8.	**Mr. William Koech**	**-**	**Human Resource Manager**
9.	**Ms. Olivia Kimata**	**-**	**Accountant**
10.	**Mr. David Gichuru**	**-**	**Accountant**
11.	**Mr. Richard Bii**	**-**	**Supply Chain Management Service**
12.	**Mr. Julius Kiptarus**	**-**	**DLP**
13.	**Ms. Peninah Ndirangu**	**-**	**Accountant**
14.	**Mr. Matayo Wangalwa**	**-**	**RPLRP**

Basis for Adverse Opinion

422. Inaccuracies of the Financial Statements

(i). Proceeds from Domestic and Foreign Grants

The summary statement of appropriation for development reflects an actual expenditure figure of Kshs.139,696,624 under proceeds from domestic and foreign grants, which differs from the corresponding figure of Kshs.136,696,624 shown in the combined summary statement of appropriation, hence an unexplained and unreconciled difference of Kshs.3,000,000.

Further, disclosed under Note 1 to the financial statements is an amount of Kshs.139,696,624 in respect of Standards and Market Access Programme (SMAP) project, which differs from the corresponding amount of Kshs.107,742,397 shown in the financial statements of the Project for the year ended 30 June 2017 by unexplained and unreconciled amount of Kshs.31,954,227.

Submission by Accounting Officer

The Accounting Officer submitted that the correct figure, which is also in the main financial statements, is Ksh.139,696, 624. This was a transposition error. The Statement of Appropriation – Combined has been amended accordingly.

He reported that the difference of Kshs.31,954,227 relates to Development Appropriation-In-Aid (AIA) received and spent directly in the Project's bank account.

Committee Observations and Findings

(i) The committee observed that the expenditure of Kshs.139,696,624 under proceeds from domestic and foreign grants differs from the corresponding figure of Kshs.136,696,624 shown in the combined summary statement of appropriation.
(ii) The Auditor General confirmed that the error was corrected and the Statement of Appropriation combined verified.
(iii)The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

(ii). Proceeds from Foreign Borrowing

Note 3 to the financial statements reflects an amount of Kshs.675,965,191 under proceeds from foreign borrowings while a footnote under the same Note shows a figure of Kshs.672,965,191 hence an unexplained and unreconciled difference of Kshs.3,000,000.

Submission by Accounting Officer

The Accounting Officer reported that the difference of Kshs.3,000,000 was a casting error. The correct figure is Kshs. 672,965,191 as shown in the note 3 and the footnote has been adjusted accordingly.

Committee Observations and Findings

(i) The Committee observed that the figure of Kshs.3,000,000 was a casting error and was corrected and verified;
(ii) The Committee marked the matter as resolved.

Committee Recommendations

(i) The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.
(ii) The Accounting Officer must at all times ensure that all domestic and foreign grants to government for any purpose are treated and handled accordingly in line with Article 206 (1).

(iii). Transfers to other Government Units

Disclosed in Note 7 to the financial statements is a transfer of Kshs.27,478,019 to Mainstreaming Sustainable Land Management in Agro-Pastoral Production Systems of Kenya (SLM) project, while the financial statements of the project for the year ended 30 June 2017 shows receipts of Kshs.35,000,000 from the Government. The difference of Kshs.7,521,981 has not been explained or reconciled. Further, Note 7 to the financial statements shows an amount of Kshs.586,047,632 as having been transferred to Agricultural Development Corporation (ADC).

In addition, an amount of Kshs.153,952,368 was paid on behalf of ADC in respect of loan principal and interest repayment as disclosed in Note 10 to the financial statements, resulting to total transfers of Kshs.740,000,000. However, the ADC's financial statements reflect capital grants totaling Kshs.990,000,000 for the year ended 30 June 2017.

No reconciliation has been provided for the different balances reflected in these two sets of records.

Submission by Accounting Officer

The Accounting Officer reported that this difference relates to expenditure by SLM field stations which, at the time of audit, had been partly surrendered.

The Accounting Officer reported that according to the 2016/2017 approved budget, the amount budgeted for ADC was Kshs.336,047,632 and Kshs.300,000,000 under Recurrent and Development Votes respectively and an additional Kshs.153,952,368 for loan repayment, all totaling Ksh.790,000,000. Total transfers done amounted to Ksh.740,000,000 and ADC has confirmed they received the same.

Committee Observations and Findings

(i) **The Committee observed that the differences had been rectified, verified and confirmed by the Auditor General; and**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

(iv). Other grants and Transfers

The statement of receipts and payments reflects an amount of Kshs.114,319,136 under other grants and transfers while Note 8 to the financial statements shows a corresponding amount of Kshs.114,396,136, hence an unexplained and unreconciled difference of Kshs.77,000. (v). Comparative Figures The statement of receipts and payments for the year ended 30 June 2016 reflects an amount of 187,606,317 under proceeds from domestic and foreign grants while the statement of receipts and payments for the year ended 30 June 2017 shows a nil comparative (2015/2016) figure.

Submission by Accounting Officer

The Accounting Officer reported that this was an error while transferring the figures from the excel to word document. The correct figure is Ksh.114,319,136 as shown in the statement of receipts and payments. Note 8 has been amended.

Committee Observations and Findings

(i) **The Committee observed that the differences had been rectified, verified and confirmed by the Auditor General; and**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

(vi). Total financial Assets

The statement of financial position shows a balance of Kshs.67,314,680 as the total financial assets instead of the correctly casted balance of Kshs.87,131,979 leading to unreconciled difference of Kshs.19,817,299.

Submission by Accounting Officer

The Accounting Officer reported that the figure of Ksh.187,606,317 for 2015-2016 in respect of proceeds from domestic and foreign grants was omitted in the statement of receipts and payments for the year ended 30th June 2017 by mistake. This was in error however please note that the figure is included in the Total Receipts of Ksh.5,067,539,969.

Committee Observations and Findings

(i) **The Committee observed that the differences had been rectified, verified and confirmed by the Auditor General; and**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

(vii). Statement of Cash Flows

The statement of cash flows reflects an incorrectly casted balance of Kshs.7,960,573,580 as an aggregate of receipts from operating income instead of the correctly casted balance of Kshs.7,957,573,580, leading to unreconciled difference of Kshs.3,000,000. (viii). Variances Between Figures in Financial Statements and Trial Balance Variances were also noted between figures reflected in the financial statements and the trial balance as detailed below:

No explanation or reconciliation has been provided for the above differences and consequently, the accuracy of the financial statements cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer reported that Ksh.67,314,680 constitutes the accounts receivables and the noted difference of Ksh19,817,299 represents the cash and cash equivalents. The total is what constitutes Total Financial Assets of Ksh.87,131,979 correctly reported.

Committee Observations and Findings

(i) The Committee observed that the differences had been rectified, verified and confirmed by the Auditor General; and
(ii) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

(viii)Variances between figures in financial statements and trial balance

Variances were also noted between figures reflected in the financial statements and the trial balance. No explanation or reconciliation has been provided for the differences and consequently, the accuracy of the financial statements cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer reported that the difference between the figures was caused by the system recognizing payment when a validation is initiated and not when a payment is made.

He reported that the Journal vouchers for correcting the system failure on validation and payments have been raised and verified.

Committee Observations and Findings

(i) Although the Management reported to have submitted Journal Vouchers for verification, the Office of the Auditor General reported not to have received the abovementioned vouchers.
(ii) The matter was marked as unresolved.

Committee Recommendations

The Accounting Officer must at all time avail in time confirmation documents from the central bank for audit verification in accordance to the provision of Section 68(2)(k) of the PFM Act 2012.

423. Unsupported Receipts, Expenditure and Balances

(i). Purchase of Vehicles and other Transport Equipment

The statement of receipts and payments reflects an expenditure of Kshs.276,805,121 relating to acquisition of assets, which, as disclosed in Note 9 to the financial statements, includes Kshs.1,422,500 on purchase of vehicles and other transport equipment.

However, no documentary evidence has been provided to support the expenditure of Kshs.1,422,500 and as a result, its validity cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that an expenditure of Kshs 1,422,500 was erroneously captured under the item Purchase of vehicles and other transport equipment instead of Purchase of specialized plant equipment and machinery. This has since been adjusted.

(ii) Construction of Buildings

The expenditure of Kshs.276,805,121 on acquisition of assets includes an expenditure of Kshs.65,000,000 on construction of buildings. However, no documentary evidence has been provided to support the expenditure of Kshs.65, 000,000. Consequently, the validity of the expenditure cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the expenditure relates to AIEs (Authority to Incur Expenditure) issued to Ahiti Nyahururu amounting to Kshs.45,000,000, for construction of learning facilities.

The balance of Kshs.20,000,000 relates to the second payment of Kshs.9,999,650.50 and third payment of Kshs.10,000,349.50 for the Construction of a Biosafety laboratory in Kabete paid to M/s Pearltek Kenya Limited.

The Accounting Officer further submitted that there was a delay in the provision of these documents at the time of the audit as some had to be obtained from the field stations, resulting in the audit query. As a department, we have resolved to deal with audit matters hence forth when they arise to avoid such cases.

Committee Observations and Findings

(i) **The Auditor General confirmed that the documents to support the expenditure of Kshs.65, 000,000 were later submitted and verified.**
(ii) **The Committee marked the matter as resolved.**

(iii)Prior Year Adjustment

The statement of financial position reflects a prior adjustment of Kshs.72,604,112 that has not been analyzed or supported. Therefore, the validity of the adjustment cannot be confirmed under the circumstances.

Submission by Accounting Officer

The Accounting Officer submitted that the state that the credit balance of Ksh.72,604,112 in respect of Prior Year Adjustments represents accounts receivables for 2015/2016 that were cleared later. These include: District Suspense of Ksh.64,019,412, Salary Advance of Ksh.506,979, and Outstanding imprests of Ksh.8,077,721.

Committee Observationsand Findings

(i) **The Auditor General confirmed that the account receivables were cleared and verified.**
(ii) **The Committee marked the matter as resolved**.

(iv)District Suspense

The statement of financial position reflects a District Suspense balance of Kshs.38,391,607 which has not been supported with documentation and analyses. Consequently, the completeness and accuracy of the balance cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that supporting documentation and analysis were not provided for audit review to support the District Suspense balance of Kshs.38,391,607. He reported that as at the time of the audit, they had not received expenditure returns from some field stations but they had since received and captured their expenditure.

Committee Observations and Findings

- **(i) The Auditor General confirmed that the supporting documentation and analysis were submitted and verified.**
- **(ii) The Committee marked the matter as resolved**.

(v). Accounts Payable – Deposits and Retentions

The statement of financial position reflects a balance of Kshs.17,707,534 under accounts payable – deposits and retentions, which has also not been supported with any documentation. Under the circumstances, the validity of the deposits and retentions and any obligations relating to the balance cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that as at the time of audit, supporting documents were not provided for the balance of Kshs.17,707,534 for Accounts payable- Deposits and Retentions. He reported that the supporting documents had since been provided to support the balance.

Committee Observations and Findings

- **(i) The Auditor General confirmed that the account receivables were cleared and verified.**
- **(ii) The Committee marked the matter as resolved**.

(vi). Receipts

The statement of receipts and payments reflects total receipts of Kshs.8,646,765,985, which includes, among others, Kshs.139,696,624 and Kshs.675,965,191 relating to proceeds from domestic and foreign grants and proceeds from foreign borrowings respectively, which have also not been supported with any documentary evidence.

Submission by Accounting Officer

The Accounting Officer submitted that as at the time of the audit, the schedules for proceeds from foreign borrowings and domestic and foreign grants had not been provided. However, he reported that they have since been availed.

Committee Observations and Findings

- **(i) The committee observed that Kshs.139,696,624 and Kshs.675,965,191 relating to proceeds from domestic and foreign grants and proceeds from foreign borrowings were been supported with any documentary evidence.**
- **(ii) The committee observed that the documentary evidence was later submitted for audit verification.**
- **(iii)The commite marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all time avail in time documentay evidence for audit verification in accordance to the provision of Section 68(2) (k) of the PFM Act 2012.

424. Cash and Cash Equivalents

The statement of financial position reflects a cash and cash equivalents balance of Kshs.19,817,299, comprising of Kshs.19,473,596 and Kshs.343,702 relating to bank and cash balances respectively.

However, the State Department did not provide bank statements, certificates of bank balances, bank reconciliation statements, cash books and board of survey reports to support the balances. Consequently, the completeness and accuracy of the cash and cash equivalents balance of Kshs.19,817,299 as at 30 June 2017, cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the documents had not been provided as at the time of the audit. The same was attached to the submission.

Committee Observations and Findings

- **(i) The committee observed that the documents were submitted late to the Office of the Auditor General and are yet to be verified.**
- **(ii) The comittee marked the matter as unresolved.**

Committee Recommendations

Accounting Officers must at all time avail in time documentay evidence for audit verification in accordance to the provision of Section 68(2) (k) of the PFM Act 2012.

425. Outstanding Imprests

The statement of financial position reflects a balance of Kshs.28,923,073 against account receivables – outstanding imprests which, had not been surrendered or accounted for as at 30 June 2017.

Further, out of the outstanding cases, some seven (7) officers had multiple outstanding imprests totalling to Kshs.1,938,100. In addition, in several cases it was noted that the designations of imprest holders were not disclosed. No explanations have been provided for these anomalies.

Submission by Accounting Officer

The Accounting Officer reported that all the outstanding imprests had since been surrendered.

For the cases where officers held more than one imprest at the same time and where designations were not disclosed, he confirmed that the practice had since stopped and assured the Committee that it will not recur.

Committee Observations and Findings

- **(i) The committee observed that some seven (7) officers had multiple outstanding imprests totalling to Kshs.1,938,100.**
- **(ii) The committee observed that the imprest has since been surrendered.**
- **(iii)The committee marked the matter as resolved.**

426. Pending Bills

As disclosed in Note 17.1 and Annex 1 to the financial statements, the State Department of Livestock had pending bills totalling Kshs.1,084,210,383 that were not settled during the year 2016/2017 but were instead carried forward to 2017/2018.

Had the bills been paid and expenditure charged to the accounts for 2016/2017, the statement of receipts and payments for the year would have reflected a deficit of Kshs.1,027,000,393 instead of the surplus of Kshs.57,209,990 now shown. Failure to settle bills during the year in which they relate to distorts the financial statements for that year and adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by Accounting Officer

The Accounting Officer reported that the Department was able to settle the bills in the FINANCIAL YEAR 2017/18.

Committee Observations

- **(i) The Committee observed that the outstanding bills of Kshs.1,084,210,383 were settled in the Financial Year 2017/18.**
- **(ii) The Committee makedv the matter as resolved.**

Other Matter

427. Land

As reported in previous years, the Government, through Gazette Notice No. 890 dated 5 March 1957, allocated 1,400 acres of land in Ngong, Kajiado County, to the Department of Veterinary Services for construction of a Veterinary Training School, establishment of a veterinary farm, and installation of related facilities. lnformation and documents available indicate that the land measures 1,500 acres.

Further, information and records at the Ministry of Agriculture, Livestock and Fisheries and Ministry of Land and Physical Planning indicate that some Government agencies and private organizations have irregularly taken possession of 509 acres of land. The State Department has to-date not obtained title of ownership of the land from the Ministry of Lands and Physical Planning. In the circumstances, the ownership and actual size of the land cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the Ministry had made efforts to survey the land but had met obstacles in finalizing the process. The obstacles include: claims by the local community that the land belongs to them; approvals from the Kajiado County Government; and claims by other institutions of the National Government and private institutions such as Police, Meteorological Department, Kenya Defense Forces (Kenya Army) and Halal. The Ministry has asked the National Land Commission to secure the land since this is public land.

The Chairman of the National Land Commission (NLC) called for a consultative meeting

involving various stakeholders to Ngong veterinary farm on 21st September, 2016 to resolve the issue. A team of officers from the Ministry of Lands headquarters led by the Director of Survey and accompanied by the Deputy County Commissioner of Kajiado North visited the farm on 11th September, 2017 with the aim of implementing a Presidential directive made on 4th August, 2017. The team wanted to ascertain and appreciate the physical boundaries and institutions within the Ngong veterinary farm before further survey.
A preliminary survey carried out by Ministry of Lands and Physical Planning established that the acreage of the parcel is 601.19 ha (or 1,485.6 acres*)*.

Committee Observations and Findings

(i) The Committee observed that a survey of the land was done but had met obstacles in finalizing the process.
(ii) The Committee observed that the Ministry has asked the National Land Commission to secure the land since this is public land.
(iii)The matter remains unresolved.

Committee Recommendations

The Accouting Officer should ensure that the land is secured by the National Land Commission.

428. Budget Performance

The summary statements of appropriation for recurrent and development combined reflect several items with huge variances between the budgeted and actual amounts representing under-performance of the budget.
The total budget performance was 56%. The recurrent budget performance was 87%, while development budget realized a success rate of 36% only. Such a performance implies that the State Department did not execute most of its intended activities in the year, which in turn implies that citizens were denied services. Alternatively, the earlier budget as presented may have been too ambitious and unattainable. No reasons have been provided for the failure by the State Department to implement the budget as approved by the National Assembly.

S**ubmission by Accounting Officer**

It was observed the above paragraph was for the information purposes to the Accounting Officer. The Accounting Officer was directed to take note of the comments by the Auditor General and improve on the same.

VETERINARY SERVICES DEVELOPMENT FUND

Basis for Qualified Opinion

429. Variance between Miscellaneous Receipts and Supporting Schedule

The total revenue of Kshs.47,885,109 for 2016/2017 shown in the statement of financial performance includes several individual receipts totalling Kshs.1,347,392 according to miscellaneous receipts which differs with the corresponding amounts of Kshs.882,150 shown in the supporting schedule.
No reconciliation or explanation has been provided for the difference of Kshs.465,242 between the two sets of records.

Submission by Accounting Officer

The Accounting Officer reported that the reconciliation was later done accordingly as per the attached revised schedules which agreed with the reported balances in the financial statements

Committee Observations and Findings

(i) The Committee observed that reconciliation has since been made and verificatyion done by the audiotor general.

(ii) The Committee marked the matter as resolved.

430. Reserves

The statement of financial position reflects a balance of Kshs.79,192,576 under reserves as at 30th June 2017, which has not been supported by any documentation. The balance also differs with the nil balance shown against reserves in the statement of changes in net assets.

No explanations or reconciliations have been provided for these differences and consequently the accuracy of the reserves balance cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer reported that this was an omission which has since been rectified. He submitted that that the reserves are the actual accumulation of surplus and deficit for the Fund over the years.

He tabled legal notice no. 109 to support the capital fund balance of kshs.20,000 or Kenya pounds 1,000.

Committee Observations and Findings

(i) The Committee observed that there was no explanations or reconciliations provided for the differences and there was no documentary evidence.
(ii) The Committee observed that the omission has since been rectified and that the reserves are the actual accumulation of surplus and deficit for the Fund over the years.
(iii) The Committee marked the matter as resolved.

Other Matter

431. Underperformance of Budget

An analysis of the statement of comparison of budget and actual amounts for the year ended 30 June 2017 shown under Section XI of the financial statements, together with the statement of financial performance shows that although the Fund had an approved and final revenue budget of Kshs.100,000,000, it only to raise a total of Kshs.47,885,109 (about 48%). Similarly, although the Fund had an approved and final expenditure budget of Kshs.100,000,000, it only managed to absorb/utilize a total of Kshs.57,089,898 (about 57%).

The underperformance of the budget implies that targets and service delivery were not achieved.

Submission by Accounting Officer

The Accounting Officer stated that this was due to underperformance of revenue collected from hides and skin levies. This was because of a court injunction restricting the DVS from levying cess from tanners which the fund had anticipated to collect a substantial amount of revenue. This in return restricted the fund from incurring more expenditure. He reported that that the expenditure is matched to the revenue collected.

Committee Observations and Findings

The Committee observed that this matter was for information purposes for the Accounting Officer.

DONOR FUNDED PROJECTS

REGIONAL PASTORAL LIVELIHOOD RESILIENCE PROJECT (IDA CREDIT NO. KE 5388)

Basis for Qualified Opinion

432. Cash and Cash Equivalents

The statement of financial assets and liabilities reflects a cash and cash equivalents balance of Kshs.63,768,674 as at 30 June, 2017. The balance has, however, not been supported with a cash book, bank reconciliation statement, bank statements, and a board of survey report. Further, the balance of Kshs.63,768,674 also differs by an amount of Kshs.39,200 from the balance of Kshs.63,807,874 shown under Notes 8.13 and 8.13 A to the financial statements. As a result, the completeness and accuracy of the balance cannot be confirmed.

Submission by Accounting Officer

The cash book copy, bank reconciliation statement and bank statements are hereby availed for your review. The difference of Kshs. 39,200 was an error that arose due posting of a wrong total under note 8.13 and 8.13A. However, the figure of Kshs.63,768,674 shown in the financial statements is the correct figure from recasting the composition of Note 8.

Committee Observations

- **(i) The Committee observed that the reported balance of Ksh.63768,517 was not adequately supported.**
- **(ii) The matter remains unresolved.**

Committee Recommendations

Accounting Officers must at all time avail in time documentay evidence for audit verification in accordance to the provision of Section 68(2) (k) of the PFM Act 2012

433. Account Receivables

The statement of financial assets and liabilities also reflects a balance of Kshs.273,105 under accounts receivables – imprest and advances, which has however not been supported with a schedule and analysis. The validity and accuracy of the balance cannot be confirmed.

Submission by Accounting Officer

The schedule and composition of the outstanding imprest of Kshs. 273,105 is availed for your review. The funds were surrendered in July 2017.

Committee Observations and Findings

(i) **The Committee observed that imprest and advances were not supported with a schedule and analysis.**
(ii) **The committe observed that Supporting Schedules have since been availed and verified.**
(iii) **The Committee marked the matter as resolved.**

434. Misallocation of Expenditure

The statement of receipts and payments for the year ended 30 June,2017 reflects expenditure totalling Kshs.670,947,488 under acquisition of non-financial assets, which erroneously include an expenditure of Kshs.19,938,517 incurred on insurance of motor vehicles. The expenditure on motor vehicles insurance ought to have been charged to purchase of goods and services. No satisfactory explanation has been provided for this anomaly.

Submission by Accounting Officer

The Accounting Officer admitted that there was misallocation of the highlighted items. An expenditure of Kshs. 19,938,517 incurred on insurance of motor vehicles was erroneously included in the value of motor vehicles. However, this was corrected as per the revised extracts of notes 8.8, 8.10, statement of receipts and expenditure and the journal adjusting the expenditures.

Committee Observations and Findings

(i) **The Committee observed that the Kshs. 19,938,517 incurred on insurance of motor vehicles was erroneously included in the value of motor vehicles.**
(ii) **The Commitee observed that the error on misallocation has since been corrected.**
(iii) **The Committee marked the matter as resolved.**

435. Unsupported Expenditure

435.1. Transfers to Other Government Entities

The statement of receipts and payments reflects an expenditure of Kshs.3,396,000 in respect of transfers to other government entities which, as disclosed under Note 8.11 to the financial statements represents funds transferred to East African Agricultural Productivity Project. However, no documentary evidence has been provided to support the transfer. Consequently, the validity of the transfer cannot be confirmed.

Submission by Accounting Officer

These are funds that were sent to the project (ICAATP) under preparation stage. The Government of Kenya requested the donor (World Bank) for RPLRP to fund this project until it becomes effective since the two projects are all under the same ministry and are funded by same donor.

The donor approved the request and copies of the documents showing this communication were tabled.

Committee Observation and Findings

- **(i) The Committee observed that an expenditure of Kshs. 3,396,000 in respect of transfers to other government entities had no documentary evidence.**
- **(ii) The Committee observed that the documentary evidence has been provided to support the transfer.**
- **(iii) The Committee marked the matter as resolved.**

435.2. Purchase of Goods and Services

The statement of receipts and payments reflects total expenditure of Kshs.614,647,264 relating to purchase of goods and services and as itemised under Note 8.8 to the financial statement. However, expenditure on the following items totalling Kshs.71,564,032 was not supported with detailed schedules and verifiable documents:

Item of Expenditure	**Amount Kshs**
Communication Supplies and Services	24,162,517
Printing, Advertising and Information Supplies and Services	26,933,910
Training Expenses	19,308,260
Specialized Materials and Services	1,159,345
Total	**71,564,032**

As a result, the propriety of expenditure totalling Kshs.71,564,032 cannot be ascertained.

Submission by Accounting Officer

He submitted that the schedules for the listed expenditure items had been provided for Audit review.

Committee Observations and Findings

(i) The Committee observed that the listed schedules have since been availed and verified.
(ii) The Committee marked the matter as resolved.

436. Receipts from the Development Partner

The statement of receipts and payments reflects loan receipts from the development partner (IDA) totalling Kshs.1,197,045,712 received during the year under review. As disclosed under Note 8.5 to the financial statements, the amount includes loans totalling Kshs.667,472,937 received in cash which balance however, differs with the amount of Kshs.785,166,526 (USD 7,675,666.98) reflected in the special account statement as having been withdrawn during the year under review. The difference of Kshs.117,693,589 between the two records has not been reconciled or explained.

Submission by Accounting Officer

The difference of Kshs. 117,693,589 arose from amount of cash receipt of Kshs.178,766,721 which was treated as receipts for financial year 2015/2016 and was used to pay the expenditure reported 2015/16. The closing balance of the designated account of Kshs. 61,082,132 was not considered when computing the closing balance at the end of the year as per the attached computation.

Committee Observations and Findings

(i) The Committee observed the difference of Kshs.117,693,589 has not been reconciled or explained.
(ii) The Committee observed that the reconciliation was done and verified.
(iii) The Committee marked the matter as resolved.

32.0. STATE DEPARTMENT OF FISHERIES AND THE BLUE ECONOMY

FINANCIAL STATEMENTS FOR VOTE 1164

Mr. Micheni Japhet Mtiba, the Principal Secretary and Accounting Officer for the State Department of Fisheries and the Blue Economy (Vote 1164) appeared before the committee on 22nd August 2019 to adduce evidence on the Audited Financial Statements for the State Department of Fisheries and the Blue Economy (Vote 1164) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Ms. Lucy Obunga - Deputy Director of Fisheries**
2. **Mr. James W. Thuita - Head of Accounting Unit**
3. **Mr. Sephone Ombachi - Senior Principal Finance Officer**
4. **Mr. Mutune D. Masai - TLO/RO1**
5. **Mr. Shadrack K. Machia - Senior Fisheries Officer**
6. **Dr. Isaac Wamalwa - Assistant Director**

Unqualified opinion

The Committee observed that there were no material issues noted during the audit of the financial statements of the State Department of Fisheries and the Blue Economy

33.0. STATE DEPARTMENT FOR INVESTMENT AND INDUSTRY

FINANCIAL STATEMENTS FOR VOTE 1172

Ms. Betty Maina, the Principal Secretary and Accounting Officer for State Department of Investment and Industry (Vote 1172) appeared before the Committee on 22nd August 2019 and Mr. appeared before the Committee on 30th September 2019 to adduce evidence on the Audited Financial Statements for State Department of Investment and Industry (Vote 1172) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1.	**Mr. Maina Waruingi**	**-**	**Director of Policy**
2.	**Mr. Abraham Wachira**	**-**	**Principal Finance Officer**
3.	**Mr. Lawrence Lelei**	**-**	**Economist**
4.	**Ms. Lucy N. Mbira**	**-**	**Principal Accountant**

Basis for Qualified Opinion

437. Unsupported Expenditure Figures

During the year under review, custody of payment vouchers at the Ministry was not effective and as a result, vouchers for various payments made for use of goods and services and acquisition of assets were misplaced, as summarized below:

437.1. Use of Goods and Services

Included in the aggregate balance of Kshs.596,288,158 reflected in the statement of receipts and payments in relation to use of goods and services expenditure incurred during the year under review are payments for utilities, supplies and services totaling Kshs.23,804,042 and payments for specialized materials and services totaling to Kshs.67,461,567 whose payment vouchers and other supporting documents were, however, not made available for audit review.

As a result, it has not been possible to confirm the occurrence and validity of the payments made during the year under review for utilities and supplies at Ksh. 23,804,042 and specialized materials at Ksh. 67,461,567.

Submission by Accounting Officer

The Accounting Officer submitted that the matter was addressed while responding to the management letter of FINANCIAL YEAR 2017/18. The matter was resolved and it is not appearing in the Auditor General's certificate for the Year Ended 30th June 2018.

The Accounting Officer admitted that the payment vouchers amounting to kshs 23,804.042 and kshs 67,461,567 for utilities, supplies and services and specialized materials and services respectively were not availed during the audit exercise of 2016/2017. However, they were availed to the auditors for verification and further action during the audit of 2017/18. The Auditors were satisfied and subsequently the matter was dropped, and it is not appearing in the Auditor General's certificate for the Year Ended 30th June 2018.

Committee Observations and Findings

(i) **The Committee observed that the matter was dropped after the documents were availed for audit review and verified.**
(ii) **The Committee marked the matter as resolved.**

437.2. Acquisition of Assets

Similarly, reflected in the Statement of receipts and payments is an aggregate expenditure balance of Ksh. 239,702,126 incurred on acquisition of assets during for the year under review. The balance includes Ksh.157,972,498 incurred on purchase of specialized plant, equipment and machinery. However, the later balance has not been supported with payment vouchers and other supporting documents and as a result, it has not been possible to confirm that the purchases occurred

Under the circumstances, it has not been possible to confirm the validity, accuracy and completeness of the aggregate use of goods and services balance of Kshs.596,288,158 and acquisition of assets balance of Kshs.239,702,126 reflected in the statement of receipts and payments for the year under review.

Submission by Accounting Officer

The Accounting Officer admitted that the payment vouchers amounting to Ksh.157, 972,498 incurred on purchase of specialized plant, equipment and machinery were not availed during the audit exercise of 2016/17. However, the documents were later availed to the auditors for verification and further action during the audit of 2017/18

He stated that the amount of kshs 157,972,498 related to acquisition of Assets for Kenya Industrial Training institute. The vouchers had been misplaced due to poor filing system but were later presented to the Auditor while responding to the audit queries of the following Financial Year (2017/18).

The Accounting Officer regretted the anomaly and committed to continuous improvement and he hoped that it would not recur in future. A proper filing system has since been implemented and key staff has been tasked to ensure compliance. The filing system had since been streamlined
The payment vouchers were later presented while responding to the audit of the following Financial Year (2017/18).

Committee Observations and Findings

(i) The Committee observed that the matter was dropped after the documents were availed for audit review and verified
(ii) The Committee marked the matter as resolved.

438. Cash and Cash Equivalents

The statement of assets and liabilities reflects a cash and cash equivalents balance of Ksh. 2,991,694 which is comprised of cash held at the Central Bank of Kenya under the recurrent, development, deposits and project accounts. However, the closing balance reflected in the Department's manual cashbooks does not tally with the balances disclosed in the financial statements as at 30 June 2017:

	Financial Statements	Cash Book	Variance
		Balance	Balance
	Kshs.	Kshs.	Kshs.
Recurrent	64,211	600,558	(536,347)
Development	714,784	807,572	(92,788)
Deposits	1,599,194	1,599,194	-
Project	613,505	100,432	513,073
Total	2,991,694	3,107,756	(116,062)

No reasons have been provided for the variances between the two sets of records.

Consequently, the accuracy of the cash and cash equivalents balance of Kshs.2,991,694 as at 30 June 2017cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted that the financial statement figures and the cash book balances differed as per the audit query. Upon counter checking with the bank certificate for 30th June 2017, it was noted that the figures in the financial statements for both Recurrent and Development accounts differed with those in the bank certificate.

He regretted the variance noted of Kshs 116,062 and committed that such misstatement of figures would not occur in future. The financial statements of 2018/2019 are being revised to reflect the true position by passing journal entries and the prior year adjustment

The bank reconciliation FO 30 explaining the difference has been submitted.

Committee Observations and Findings

(i) **The Committee observed that the figures in the financial statements differed with the bank certificate for 30th June 2017.**
(ii) **The Committee observed that there was a variance of Kshs 116,062 which will be revised to reflect the true position by passing journal entries and the prior year adjustment.**
(iii) **The matter remains unresolved.**

Committee Recommendations

The Accounting Officer must ensure, at all times, that fully reconciled financial statements are submitted to the Office of the Auditor General pursuant to section 68 (2)(k) of the Public Finance Management Act, No. 8 of 2012, and within three months as required under Article 229 (4) of the Constitution of Kenya.

439. Restatement of Opening Balances - Construction and Civil Works and Rehabilitation of Civil Works

Note 10 to the financial statements reflects an opening balance of Kshs.175,750,000 under construction and civil works and Kshs.42,499,998 under rehabilitation of civil works. However, the audited financial statements for the year ended 30 June 2016 reflected nil balance under construction and civil works and Kshs.29,471,569 under rehabilitation of civil works. Journal entries passed to approve the restatement of the opening balances have not been availed for audit verification and as a result, the accuracy and validity of balances amounting to Kshs.175,750,000 for construction and civil works and Kshs.42,499,998 for Rehabilitation of Civil Works cannot be confirmed. Further, the accuracy of the aggregate acquisition of assets balance of Kshs.239,702,126 for the year under review cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted that the financial statement figures from the audited financial statements for the year ended 30 June 2016 reflected nil balance under construction and civil works and Kshs. 29,471,569 under rehabilitation of civil works whereas their opening balances were Kshs.175,750,000 and Kshs.42,499,998 respectively in the following year. (2016/2017)

Upon counter checking with the audited financial statements of FINANCIAL YEAR 2015/16, it was noted that the opening balances stated for the above items in the FINANCIAL YEAR 2016/17 statements could not be supported.

The Accounting Officer regretted the anomaly and committed that such misstatement of figures would not occur in future. The financial statements for 2018/2019 are being revised to reflect the true position in form of prior year adjustment

Committee Observations and Findings

- **(i) The Committee observed that there was an anormaly that was admitted, and the Accounting Officer committed that such misstatement of figures would not occur in future; and**
- **(ii) The matter remains unresolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements to the Auditor General within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

440. Pending Bills

Bills totaling to Kshs.115,863,748 relating to the year under review (2016/2017) were not settled during the year but were instead carried forward to 2017/2018 financial year. Failure to settle the bills in the year to which they relate adversely affects the provisions for the year to which they have to be charged. Had the bills been paid and the expenditure charged to the accounts for 2016/2017, the carried forward bills would not have caused budgetary strain to 2017/2018 financial year given that there was budgetary provision for the year under review.

Further, and as reported in the previous year, excluded from the balance of Kshs.115,863,748 as at 30 June 2017 was a debt of Kshs.29,147,652 due to a local law firm which has been outstanding since 2014/2015 and an additional Kshs.48,611,450 owed to various creditors by Kenya Industrial Training Institute as at 30 June 2016.

In absence of any reconciliation, it has not been possible to ascertain the accuracy and validity of pending bills balance of Kshs.115,863,748 outstanding as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer stated that the bill related to East African Portland Cement Co. Ltd was transferred and has been recognized in their financial statements as a liability.

Committee Observations and Findings

- **(i) The liability of Kshs. 29,147,652 was transferred to East African Portland Cement Company Ltd. The management of East African Portland Cement Company has acknowledged the liability in the financial statement for the year ended 30 June 2018;**
- **(ii) The Committee marked the mater as resolved.**

441. Unresolved Matters in the Report for 2015/2016

441.1 Unexplained Transfers of Coffee Debt Waivers

As reported in the previous year, the statement of receipts and payments for the year ended 30 June 2016 reflected a payment of Kshs.501,474,509 under grants and other transfers which included Kshs.500 million paid to 27 Co-operative Societies being partclearance of debt under the Coffee Debts Waiver Programme. Included in the payments of other grants and transfers of Kshs.501,474,509 was an amount of Kshs.1,474,509 that has not been supported and whose propriety could not therefore, be confirmed. In the circumstances, it was not possible to ascertain the validity of this payment and whether funds were channeled to the intended beneficiaries and utilized for the intended purposes.

Submission by Accounting Officer

The Accounting Officer indicated that as per the report on the examination of the report of the Auditor-General on the financial statements for the National Government for the Financial Year 2015/2016 Volume I as adopted by the House on 4th June, 2019, the members confirmed that the explanation by the Accounting Officer was satisfactory therefore the matter was resolved.

He stated that it related to the costs incurred by officers in the vetting and evaluation of bills to facilitate the waiver. The matter was resolved during the audit of Cooperatives in the subsequent year 17/18.

Committee Observations and Findings

- **(i) The Committee observed that the payment for coffee debt waivers of Kshs. 500 million was processed on the basis of validation reports.**
- **(ii) The Committee observed that an amount of Kshs. 1,474,509.00 relates to the related costs incurred by officers in the vetting and evaluation of bills to facilitate the waiver.**
- **(iii)The Committee marked the matter as resolved.**

441.2 Irregular Payment for Goods and Services Not Delivered

As previously reported, during the year 2015/2016, the Ministry procured and paid for goods and services valued at Kshs.4,252,291 which were however not delivered by the suppliers contrary to the Public Procurement and Assets Disposal Act 2015 and Procurement Regulations 2013, as tabulated below:

Although a review of the position in 2016/2017 indicates that goods valued at Kshs.1,550,500 were eventually delivered. The public may have lost Kshs.2,701,791 paid to suppliers who did not deliver the goods and services contrary to the Public Procurement and Assets Disposal Act 2015 and the Public Finance Management Act 2012.

Submission by Accounting Officer

The Accounting Officer stated that per the report on the examination of the report of the auditor-general on the financial statements for the National Government for the Financial Year 2015/2016 Volume I as adopted by the House on 4th June, 2019, the Members with Concurrence from Office of Auditor General observed that the issue was resolved since the supportive documents had been provided and verified.

Committee Observations and Findings

The matter was dealt with in the report for the Financial Year 2015/2016.

Other Matter

442. Other Unresolved Matters in the Report for 2015/2016

442.1. Irregular Procurement Practices

(i) Procurement of Consultancy Services

As previously reported, the Ministry awarded consultancy services for provision of technical support to the Business Environment Delivery Unit to a Business School/University at a cost of Kshs.5,940,000 during the year ended 30 June 2015. The Ministry had invited bidders but only one application was received and considered responsive. The tender committee went ahead and awarded the tender to the only responsive bidder and in effect, used direct procurement method to procure the services. The invoice was issued before the LPO was raised. Further, whereas the contract agreement had indicated that the exercise was to be completed in three months, the service was delivered in less than a week and the consultant paid the contact sum of Kshs.5,940,000.

No evidence was availed to explain why the consultant commenced work before the contract was awarded and signed or reasons for use of direct procurement method which t defeated fair competition and pricing of the tender award.

Submission by Accounting Officer

The Accounting Officer stated that per the report on the examination of the report of the auditor-general on the financial statements for the National Government for the Financial Year 2015/2016 Volume I ***as adopted by the House on 4th June, 2019***, the committee concluded that the explanation by the Accounting Officer was satisfactory. Therefore, the matter was resolved.

Committee Observations

The matter was dealt with in the report for the Financial Year 2015/2016.

(ii) Ease of Doing Business Improvement Programme – Phase II

The Business School/University, was awarded the contract for provision of consultancy services for Ease of Doing Business Improvement Programme – Phase II at a cost of Kshs.5,127,200. The invoice from the consultant was raised before the two parties signed the contract. Whereas the contract had stated under the special conditions that the duration of the contract would be four (4) months from the date of the contract, the service was completed in less than three weeks casting doubt as to whether the contract was mooted earlier and the tender committee only used as a rubberstamp to ratiFinancial Year a consummated transaction. Further, it has not been possible to confirm whether the relevant stakeholders were consulted about the service as there is no record of their participation.

Submission by Accounting Officer

The Accounting Officer stated that per the report on the examination of the report of the auditor-general on the financial statements for the National Government for the Financial Year 2015/2016 Volume I ***as adopted by the House on 4th June, 2019***, the committee recommended that the issue be handled by the Cabinet Secretary, National Treasury and the relevant investigative agencies.

Committee Observations

The matter was dealt with in the report for the Financial Year 2015/2016.

(iii) Irregular Consultancy Service Contract

As previously reported, the Ministry procured consultancy services from a consultancy firm in the year ended 30 June 2015 for support of delivery of Kenya's Industrial Program. The contract was signed between the two parties on 18 November 2014 at a contract sum of Kshs.348,000,000. Clause 2 of the contract agreement under sub-section 2.1 and 2.2 had indicated that the contract was to come into effect on the date it was signed by both parties and that the consultant would begin carrying out the services upon signing of the contract or at such other date as may be specified in the service contract.

Review of the process revealed that the consultant raised an invoice of Kshs.69,827,963 on 11 November 2014 for Milestone 1(inception) even before the contract was signed between the two parties contrary to provisions of the Public Procurement & Disposal Act 2005. The signing of the contract was only intended to rectiFinancial Year the irregularity.

Under the circumstances, the validity of the expenditure of Kshs.69,827,963 incurred on the contract in the year under review cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that per the report on the examination of the report of the auditor-general on the financial statements for the National Government for the Financial Year 2015/2016 Volume I ***as adopted by the House on 4th June, 2019***, the committee concluded that the explanation by the Accounting Officer was satisfactory. Therefore, the matter was resolved.

Committee Observations and Findings

The matter was dealt with in the report for the Financial Year 2015/2016.

443. Irregular Reallocation of Development Grants to Recurrent Expenditure

As previously reported during the year ended 30 June 2015, the Ministry had sought and was given authority by the National Treasury to transfer Kshs.200million for the implementation of textile development through the Micro and Small Enterprise Authority (MSEA). Available records however revealed that the Ministry instead instructed MSEA to utilise Kshs.50 million to pay outstanding bills to various security firms which the Ministry had contracted to offer security services during and after the construction of the Constituency Industrial Development Centres (CIDCs) between 2012 and 2014. No evidence was availed to show whether approval by of the National Treasury was sought and obtained to allow MSEA to divert Kshs.50 million meant for the textile programme towards payment of security services. Utilization of the Funds resulted to diversion of development funds to recurrent expenditure without Treasury approval and thus contravened the Public Finance Management Act, 2012.

Submission by Accounting Officer

The Accounting Officer stated that per the report on the examination of the report of the auditor-general on the financial statements for the National Government for the Financial Year 2015/2016 Volume I as adopted by the House on 4th June, 2019, the committee concluded that the explanation by the Accounting Officer was satisfactory. Therefore, the matter was resolved.

Committee Observations and Findings

The matter was dealt with in the report for the Financial Year 2015/2016.

444. Loss of Cash

As was reported during the previous year, the Ministry lost Kshs.6,403,200 reported to have been paid wrongly to a merchant during the 2011/2012 financial year. Although, Kshs.3,500,000 of the payment has since been recovered, the balance of Kshs.2,903,200 is still outstanding over five (5) years since payment. The Ministry does not appear keen to recover of the balance and has not held any one culpable for occasioning loss of the funds. Consequently, recovery of the balance of Kshs.2,903,200 is in doubt.

Submission by Accounting Officer

The Accounting Officer explained that the Ministry filed a case in the Court through the Attorney General, Ref: Civil Suit number 520 of 2013 for recovery of an amount of **Kshs. 2,903,200.00** outstanding of a total of Kshs. 6,403,200.00.

The Accounting Officer has since provided to the auditors, copies of bank statements and other documents as evidence that the resultant difference of Kshs. 2,903,200.00 was fully recovered.

Committee Observations and Findings

The matter was dealt with in the report for the Financial Year 2015/2016.

445. Loss of CIDC Equipment and Tools at Kenya Industrial Training Institute

As was reported in the previous year's audit report, the Ministry lost industrial equipment stored at the Kenya Industrial Training Institute (KIRDI) through theft and pilferage. Some of the equipment were sold in various markets. An audit inspection at the Ministry's stores revealed continuing pilferage of the equipment and tools with the store left almost bare holding low value items such as fire extinguishers, and machinery with major parts missing.

Whereas several items were issued to some of the completed Constituency Industrial Development Centre (CIDCs), comparison of the original stocktake with the situation at the time of the audit revealed that equipment and tools valued over Kshs.60,000,000 may have been stolen. This is despite the stores being located inside a fenced and guarded compound of the Institute that is secured through 24-hour surveillance and there being no sign of the stores having been broken into. Although the Ministry has indicated that the matter is in Court, no tangible efforts have been taken by management to recover the stolen equipment or hold any one culpable for occasioning the losses. Consequently, the Ministry has not obtained value for the money spent in procuring the tools.

Submission by Accounting Officer

The Accounting Officer stated that this was an active criminal matter in court.

Committee Observations and Findings

The matter was dealt with in the report for the Financial Year 2015/2016.

446. Textile and Leather Working Machinery and Equipment

As previously reported, the Ministry procured textile and leather workshop machinery and equipment for Kenya Industrial Training Institute in Nakuru worth Kshs.214,899,000 during the year ended 30 June 2015. Although the inspection and acceptance certificate confirmed the goods to be of the right quantity and specification, the Ministry did not avail the commissioning certificate for audit to confirm that the machines and equipment were installed and put for use as planned.

Review of the position during the year under review indicated that the machinery and other equipment have since been installed but are yet to be commissioned for operations.

In the circumstances, it has not been possible to confirm that value-for-money has been obtained on expenditure of Kshs.214,899,000 incurred by the Ministry on purchase of these industrial assets.

Submission by Accounting Officer

The Accounting Officer stated that they were able to retrieve the missing Commissioning Certificate and forwarded it to the auditor for verification.

Committee Observations and Findings

- **(i) The Committee observed that the Ministry has now availed the commissioning certificate which has been verified.**
- **(ii) The Committee marked the matter as resolved.**

34.0. **STATE DEPARTMENT FOR COOPERATIVES**

FINANCIAL STATEMENTS FOR VOTE 1173

Mr. Ali Noor Ismail, the Principal Secretary and Accounting Officer for the State Department for Cooperatives (Vote 1173) appeared before the committee on 22nd August 2019 to adduce evidence on the Audited Financial Statements for the State Department for Cooperatives (Vote 1173) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Geoffrey Nyangombe - Commissioner Cooperatives Development**
2. **Ms. Emily Sabala - Chief Accountant**
3. **Mr. Zacheus Kagema - Principal Accountant**
4. **Mr. Martin Mosina - Chief Finance Officer**
5. **Mr. Patrick M. Motebo - Deputy Accountant General**
6. **Mr. Jovel M. Munira - Ag. Director Cooperative Audit**

And submitted as follows:

Unqualified Opinion

The Committee observed that there were no material issues noted during the audit of the financial statements.

Other Matter

447. Non-compliance with Public Finance Management Act, 2012 – Management Supervision and Liquidation Fund

Section 84 of the Public Finance Management Act, 2012 requires the Accounting Officer administering a national public fund to prepare financial statements of the fund at the end of each fiscal period and submit these to the Auditor-General for audit. Further, Rule 18 and 49 of the Cooperative Societies Rules, 2004 under Legal Notice No. 123, established the Management and Supervision Fund and the Cooperative Liquidation Account respectively and entrusts the Commissioner of Cooperatives with their management and administration. As observed in the previous year, the Department has not prepared and submitted for audit, separate financial statements of the Management and Supervision Fund as well as the Liquidation Account for the four financial years ended 30 June 2013 to 30 June 2017 to enable the Auditor-General provide an opinion on the Fund's operations for the period and its financial position at the close of each financial year. In the circumstance, the Department has therefore breached the law.

Submission by Accounting Officer

The Accounting Officer submitted that they have prepared and submitted for audit the Financial Statements of Supervision and Management Fund for the years 2012/2013, 2013/2014, 2014/2015, 2015/2016 and 2016/2017.

Committee Obserations and Findings

(i) **The Committee observed that the fund has not been preparing financial statements separately.**

(ii) **The Committee observed that that the reason given by the Accounting Officer for not preparing the financial documents was due to the fact that the State Department had not been separated from the from the Ministry of Industrialization and Enterprise Development and that the financial statements had been prepared but combined with those of the said Ministry.**

(iii) **The Committee observed that the Satte Department has now separately prepared separate financial statements for the Fund and submitted the same to the Auditor General.**

(iv) **The Committee marked the matter as resolved.**

Committee Recommendations

The Accounting Officer must, at all times, ensure that fully reconciled financial statements are submitted to the Office of the Auditor General pursuant to section 68 (2)(k) of the Public Finance Management Act, No. 8 of 2012, and within three months as required under Article 229 (4) of the Constitution of Kenya.

35.0. STATE DEPARTMENT FOR TRADE

FINANCIAL STATEMENTS FOR VOTE 1174

Dr. Chris Kiptoo, the Principal Secretary and Accounting Officer for the State Department for Trade (Vote 1174) appeared before the committee on 18th June 2019 to adduce evidence on the Audited Financial Statements for the State Department for Trade (Vote 1174) for the Financial Year 2016/2017. (Minutes of the Committee sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Ambrose R. M. Ogango - Chief Financial Officer**
2. **Mr. Joshua Nguko - Senior Financial Officer**
3. **Mr. Hezron Macharia - Principal Accountant**
4. **Mr. Tarus Hotlay Kibet - Accountant**
5. **Mr. Mathew M. Kinyua - Accountant**
6. **Ms. Margaret Gakua - Accountant**
7. **Ms. Mohamed AbdulKarim - Senior Assistant Secretary**
8. **Ms. Mildred Akoth - Assistant Accountant General**
9. **Mr. Michael Onyancha - DWM**

Basis for Adverse Opinion

448. Unsupported figures

The statement of receipts and payments reflects figures of Kshs.7,834,705 and Kshs.57,296,134 under other receipts and acquisition of assets respectively, which were not supported with requisite schedules. Further, under the statement of assets and liabilities the accounts payables figure of Kshs.29,441,942 was also not supported with necessary schedules and documents. Under the circumstances, it has not been possible to ascertain the validity, accuracy and completeness of the financial statements.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the schedules for receipts amounting to Ksh.7,834,705 collected were availed manually since after reversing the items captured twice the adjustment was not reflected in the system due to a technical issue that was being sorted by Treasury. IFMIS Schedule for payments amounting to Ksh.57,296,134 has since been submitted to the external auditor in soft copy because it's voluminous. The documents for Accounts payables (receipts and payments vouchers amounting to Ksh.29,441,942) in respect of Deposits which were availed together with the Deposit Cash Book, Bank Statement and Bank Reconciliation as at 30th June 2017.

Committee Observations and Findings

- **(i) The Committee observed that the information was not available when needed by the Auditor General because the Department did not have enough staff due to transition and the staff were still familiarizing with the IFMIS system;**
- **(ii) The Committee observed that the IFMIS schedules and breakdown of receipts and payments have since been verified; and**
- **(iii)The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements to the Auditor General within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

449. Use of goods and services

During the year under review, a total of Kshs.1,187,753,239 was spent on use of goods and services against the approved budget provision of Kshs.1,270,429,636 resulting in under-expenditure of Kshs.82,676,397. However, details of the approved budget provision of Kshs.1,270,429,636 were not provided for audit review. Further, examination of payment vouchers revealed that a total of Kshs.16,285,374 was charged against wrong account codes. The inconsistency in charging the expenditures to wrong account class undermines the accuracy of the financial statements and renders budgeting meaningless. In addition, an amount of Kshs.11,491,302 in respect of fuel, oil and lubricants is at variance with the ledger figure of Kshs.11,476,302 resulting to an unexplained difference of Kshs.15,000.

Submission by Accounting Officer

The Accounting Officer submitted that the detailed budget provision of Ksh.1,270,429,636 was availed in form of detailed Appropriation Statement as per Head and economic items as provided in IFMIS.

He continued by noting that where the issue to coding was raised in the Letter of Management, they explained that the perceived wrong coding is what was charged on sub-items within the main item where reallocation is not necessarily requested from Treasury. For example, under Operating Expenses (Main Item No.2211300) we have the following sub-items

(i) Sub Item 2211305 Contracted Guards & Cleaning services;
(ii) Sub Item 2211308 Legal Fees, Arbitration & Compensation Payments;
(iii) Sub Item 2211310 Contracted Professional Services; and,
(iv) Sub Item 2211311 Contracted Technical services.

The Accounting Officer submitted that the variance of Ksh.15,000 was in respect of a mis-posting in feasibility study under Acquisition of Assets which has since been corrected as shown in IFMIS Schedules.

Committee Observations and Findings

(i) The Committee observed that the details of the approved budget provision of Kshs.1,270,429,636 have now been analyzed.
(ii) The Committee observed that the Auditor General confirmed that the expenses on establishment of E-Trade Portal for Kshs.8,260,000 and Kshs.2,360,000 were charged under Contracted Technical Services and classified under Other Operating Expenses.
(iii) The Committee marked the matter as resolved

Committee Recommendations

The Accounting Officer must at all time avail in time confirmation documents for audit verification pursuant to the provision of Section 68(2)(k) of the PFM Act 2012.

450. Unsupported expenditure – foreign missions

Included in the total expenditure of Kshs.3,445,034,343 are Authority to Incur Expenditure (AIEs) issued to commercial attaches in foreign missions amounting to Kshs.89,244,859 that were charged under various account items instead of being reported as accounts receivables until they are accounted for by the missions. Although, management has explained that the amount has been captured as an expenditure in the financial statements because lack of capturing would have understated the department's expenditure for the year, accuracy and completeness of the AIEs issued of Kshs.89,244,859 could not be confirmed in the absence of necessary supporting documentation.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that evidence of expenditure from the foreign missions was not availed because the same was not received from Ministry of Foreign Affairs. Once we receive them, we will avail the same to you. The Ministry has and continues to engage with Ministry of Foreign Affairs for the accountability of the AIE's.

Committee Observations and Findings

(i) The Committee observed that the Accounting Officer did not provide evidence of expenditure from foreign missions.
(ii) The matter remained unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documents to the for expenditure to the financial statements to the Auditor General within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

451. Outstanding temporary imprests

The statement of assets and liabilities reflects an accounts receivable balance of Kshs.1,131,477 being outstanding imprests which ought to have been surrendered or accounted for on or before 30 June 2017. A review of the position as at 28 February 2018 showed that the entire amount had still not been accounted for or recovered and no 291 reasons have been provided for failure to adhere to Section 93 of Public Finance Management Act, 2012 on issuance of imprests.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the outstanding imprests amounting to Kshs.1,131,477 as at 30th June 2017 had not been accounted for or recovered at the close of the financial year. The same has since been recovered in full or accounted for in full after we forwarded the names to the Salaries Section.

Committee Observations and Findings

(i) The Committee observed that imprest has been recovered from eleven staff but imprest from staff transferred to other MDAs is yet to be recovered. Letters have been sent to the Ministry of Interior to recover the imprest from the affected staff.

(ii) **The matter remains unresolved.**

Committee Recommendations

Within three (3) months of the adoption of this report, the Accounting Officer should recover the full amount of Kshs.1,131,477 from the salary of the defaulting officers with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.

452. Acquisition of Assets

Note 7 to the financial statements and the summary of the fixed assets register reflects a balance of Kshs.57,296,134 under acquisition of assets representing payments made to acquire property, plant and equipment during the year. However, the Department's list of assets availed for audit did not comprehensively reflect the location and condition of assets. It was also not clear whether assets that belonged to the former mother Ministry (presently Tourism) have been properly identified and only the relevant assets were included in the list. In the absence of a comprehensive fixed assets register, proper accountability of assets purchased, handed over and disposed off could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the list of Assets did not reflect the location and condition of Assets since the State Department was still in the process of compiling a comprehensive fixed Asset Register in liaison with Ministry of Tourism. We now submit the Final Register of Assets for State Department of Trade (SDT) which has location and condition status for your review.

Committee Observations and Findings

(i) **The Committee observed that although the auditor confirmed receipt of the asset register, the State Department had not included the asset value column in the register.**
(ii) **The matter remains unresolved.**

Committee Recommendations

Within three (3) months after the adoption of this report, the Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General at the time of audit if requested.

453. Accounts Payables

During the year under review, the Department received a total of Kshs.30,352,834 in respect of Regional Integration Implementation Programme (RIIP) against a total budget of Kshs.53,717,850 as per the 2016/2017 work plan. A scrutiny of documents availed for audit indicate that the Department spent only Kshs.3,247,604 in the 2016/2017 financial year thus resulting in unspent balance of Kshs.27,105,229. However, the reports and expenditure return for the activities that had been implemented during the year were not availed for audit verification. Consequently, the propriety of the amount of Kshs.3,247,604 spent on the programme could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that the expenditure related to Regional Integrated Implementation Programme (RIIP) amounting to Ksh 3,247,604 was not supported with reports and expenditure returns were not availed for Audit:

i. The RIIP Payment Vouchers were availed together with Deposit Cash Book during the audit. We, however, resubmit the same in a summary sheet for your review; and,
ii. Reports for the activities undertaken in RIIP are now ready and has submitted for review.

The under-expenditure was due to funds being received late, towards the end of the financial year from Ministry of Foreign Affairs since SDT had just been established in the re-organization of the Government.

Committee Observations and Findings

- **(i) The Committee observed that the reports and expenditure returns have been verified.**
- **(ii) The Committee marked the matter as resolved.**

454. Pending Bills

Bills amounting to Kshs.42,326,875 relating to 2016/2017 were not settled during the year but were instead carried forward to 2017/2018 financial year. However, the validity, completeness and accuracy of the pending bills balance of Kshs.42,326,875 could not be ascertained because supporting payment vouchers for bills amounting to Kshs.18,950,298 were not availed for audit verification. Further, failure to settle the bills in the year to which they relate adversely affects the following year's provision to which they have to be charged. Had the bills been paid and the expenditure charged to the account for 2016/2017, the statement of receipts and payments for the year would have reflected a deficit of Kshs.37,066,513 instead of the surplus of Kshs.5,260,362 now shown.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the State Department had Pending Bills amounting to **Ksh.42,326,875** relating to F/Y 2016/2017. The unverified pending bills amounting to Kshs.18,950,298 has since been availed to the auditors for verification.

Committee Observations and Findings

(i) **The Committee observed that vouchers for paid and unpaid bills have been availed for audit verification.**
(ii) **The Committee marked the mater as resolved.**

Committee Recommendations

(i) **Accounting Officers must at all times ensure that they take appropriate measures to resolve any issues arising from audit which may remain outstanding pursuant to the provisions of section 68(2)(l) of the Public Finance Management Act, 2012.**

(ii) **The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills are available they should form a first charge in the subsequent year's budget thereby impending smooth implementation of the subsequent budget.**

455. Budget Performance

During the financial year ended 30 June 2017, the State Department of Trade received a total of Kshs.3,450,294,705 against estimated receipts of Kshs.3,621,839,747 resulting in a shortfall of Kshs.171,545,042 or 5% as shown below.

Description	**Budget**	**Actual**	**Short fall**	**Short fall**
	Kshs	Kshs	Kshs	%
Exchequer Releases	3,594,079,747	3,442,460,000	151,619,747	4%
Other Receipts	27,760,000	7,834,705	19,925,295	72%
Total	3,621,839,747	3,450,294,705	171,545,042	5%

Failure by National Government to release all the provisions budgeted for, may impact negatively on service delivery by the State Department. On the other hand, under other receipts where the budget was for Kshs.27, 760,000, the Department collected Kshs.7, 834,705 which occasioned a Kshs.19,925,295 shortfall or 72%. The under collection of revenue was attributed to lack of disposal of bonded items during the year because the State Department did not complete the process of bonding the items as per law.

Submission by Accounting Officer

There was 72% shortfall in collection of AIA and 5% in Exchequer Issues:

i. The Accounting Officer submitted that it was true there was under collection of AIA by Ksh.19,925,295 equivalent to 72%.. Of this amount, 54% relate to AIA due to SAGA's which they collect and account for directly. It is important, however, to note that the AIA collection generated by the SAGAs is included in in the State Department for Trade Budget, but we do not account for them. This is because the SAGAs do prepare their own reports independently and account for them directly. The Department is putting more effort to ensure more AIA is collected.
ii. The shortfall of exchequer issue by 5% was due to delay in Exchequer release by the National Treasury.

Committee Observations and Findings

(i) The Committee observed that failure by National Government to release all the provisions budgeted for, may impact negatively on service delivery by the State Department;
(ii) The Committee observed that the audit process was still ongoing, and
(iii)The matter remains unresolved.

Committee Recommendations

(i) Within three (3) months upon adoption of this report, the Accounting Officer should ensure that the revenue budgeted for be collected and remitted by the various SAGAs as stipulated in Section 76 of the PFM Act, 2012;
(ii) Accounting Officer must, at all times, ensure that they prepare annual cashflow which shall be broken down into a three-month rolling down basis and shall be adjusted to reflect any implementation realities in consultation with the National Treasury pursuant to the provisions of regulation 44 of the PFM (National Government) Regulations, 2015.

36.0. STATE DEPARTMENT FOR EAST AFRICAN COMMUNITY INTEGRATION

FINANCIAL STATEMENTS FOR VOTE 1183

Dr. Margaret W. Mwakima, the Principal Secretary and Accounting Officer for the State Department of East Africa Affairs (Vote 1183) appeared before the committee on 2nd May 2019 to adduce evidence on the Audited Financial Statements for the State Department of East Africa (Vote 1183) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). She was accompanied by the following officials:

1.	**Dr. Alice J. O Yalla**	-	**Ag. Integration Secretary**
2.	**Mr. Joseph Mumo**	-	**Finance Officer**
3.	**Ms. Joan Akinyi Ochieng**	-	**Principal Accountant**
4.	**Mr. George Arogo**	-	**EALA Liaison Officer**
5.	**Mr. Justine Nelima**	-	**Director Administration**

Basis for Qualified Opinion

456. Arrears of Subscriptions to Inter University Council for East Africa

Information available indicates that initially the contributions to Inter University Council for East Africa were effected through the Ministry of Education. However, the Ministry failed to remit contributions dating back from financial years 1980/1981 up to 2003/2004, resulting to accumulated arrears totalling USD 6,186,908 or Kshs.643,438,432 at an exchange rate of Kshs.104 to the dollar. As at 30 June 2017 the State Department of East African Community Integration had paid arrears totalling Kshs.562,997,968 or USD 5,413,442 leaving a balance of Kshs.80,440,464 or USD 773,466 outstanding. However, evidence of receipt by the Inter University Council for East Africa was not made available for audit review. Consequently, the accuracy, completeness and acknowledgement of the contribution arrears of Kshs.643,438,432 could not be ascertained as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Department paid arrears totaling Kshs. 562,994,968 as at 30th June 2017, leaving a balance of Kshs. 80,440,464 or USD 773,466 outstanding. These arrears to IUCEA have been cleared by the National Treasury in the current financial year 2018/2019.

However, we wish to state that the National Treasury have transmitted all the allocated funds to IUCEA in the current Financial Year 2018/19; and the outstanding arrears at the moment amounts to USD 4,168**;** occasioned by exchange rate differences. Evidence of the receipts from ICUEA have been provided for audit review.

Committee Observations and Findings

- **(i) The Committee observed that the arrears have been cleared by the National Treasury; however, the outstanding amount of USD 4,168 was occasioned by exchange rate fluctuation.**
- **(ii) The Committee marked the matter as resolbved.**

457. Pending bills

Audit of pending bills records indicate that the State Department had unpaid bills totalling Kshs.6,246,965 for the financial year 2015/2016 which were carried forward to 2016/2017. A review of the position at the time of audit in January 2018 disclosed that out of the total pending bills amounting to Kshs.6,246,965, so far Kshs.5,323,465 had been paid leaving a balance of Kshs.923,500. However, had the bills been paid in the year under review, the statement of receipts and payments would have reflected a surplus of Kshs.2,636,214 instead of the surplus of Kshs.3,610,750 as at 30 June 2017.

No reason has been given for carrying over pending bills from year to year

Submission by Accounting Officer

The Accounting Officer submitted that it was true that pending bills records indicate a balance of Kshs. 923,500 as at the time of audit review of January 2018.

The total payments for the period under review did not include amounts of Kshs. 923,500 for various suppliers which were not paid due to various reasons; some of which include; incomplete supplier information which is necessary for definition in IFMIS i.e. address, bank details, inconsistencies in payees' names, Ifmis challenges and technicalities on the part of suppliers, and thus prompting carrying forward the pending bills from year to year.

Pending bills amounting to Kshs. 237,500 (Nyeri Ask Show Kshs. 72,500 and Kirpet Trading Company Kshs. 165,000) had since been cleared in 2017/2018 financial year as outlined, leaving a balance of Kshs. 686,000. The details of the pending bills are as outlined below.

S/NO	SUPPLIER	AMOUNT	STATUS
1.	CLUB HERITAGE LTD	192,000	Suppliers have never responded to the IFMIS quotations
2.	NYERI ASK SHOW	72,500	Cleared
3.	AGRICULTURAL SOCIETY OF KENYA(MOMBASA)	494,000	Suppliers have never responded to the IFIMS quotations
4.	KIRPET TRADING COMPANY	165,000	Cleared
	TOTALS	**923,500**	

Committee Observations and Findings

(i) **The Committee observed that out of the balance of Kshs 923, 500 an amount of 72,500 was confirmed to have been paid leaving a balance of Kshs. 851,000 still outstanding.**
(ii) **The matter remains unresolved.**

Committee Recommendations

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

458. Somali IGAAD Peace Talks-Pending Claim

In October 2002, a local hotel was requested by Government to offer accommodation to delegates attending the Somali IGAD Peace talks in Eldoret Town. Upon conclusion of the talks, the government delayed in settling the principal amount for the services rendered and the matter was lodged in court to recover the agreed amount of Kshs.65,000,000. 294 In the ruling of Civil Case. No.194 of 2009, the then Ministry of East African Community was ordered to pay the hotel a sum of Kshs.65,000,000 within sixty (60) days failing to which it would attract interest at 12% from the date of default until payment in full.

However, there was a delay of 28 months by Ministry in paying the hotel following the lapse of judgement decree within 60 days and the costs of the suit awarded by the Court. The decretal amount of Kshs.65,000,000 was finally settled on 19 April 2013 upon which it had attracted interest totalling Kshs.20,991,905. Various correspondences from the Attorney General urged the State Department to settle the interest accrued of Kshs.20,991,905 after the settlement of the Kshs.65 Million principal amount. A review of the position of the claim as at the time of audit in January 2018 indicates that the interest accrued claim totalling Kshs.20,991,905 had not been settled. In the circumstances, the unpaid claim is likely to attract further legal actions on interest claims leading to voidable loss of public funds.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the interest accrued on the pending claim totaling to Kshs.20, 991,905 had not been settled as at the time of audit in October 2018, and at the time of settlement of the Principal sum of Kshs. 65,000,000.

The Accounting Officer sumbited that it was true that the matter has been long outstanding, however, the State Department's budget ceiling for financial year 2019/2020 and the Medium Term could not accommodate the allocation to settle the matter. Continuous consultation and correspondences from the State Department has been ongoing with the National Treasury to provide the additional resources to settle the issue; but at the moment, no funds have yet been provided by the National Treasury under either Supplementary II Financial year 2018/2019 or forthcoming Financial Year 2019/2020. The state Department is also committed to resolving the matter through alternative dispute resolution in order to mitigate further losses.

Committee Observations and Findings

- **(i) The Committee observed that no funds have been provided yet by the National Treasury under either Supplementary II Financial year 2018/2019 or forthcoming Financial Year 2019/2020.**
- **(ii) The Committee observed that the state Department is also committed to resolving the matter through alternative dispute resolution in order to mitigate further losses.**
- **(iii)The matter remains unresolved.**

Committee Recommendations

The National Treasury should ensure that it allocates fund in the next financial year for approval by the National Assembly to wnable settlement of the pendings claims.

459. Outstanding Imprests

The statement of assets reflects an amount of Kshs.1,752,766 relating to outstanding temporary imprests which was due for surrender by 30 June 2017. A review of the position as at the time of audit in January 2018 indicated that imprests totalling Kshs.698,542 were still outstanding beyond the due dates. No satisfactory explanation was provided for the failure to recover the outstanding imprests in full from defaulting officers' salaries as required.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that imprests amounting to **Kshs.698, 542** pertaining to 2016/2017 financial year were still outstanding as at the time of audit review carried out in January 2018. The Accounting Officer stated that the amounts were fully recovered by the relevant Ministries where the officers were transferred. A follow up is being done with the ministries to remit the said recoveries.

The position; together with the details pertaining these imprests are as outlined below.

Name of Officer	***Amount Taken***	***Amount Surrendered***	***Balance***	***STATUS***
	Shs.		***Shs.***	
Rehema Chemas	154,836	-	154,836	The amount was recovered from the officer's salary and a reminder letter sent to the Ministry of Interior for remittance of the recovered amounts
Peter Kiplagat	174,836	-	174,836	The amount was recovered and a reminder letter sent to the Ministry of Labour for remittance of the recovery
Joseph K. Kariuki	174,836	-	174,836	Reminder letter sent to the Ministry of Tourism for recovery and remittance of the said recovery
Joseph K. Kariuki	20,000	-	20,000	Reminder letter sent to the Ministry of Tourism for recovery and remittance of the said recovery
Dickson Nyambane	21,624	21,624	-	The amount was recovered and remitted to the State Department.

Esther Chemirmir	152,410	152,410	-	Imprest surrendered vide P/v no. 004522
TOTALS	***698,542***	**174,034**	**524,508**	

Committee Observations and Findings

The matter remains unresolved until all the imprest is remitted by the Ministries.

Committee Recommendations

Within three months of the adoption of this report, the Accounting Officer should ensure that he follows up with the Ministries to remit the amount of Kshs.698, 542.

Other Matters

460. Budget and Budgetary performance

460.1. Revenue

The actual receipts amounted to Kshs.1, 507,383,312 against the budgeted amount of Kshs.1,606,515,038 resulting in a shortfall of Kshs.99,131,726 or 6% as tabulated below:

Revenue Head	Budget Kshs.	Actual Kshs.	Excess (shortfall) Kshs.	Excess (shortfall) %
Recurrent Exchequer	1,566,515,038	1,487,060,000	(79,455,038)	(5)
Proceeds from Domestic and Foreign Grants	40,000,000	20,323,312	(19,676,688)	(49)
Total	1,606,515,038	1,507,383,312	(99,131,726)	(6)

No explanation has been provided for the failure to absorb Kshs.19,676,68 in the form of Aid for Trade from Trademark East Africa (TIMEA).

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the actual receipts amounted to Kshs. 1,507,383,312 against the budgeted amount of Kshs. 1,606,515,038 resulting to a shortfall of Kshs. 99,131,726. This was occasioned by the following:

i.) Revenue

The shortfall of ksh.19, 676,688 or 49% pertaining to Development was occasioned by revision of budget downwards and there was no formal communication from TMEA for record purposes thus affecting the budget.

ii.) Expenditure

Use of Goods and services

The under absorption of 11% was occasioned by system challenges, liquidity problems, e-procurement challenges, over pricing hence leading to decline of the committee approval, suppliers not responding to quotations within the time limit due to challenges in operating the IFMIS portal; challenges from suppliers with no IFMIS number; and the suppliers not providing Bank details.

Transfer to other Government entities.

The shortfall of 18% was occasioned by delay in election of EALA members, and the terms of EALA members also ended before the closure of financial year hence leading to under absorption of the funds and therefore, the ministry was unable to implement the EALA activities fully.

Acquisition of Assets

The shortfall of 31% was occasioned by re-allocation of funds towards the closure of financial year. This affected asset acquisition items in the vote book status report by lowering them. There were also system challenges, liquidity problems, e-procurement challenges, over pricing hence leading to decline of the committee approval, suppliers not responding to quotations within the time limit due to challenges in operating the IFMIS portal; challenges from suppliers with no IFMIS number; and the suppliers not providing Bank details.

Committee Observations and Findings

The Committee observed that the paragraph was for the information purposes to the Accounting Officer. The Accounting Officer was directed to take note of the Comments of the auditor General and improve on the same.

460.2 Expenditure

Overall, the State Department under spent its budgeted amount by Kshs.48,042,449 or 3.1%. The under expenditure mainly occurred under use of goods and services, transfers to other government entities and acquisition of assets at Kshs.39,916,010 or 11%, Kshs.4,627,187 or 18% and Kshs.2,932,436 or 31% respectively as shown below;

Expenditure	**Budget Kshs.**	**Actual Kshs.**	**Over/(under) Kshs.**	**Over/(Under) %**
Compensation of Employees	182,300,000	181,733,184	(566,816)	(0.3)
Use of goods and Services	357,884,187	317,968,177	(39,916,010)	(11)
Transfers to other Government	25,600,000	20,972,813	(4,627,187)	(18)
Other grants and transfers	976,650,000	976,650,000	0	0
Acquisition of Assets	9,380,823	6,448,387	(2,932,436)	(31)
Total	1,551,815,010	1,503,772,561	(48,042,449)	(3.1)

The failure to absorb Kshs.48,042,499 mainly under use of goods and services and transfer to East African Legislative Assembly (EALA) implies that the State Department's goals and objectives were not achieved as planned.

Committee Observations and Findings

The Committee observed that the paragraph was for the information purposes to the Accounting Officer. The Accounting Officer was directed to take note of the Comments of the auditor General and improve on the same.

37.0. MINISTRY OF LABOUR & SOCIAL PROTECTION

37.1. STATE DEPARTMENT OF LABOUR

FINANCIAL STATEMENTS FOR VOTE 1184

Dr. Ibrahim M. Mohamed, the Principal Secretary and Accounting Officer for the State Departments of Labour (Vote 1184) appeared before the committee on 4th January 2019 to adduced evidence on the Audited Financial Statements for the State Departments of Labour (Vote 1184) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Moses Muya - Deputy Head Accounting Unit**
2. **Mr. Samuel Thuite - Director Occupational Health**
3. **Ms. Beatrice Igandwa - Deputy Head Accounting Services**
4. **Mr. Noah Mio Sanganyi - Director children service**
5. **Ms. Jane muyanga - Senior Assistant Director- Children**
6. **Mr. Kimani Moses - Chief Supt Quantity Surveyor**
7. **Mr. Paul Maema - Suptending Structural Engineer**
8. **Mr. Musa Ntandusi - Deputy Director DOHS**
9. **Mr. James m. Njogu - Principal Supply Chain management**
10. **Mr. Chario Libwob - Social Development Officer**
11. **Ms. Cathrine Waema - Director KEDVT**
12. **Ms. Edith Okoki - Ag. Director General national Emp. Authority**
13. **Ms. Joyce Mwale - DS Labour**
14. **Mr. Eric Maina - Internal Auditor**
15. **Mr. Peter Kasese - Labour**
16. **Mr. Omed Ngaira - Labour**

Basis of Adverse Opinion

461. Accuracy, Completeness and Presentation of Financial Statements

461.1 Lack of Comparative Balances

The reporting template provided by the Public Accounting Standards Board (PASB) requires the National Government entities to include comparative figures for all items indicated therein. However, upon review of the financial statements provided, it was observed that comparative balances were not included in the current year under review.

The reasons given for the above scenario was that the National Treasury failed to give guidance on how the balances were to be shared by the newly created State Departments curved out of the former Ministry of Labour, Social Security and Services which was split into two State Departments and allocated new votes (Vote 1184 - State Department of Labour and Vote 1185 – State Department for Social Protection).

In addition, it was noted that the State Department was not an entirely new entity as it inherited current and fixed assets from the parent Ministry. Consequently, traceability of these assets may become difficult and some of the assets could be lost in the process.

Further, in the absence of comparative balances, the financial statements as presented are not in compliance with the approved reporting template and do not therefore provide relevant, reliable and comparable information.

In the circumstances, the accuracy, completeness and presentation of the financial statements could not be confirmed as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true reporting the Financial Statements submitted did not include comparative figures for all the items indicated therein with the previous Financial Year Statements. As observed in the earlier Audit Report, the State Department had written to National Treasury for guidance on the issue on how the apportionment of balances by the newly created State Department curved out of the former Ministry of Labour, Social Security and Services which was split into two State Departments and allocated new votes (vote 1184- State Department of Labour and vote 1185- State Department of Social protection. The State Department of labour was advised by the National Treasury on the issue and is in the process of amending the financial statements.

Committee Observations and Findings

(i) **The Committee observed that the National Treasury advised 5the state department on the issue and is in the process of amending the financial statements.**
(ii) **The Committee observed that in the opinion of the Auditor General, the ideal position should have been the sharing of the balances on a pro rata basis between vote 1184 and vote 1185.**
(iii) **The Committee marked the matter as resolved.**

462. Irregular and Concealed Auction of Boarded Motor Vehicles

Seventeen (17) GK. Vehicles were disposed off through auction as listed below:

S/No.	Registration No.	Make	Model	Reserve Price (Kshs.)	Bid Prices at Auction (Kshs.)	Amount Paid (Kshs.)
1	GK A 039D	Musso	S/Wagon	50,000		55,000
2	GK A 990T	V/W Passat	Passat 1.8	30,000	100,000	32,000
3	GK A 864S	Toyota	Micro Bus	20,000	-	140,000
4	GK A 610M	Toyota	RAV 4	30,000	-	70,000
5	GK X 618	Toyota M/Bus	RZH104	95,000	-	125,000
6	GK A 135L	Nissan M/Bus	Urvan - E24	120,000	-	150,000
S/No.	**Registration No.**	**Make**	**Model**	**Reserve Price (Kshs.)**	**Bid Prices at Auction (Kshs.)**	**Amount Paid (Kshs.)**
7	GK 710G	Toyota Corolla	Saloon	50,000	85,000	60,000
8	GK 184U	Volkswagon	Passat 1.8	80,000	-	83,000
9	GK A 709Q	Nissan Patrol	Patrol Y61	120,000	180,000	150,000
10	GK A 599C	Yamaha	Motor Cycle	10,000	-	15,000
11	GK A 284M	Nissan M/Bus	Urvan -E24	130,000	-	150,000
12	GKA 396L	Tornado	Motor Cycle	15,000	-	30,000
13	GKA 038E	Nissan S/Wagon	Terrano	80,000	-	120,000
14	GK A 488P	Nissan Patrol	Patrol Y61	131,000	1,300,000	250,000
15	GK T 868	Peugeot 504	S/Wagon	10,000	-	12,000
16	GK A 692Y	Nissan Patrol	Patrol Y61	131,000	2,100,000	145,000
17	GK 253E	Nissan Patrol	Patrol Y61	100,00	1,800,000	130,000
	Total			**1,102,100**	**3,900,000**	**1,717,000**

However, the following anomalies were noted:

i) The advertisement for sale of the vehicles on 7th April 2017 was done in The People Daily Newspaper instead of at least two daily newspapers of nationwide circulation contrary to Section 96(2) of the Public Procurement and Asset Disposal Act, 2015.

ii) It was not clear how the auctioneer was procured and awarded due to various discrepancies in correspondences between the auctioneer and the head of procurement. In consequent, proper procurement procedures were not followed in the identification and award of the auction services.

iii) Although the vehicles were valued and reserve prices set by the Ministry of Transport and Infrastructure, the vehicles disposed were grossly undervalued with some being sold below the bid prices and some attracting extraordinary bids. Some top of the range vehicles were sold for as low as Kshs.32,000. For example:

- GK A 990T a VW Passat with no visible damage had a reserve price of Kshs.30,000 and attracted bid price of Kshs.100,000 but only Kshs.32,000 was received and from a different bidder;
- GK A 488P a Nissan Patrol had a reserve price of Kshs.131,000 and attracted a bid price of Kshs.1.3 million but only Kshs.250,000 was receipted;
- GK A 692Y a Nissan Patrol had a reserve price of Kshs.131,000 and attracted a bid price of Kshs.2.1 million but only Kshs.145,000 was receipted;
- GK A 253E a Nissan Patrol had a reserve price of Kshs.100,000 and attracted a bid price of Kshs.1.8 million but only Kshs.130,000 was receipted.

Further, details of the auction were also not produced for audit verification which could have enabled identification of unpaid and unsold motor vehicles, bid prices and the binders present among others.
The winning bidders at the auction dated 12 April 2015 were required to pay 25% deposit at the fall of the hummer but none paid since all the miscellaneous receipts are dated 13 April 2016.
In addition, fairly new vehicles were disposed off leaving eight (8) old vehicles grounded in the various State Department yards as listed below:

	REG. NO.	MAKE /MODEL	YARD	REMARKS
1.	GKA 764 N	Nissan XTrail	NITA	Grounded for over 4 years
2.	GKA 763 A	Peugeot 504	NITA	‘’
3.	GKA 893 Q	Peugeot 406	NITA	‘’
4.	GKA548 F	Mitsubishi Pajero	NITA	‘’
5.	GKA 736 A	Volvo	NITA	‘’
6.	GKA 292 U	Toyota Mini Bus	NITA	‘’
7.	GKA 541 B	Suzuki	KABETE	‘’
8.	GKA 351 E	Mazda	KABETE	‘’

In view of the foregoing, the regularity of the auction could not be confirmed and action should be taken against the Government Officers, auctioneering firm and other parties who colluded leading to loss of public funds and assets.

Submission by Accounting Officer

1. The Accounting Officer submitted that it was not true that the advertisement for sale of the vehicles appear to have been advertised in one local daily newspaper. The advertisement appeared in both Standard and People daily newspapers on 28thMarch 2017 and addendum done 7th April 2017.
2. The Auctioneer was procured through request for quotation method of procurement pursuant to Section 105 and 106 of the Public Procurement and Asset Disposal Act 2015. Below is a summary of the bidders and their quoted sums:

No.	Item Description	Bidder 1 Galaxy Auctioneers	Bidder 2 Cleverline Auctioneers	Bidder 3 Speedman Commercial Agencies	Bidder 4 Vision Auctioneers	Bidder 5
1.	Quotation for Auctioneerin services of 16No.Motor vehicles and 3No.Motor cycles	**Total Cost**	**Total Cost**	**Total Cost**	**Total Cost**	**Total Cost**
		Commission Of 7% of the total price	Commission of 8% of total price	Commission of 4.8% of total price	Commission of 5% of total price	No response

The Ag. Head/ Supply Chain Management unit through a memo Ref. MLSS&S/5/5 VOL. VI dated 6th March 2017 wrote to the Principal Secretary seeking approval to engage the lowest evaluated bidder based on the Price comparison schedule above. The Principal Secretary through a letter Ref. MLSS&S/5/1 dated 6th March 2017 notified M/s Speed man Commercial Services of the award of the service. The bidder also responded through their letter of acceptance Ref. SCA/ML/03/17 dated 9th March 2017.

The tender advertisement was placed in two local dailies i.e. The Standard and People Daily newspapers on 23rd March 2017 and thereafter an addendum notice on 7th April 2017 as per the Public Procurement Act.

3. The vehicles which were sold through the auction were actually disposed off above the reserve prices; a few examples are as highlighted in the schedule. The State Department is not privy to the prices introduced as bid prices as indicated in column six (6). A summary of all vehicles sold on the auction date was forwarded by the auctioneer M/s Speed man Commercial Services including his commission price of 4.8% of the total sale price.
4. The Auction date was 13th April 2017 and not 12th April 2015 as observed in your Audit Report findings.

All winning bidders were required to pay a 25% deposit at the fall of the hammer which they did as evidenced in miscellaneous receipts as summarized below.

S/No.	Vehicle Reg. No.	Make	Winning Bidder	Reserve Price	Sale Price	Deposit Paid	MR No.
1.	GKA 990T	V/W Passat	Issa haji Abdi	30,000.00	32,000.00	115,000.00 for both GKA 990T and GKA 184U	6781266
2.	GKA 184U	Volkswagen Passat	Issa haji Abdi	80,000.00	83,000.00	115,000.00 for both GKA 990T and GKA 184U	6781266
3.	GKA 488P	Nissan Patrol	Japheth Anami	131,000.00	250,000.00	70,000.00	6781267
4.	GKA 692Y	Nissan patrol	Hassan Haji Abdullahi	131,000.00	145,000.00	145,000.00	6781265
5.	GK 253E	Nissan patrol	ZablonAywah	100,000.00	130,000.00	35,000.00	6781263
6.	GKA 039D	Musso	George Randiga	50,000.00	55,000.00	55,000.00	6781255
7.	GKA 864S	Toyota	Robert Munene	20,000.00	140,000.00	140,000.00	6781256
8.	GKA 610M	Toyota	David Njoka	30,000.00	70,000.00	17,000.00	6781258
9.	GK X 618	Toyota M/Bus	George Ndara	95,000.00	125,000.00	35,000.00	6781268
10.	GKA 135L	Nissan M/Bus	Joseph Litala	120,000.00	150,000.00	37,500.00	6781269
11.	GK 710G	Toyota Corolla	KezzahMukhami	50,000.00	60,000.00	15,000.000	6781270
12.	GKA 709Q	Nissan Patrol	Gideon Karani	120,000.00	150,000.00	150,000.00	6781259
13.	GKA 599C	Yamaha	George Randiga	10,000.00	15,000.00	15,000.00	6781254
14.	GKA 284M	Nissan S/Wagon	NgenoKiplangat	80,000.00	120,000.00	39,000.00	6781278
15.	GKA 396L	Peugeot 504	Monica Wandollo	10,000.00	30,000.00	15,000.00	6781261
16.	GKA 038E	Nissan S/Wagon	Nancy Waititu	80,000.00	120,000.00	50,000.00	6781262
17.	GK T 868	Peugeot 504	Daniel Mutinda	10,000.00	12,000.00	12,000.00	6781257

5. The invitation to bid was done through open National Open Tender method of disposal where bidders were invited openly and willingly to bid for items they were interested in. The State Department was not in a position to compel any member of the public into buying any of the items identified for disposal. It was therefore not within the State Department's control to dispose-off the afore-mentioned items

6. The disposal process was done fairly and transparent in accordance with the Public Procurement Law and the Constitution of Kenya 2010 as evidenced in the documents attached.

The reserve prices were determined through an objective and independent process office (Ministry of Transport and Infrastructure). No vehicle was disposed-off at a lower price than the reserved price and therefore there was no loss of public funds and assets.

Committee Observations and Findings

The Committee observed that the whole process of disposal of vehicles was outrightly irregular and value for money cannot be ascertained

Committee Recommendations

(i) The Cabinet Secretary should discipline the Accounting Officer and the officers who were involved in the disposal of the assets contrary to section 72(1) of the Public Finance Management Act, No. 8 of 2012 and surcharge the Officers where the amount of loss is quantified; and
(ii) The ODPP should move with speed and prosecute all those found to be culpable in the irregular disposal the motor of the vehicles.

463. Pending Bills

Note 28.1 to the financial statements reflects pending bills totaling Kshs.36,493,295 as at 30 June 2017. A review of the position during the audit in March 2018 disclosed that bills amounting to Kshs.10,410,092 had been paid leaving an outstanding balance of Kshs.26,083,203.

Had the bills been cleared by 30 June 2017, the statement of receipts and payments would have reflected a deficit of Kshs.17,947,746 instead of a surplus of Kshs.18,545,549 now shown.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that there were pending bills of Kshs.36,493,295.00 which had not been settled by the closure of the F/Year 2016. It is also true that had the bills been settled (paid) by 30th June, 2017, the Statement of receipts and payments would have reflected a deficit of Ksh.17,545,549.00. A large percentage of unsettled bills were of Development in nature.

There was no Development Budgetary provision from which to pay for the services rendered, in the year under review despite the same having been provided for in the previous financial year 2014/2015 when the commitment was made. However, the pending bills have since been settled.

Committee Observations and Findings

(i) **The Committee observed that there were pending bills of Kshs.36,493,295.00 which had not been settled by the closure of the F/Year 2016.**
(ii) **The Committee observed that, the pending bills have since been cleared.**
(iii) **The Committee marked the matter as resolved.**

464. Stalled Construction Projects

a) **Construction of the National Employment Promotion Centre Kabete**

A contract for the construction of the proposed National Employment Promotion Centre Kabete was advertised on 15th February 2015 and awarded on 15 May 2015 at a contract sum of Kshs.442,723,947.

Although the contract period was for 78 weeks after commencement, a visit to the project site on 2nd March 2018 revealed that work had stalled and the contractor was not on site. Examination of available payment records disclosed that the contractor was paid a pending bill of Kshs.32,595,663 during 2016/2017 bringing the total payments since inception to Kshs.117,998,228.

Further, the project file, status reports and the Bills of Quantities (BQs) were not made available for audit review.

In addition, ownership documents for the land (L/R No.22355) on which the Project had been constructed were also not availed and the land appeared to have been encroached on by private developers. A dispute had also been registered by a person claiming ownership of the land.

In view of the foregoing, it has not been possible to confirm if and when the project will be completed, and no action appears to have been taken to safeguard public land and assets.

Committee Observations and Findings

The Committee observed that there was serious threat of aliemmtion of public land by private entities.

b) Construction of Labour Office – Eldoret

Included in the list of pending bills as at 30 June 2017 is an amount of Kshs.4,064,500 due to a construction company for the construction of Labour Office in Eldoret. However, no documents were availed for audit review to show how the tender was sourced, awarded, the contract sum, Bills of Quantities (BQs), payment certificates and the project status.

Correspondences seen between the Accounting Officer and the implementing team indicated that a total of Kshs.25,252,818 had so far been paid without indicating the contract sum.

In view of the foregoing, it has not been possible to confirm the validity of the amount paid of Kshs.25,252,818 and pending bill of Kshs.4,064,500 or the total expenditure and completion status of the entire project.

Submission by Accounting Officer

(a) National Employment Promotion Centre, Kabete

The Accounting Officer submitted that it was true that a contract for the Construction of National Employment Promotion Centre Kabete was advertised on 15th February 2015 and awarded on 15th May 2015 at a contract sum of Kshs.442,723,947.00.

Although at the time of your visit to the projects site on 2nd March 2018, there was no contractor on site, the construction works had not stalled. Additionly, the contract project file, status report and Bills of Quantities (BQs) for the project have been availed for the Audit review. The land L/R No.22355, Gitathuru Reception and Rehabilitation Centre, was reserved for children purposes under the Children Services Department of the Ministry of Labour and Social Protection under Legal Notice No. 243/1966. The land belongs to the Department of Children Services.

The Ministry of Labour and Social Protection was allocated 5 acres of that land for the construction of the National Employment Promotion Centre. Construction work at the Centre is currently on going and is at 60%. The plot is fully secured with a perimeter fence. The building is scheduled for completion in the 2019/2020 financial year.

Committee Observations and Findings

- **(i) The Committee observed that there is serious threat of alienation of public lands on which projects stand by private entities;**
- **(ii) The Committee observed that the Accounting Officer did not avail in time, the contract project file, status report and Bills of Quantities (BQs) for the project for audit verification contrary to the provision of Section 68(k) of the Public Finance Management Act, No. 18 of 2012 to enable the Office of the Auditor General discharge its mandate in line with Article 229(4) of the Constitution.**
- **(iii)The matter remains unresolved.**

Committee Recommendations

(i) Within three (3) months upon adoption of this report, the Accounting Officer should institute elaborate mechanisms to ensure that the project proceeds as scheduled and ensure that all the necessary documents are availed for audit verification in accordance with the provisions of section 62 of the Public Audit Act, No. 34 of 2015.

(ii) The Auditor General should review the matter and report back to the National Assembly expeditiously.

(e) Modern Employment Office Eldoret

The Accounting Officer submitted that it was true that bills of quantities that included in the list of pending bills as at 30th June 2017 there was an amount of Kshs.4,064,500 due to a construction company for the construction of Labour Office in Eldoret. However during the time of Audit the original documents with regard to how the tender was sourced, awarded, the contract sum. Bills of Quantities (BQs) payment certificate and the current project status were not availed because the same documents were in possession of the County Labour Office Uasin Gishu County (Eldoret)

However, documents from the Eldoret office has been availed for audit review.

Committee Observations and Findings

- **(i) The Committee observed that the extent of completion of the Modern Employment Office – Eldoret has since been confirmed physically and the building is still incomplete with low activity on site.**
- **(ii) The Committee observed that value for money has not yet been quantified.**
- **(iii)The matter remains unresolved.**

Committee Recommendations

(i) **Within three (3) upon adoption of this report, the Accounting Officer should institute elaborate mechanisms to ensure that the project proceeds as scheduled and ensure that all the necessary documents are availed for audit verification in accordance with the provisions of section 62 of the Public Audit Act, No. 34 of 2015.**
(ii) **The Auditor General should review the matter and report back to the National Assembly expeditiously.**

Other Matter

465. Budget and Budgetary Performance

465.1. Receipts

The State Department had budgeted for receipts totaling Kshs.1,947,304,230 but realized actual receipts of Kshs.1,792,677,824 as shown below:

Description	Budget Kshs.	Actual Kshs.	Excess (+)/ Shortfall (-) Kshs.	Variance %
Exchequer releases	1,938,304,230	1,781,122,824	-157,181,406	8%
Proceeds from Sale of Assets	8,000,000	8,000,000	0	0%
Other Receipts	1,000,000	3,555,000	+2,555,000	56%
Total	**1,947,304,230**	**1,792,677,824**	**-154,626,406**	**8%**

The shortfall of Kshs.154,626,406 was largely attributed to non-release of exchequer issues by the National Treasury.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the State Department had projected to receive receipts totaling Kshs.1,947,304,230.00 to finance its operations during the financial year under review.

However, out of the receipts from the National Treasury, we received Kshs.1,792,677,824.00.

Committee Observations and Findings

It was observed that the paragraph was for the information purposes to the Accounting Officer. The Accounting Officer was directed to take note of the Comments of the Auditor General and improve on the same.

466. Expenditure

An analysis of the actual expenditure against the budgeted amounts revealed the following variances:

Description	**Budget Kshs.**	**Actual Kshs.**	**Over (+)/ Under (-) Kshs.**	**Variance %**
Compensation of Employees	592,071,674	562,492,412	-29,579,262	5%
Use of goods and services	750,110,800	679,174,473	-70,936,327	9%
Transfers to Other Government Units	434,000,000	393,525,306	- 40,474,694	9%
Other Grants And Transfers	8,812,933	5,987,911	-2,825,022	32%
Subsidies- Other Grants and Relief	2,000,000	2,000,000	0	0%
Social Security Benefits	1,740,179	1,740,179	0	0%
Acquisition of Assets	158,568,644	129,211,995	-29,356,649	19%
Total	**1,947,304,230**	**1,774,132,276**	**-173,171,954**	**9%**

The overall under absorption of Kshs.173,171,954 or 9% of the budget was partly attributed to late receipt of supplementary budget allocation and partly to late implementation of the budgeted project.

Submission by Accounting Officer

The Accounting Officer submitted that it was true there was an overall under absorption of Kshs.173,171,954.00 or 9% of the budget as per the Financial Statements. However, the under-absorption of the budget was attributed by the following;

i. Inadequate exchequer receipts from the National Treasury.
ii. Late release of supplementary budget.
iii. Under-absorption of the budget category item for use of Good and Services was occasioned by late implementation of the Kenya Youth Employment and Opportunities Project which started in 18th April 2017 instead of 1st July 2016 when the Financing Agreement was signed to give legal authority for implementation of the approved project activities.

Committee Observations and Findings

The Committee observed that the paragraph was for the information purposes to the Accounting Officer. The Accounting Officer was directed to take note of the Comments of the auditor General and improve on the same.

467. Prior Years Unresolved Issues

467.1. Incomplete Summary of Fixed Asset Register

As previously reported, the financial statements for the year ended 30 June 2016 did not include the list and value of assets as required. In the circumstance, it was not possible to confirm the total value of the fixed assets in the Ministry.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry did not have an asset register; he however noted that he had constituted a team to undertake the asset valuation and come up with asset register.

Committee Observations and Findings

The Committee observed that the matter was dealt with by the then State Department for Social Protection in the Financial Year 2015/2016 when the State Department appeared before PAC committee 18th April 2019.

467. 2 Unreconciled Lease Payments

As previously reported, lease payments totaling Kshs.102,785,801 did not tally with the signed lease agreements. No reconciliation statements in support of the lease payments have so far been provided for audit review. Further, leases for payments totaling Kshs.66,545,107 were not produced for audit review. Consequently, it was not possible to confirm the accuracy and validity of the lease payments totaling Kshs.169,330,908 as at 30 June 2016.

Submission by Accounting Officer

The Accounting Officer submitted that the State Department has reconciled the lease payments made against the lease agreements and the same availed for Audit review.

Committee observations and Findings

The Committee observed that the matter was dealt with by the then State Department for Social Protection in the Financial Year 2015/2016 when the State Department appeared before PAC committee 18th April 2019.

467. 3. Irregular Payment for Manpower Consultancy Services

As previously reported, a consultant contracted for a sum of Kshs.4,988,000 in May 2013 to produce a National Manpower Survey Report appeared to have been single sourced. During 2015/2016 the contractor received a pending bill payment of Kshs.2,244,600 which had not been included in the list of pending bills audited. The pending bill payment could not therefore be confirmed as a proper charge to the public funds.

Submission by Accounting Officer

The Accounting Officer reported that the payment was erroneously omitted from the list of pending bills for financial year 2015/2016.

The pending bill referred to above was occasioned by removal of funds under the Budget line item on Research from the Ministry during the financial year 2015/2016.

Committee observations and Findings

The Committee observed that the matter was dealt with by the then State Department for Social Protection in the Financial Year 2015/2016 when the State Department appeared before PAC committee 18th April 2019.

467. 4 Unsupported Bursary Payments

As previously reported, records maintained at the Ministry headquarters revealed a total of Kshs.9,007,260 was paid as bursaries to needy students whose residence was within the Nairobi County Constituencies. However, no selection criteria or receipts and acknowledgement letters from the beneficiary schools in support of the payments were produced for audit review. Consequently, the regularity of the expenditure of Kshs.9,007,260 could therefore not be confirmed.

Submission by Accounting Officer

The Accounting Officer reported that records maintained at the Ministry Headquarters revealed a total of Kshs.9,007,260 that was paid as bursaries to needy students whose residence was within the Nairobi County constituencies.

The matter appeared under the State Department for Social Protection in the Financial Year 2015/2016 when the State Department appeared before PAC committee 18th April 2019

Committee observations and Findings

The Committee observed that the matter was dealt with by the then State Department for Social Protection in the Financial Year 2015/2016 when the State Department appeared before PAC committee 18th April 2019.

467. 5 General and District Suspense

As previously reported, the statement of assets as at 30 June 2016 reflected a general and district suspense balance of Kshs.3,271,890,830. However, no schedules have so far been provided in support of the long outstanding balances. Management has not explained the challenges faced in resolving this matter. In the circumstances, the completeness, accuracy and validity of these significant balances of Kshs.3,271,890,830 could not be confirmed.

Submission by Accounting Officer

These balances are part of the cumulative fund balance brought forward for the financial year 2012/2013 prior years. The National Treasury has constituted a task force to advice MDAs on how to resolve the old balance. The process is still going, letter **Ref; AG/A/2014 VOL. (141)** dated **25th June, 2019** from the National Treasury copied to the respective MDAs

The Committee observed that the matter was dealt with by the then State Department for Social Protection in the Financial Year 2015/2016 when the State Department appeared before PAC committee 18th April 2019.

DONOR FUNDED PROJECTS

KENYA YOUTH EMPLOYMENT AND OPPORTUNITY PROJECT CREDIT NO. 58120KE

Unqualified Opinion

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

Other Matter

469. Budget and Budgetary Performance

The Project had budgeted for Kshs.50,010,000 but actual receipts amounted to Kshs.41,406,521 resulting to a shortfall of Kshs.8,603,479. The shortfall was attributed to the Ministry's failure to release the full budgeted amount to the Project. Out of the Kshs.41,406,521 received, only Kshs.19,962,819 or 48% was spent leaving a balance of Kshs.21,443,702.
The low absorption of funds was mainly due to late release of first funding towards the end of the financial year on 18th April 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true there was an under absorption of Kshs.21,443,702.00. The under absorption of funds was attributed to the limited time within which the project was to expend the funds before the closure of financial year 2016/2017.

Committee Observations and Findings

The Committee observed that the paragraph was for information purposes for the Accounting Officer.

38.0. STATE DEPARTMENT FOR SOCIAL PROTECTION

FINANCIAL STATEMENTS FOR VOTE 1185

Mr. Nelson Marwa, the Accounting Officer for the State Department of Social Protection (Vote 1185) appeared before the committee on 30th April 2019 to adduce evidence on the Audited Financial Statements for the State Department of Mining (Vote 1185) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1.	**Ms. Alice Mwaniki**	**-**	**Assistant Accountant General**
2.	**Ms. Beatrice Igwada**	**-**	**Principal Accountant**
3.	**Mr. Kennedy Okeyo**	**-**	**Deputy Chief Finance Officer**
4.	**Mr. Moses Mugu**	**-**	**Chief Accountant**
5.	**Mr. Sidney P. Achia**	**-**	**Chief Tourism Officer**
6.	**Mr. Felix Omondi**	**-**	**Chief Children Officer**
7.	**Mr. Urbanus K. Munyao**	**-**	**Supply Chain Officer**
8.	**Mr. M. O Noah**	**-**	**Director Children's Service**
9.	**Mr. Nicholas Nyamwea**	**-**	**Assistant Director**
10.	**Mr. Willis Onyango**	**-**	**Assistant Director**
11.	**Mr. John K. K. Gichuru**	**-**	**Deputy Chief State Counsel**

Basis of Adverse Opinion

469. Accuracy, Completeness and Presentation of Financial Statements

469.1. Lack of Comparative Balances

The reporting template provided by the Public Sector Accounting Standards Board (PASB) requires the National Government entities to include comparative figures for all items indicated therein. However, the State Department for Social Protection did not include comparative balances in the current year under audit review. The reasons given for the above scenario was that the National Treasury failed to give guidance on how the balances were to be shared by the newly created State Departments curved out of the former Ministry of Labour, Social Security and Services which was split into two State Departments and allocated new votes (Vote 1184-State Department of Labour and Vote 1185-State Department for Social Protection). It is noted that this State Department was not an entirely new entity as it inherited current and fixed assets from the current Ministry.

Consequently, traceability of these assets may become difficult and some of the assets could be lost in the process.
In the absence of comparative balances, the financial statements as presented are not in compliance with the approved reporting template and do not therefore provide relevant, reliable and comparable information.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the state department for Social Protection did not include comparative figures for items indicated therein for the current year under audit review. In the financial year 2015/2016, the state department for Social Protection was one of the state departments under the Ministry of Labour, Social Security and Services Vote-1141. In the financial year 2016/2017 the Ministry split into two State Departments namely; State Department of labour, Vote-1184 and State Department for Social Protection Vote-1185.

A letter from the National Treasury and addressed to the Principal Secretary, State Department of Labour Ref: AG/FS/1141/VOL.1 (15) gave direction on comparative figures that the figures to be included in the financial statements for the state department of labour vote 1184 in line with the requirements of the IPSAS cash standard for preservation of historical information.
Therefore, the state department for social Protection vote-1185 had no comparative figures for the financial year 2016/2017.

Committee Observations and Findings

(i) **The Committee observed that the Ministry was split into two State Departments that is: State Department of Labour and State Department for Social Protection.**
(ii) **The Committee observed that the National Treasury addressed the matter by directing that the figures should be included in the financial statements for the State Department for Labour.**
(iii) **The Committee observed that the State Department had no comparative figures for the financial year 2016/2017.**
(iv) **The Committee marked the matter as resolved.**

Committee Recommendations

(i) **The Public Sector Accounting Standards Board (PASB) should within three months of tabling and adoption of this report, provide further guidance on the application of comparative balances in presentation of financial statements particularly in cases whereby a National Government entity is split or a new**

National Government entity is created as a resulted of re-organization of government; and

(ii) The Accounting Officers should within three months of tabling and adoption of this report, undertake valuation exercise to determine the actual value of assets and liabilities that were received by the entity at the time of split of the entity from the Ministry of Labour, Social Security and Services (Vote 1141). The determined value of assets and liabilities should form the basis of comparative figures for presentation of financial statements in the subsequent financial years.

469.2. Fixed Assets Register

Note 7 to the financial statements reflects acquisition of non-financial assets balances of Kshs379,568,322. However, a fixed asset register was not availed for audit review. Further ownership documents for land located in 28 institutions across the country, motor vehicle logbooks and equipment were also not produced for audit review.

In the circumstances, it has not been possible to confirm the total assets acquired by the state department which has been shifting status over the years.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the state departments' financial statement reflected acquisition of non-financial assets balance of Kshs.379, 568,322. However, an amount of Kshs.131, 860,613 referred to refurbishment of buildings. Out of which Kshs.67, 800,537.40 was issued as AIE to various counties for refurbishment while the balance of Kshs.64, 060,075 was used at the headquarters. Payment vouchers were availed to the Auditors for review. Other assets acquired during the year, have been taken on charge, through counter receipt voucher (s13), entered in stores ledger (s3) card and issued through counter requisition and issue voucher (s11) a fixed asset register has been availed for audit review.

On the issue raised on ownership documents for land located in 28 institutions, a committee has been put in place to look into the issue of land surveying and titling for all land belonging to the state department for social protection This Committee held its first meeting on the 8/2/2019. (Minutes of the meeting are attached). Logbooks copies for motor vehicles bought during that financial year are also attached. These documents have been availed to the auditors for review.

Committee Observations and Findings

(i) **The Committee observed that the matter on ownership documents for land located in 28 institutions is still outstanding according to the Auditor General;**
(ii) **The Committee observed that the existence of logbooks for motor vehicles bought during that financial year was confirmed by the Auditor General;**
(iii) **The Committee observed that the payment vouchers for Kshs.67, 800,537.40 which was issued as AIE to various counties for refurbishment and the balance of Kshs.64, 060,075 which was used at the headquarters were verified by the auditors; and**
(iv) **The matter remains unresolved.**

Committee Recommendations

(i) **The Cabinet Secretary responsible for matters of Social Protection and the Chairperson, National Land Commission should expedite the process of survey and issuance of title for the land in the 28 institutions and report back the progress to the National Assembly within three (3) months after the adoption of this report; and**
(ii) **The Accounting Officer should ensure that the Committee has been put in place to look into ownership documents for land located in 28 institutions and expeditiously undertake this exercise with a view to ensure that all the public land have tittle deeds in the name of government.**

469.3. Kabete/Getathuru Land-Directorate of Children Services Department.

Nairobi Children's Remand Home, formerly known as Nairobi Juvenile Remand Home, was established in 1957 as an institution under the Children's Department in the Office of the Vice President and Ministry of Home Affairs. An allotment letter Ref: No. 209163/F/136 dated 19 July,2012 indicate the size of the land as 28.6 HA.

However, no ownership documents were availed for audit review despite the fact that the institution has existed since 1957. Further, information available indicate that part of the land measuring 4.579 HA was being claimed by a private entity by the name M/S Laporte Investment Ltd which also was in possession of a title deed Ref: L.R No. 22355 dated 31/12/2002. It was not clear how the land was annexed from the main allotment of the Remand Home.

An audit inspection of the home done in March 2018 revealed that there were several other claimants to the land and part of it had been leased to M/S China Roads and Bridges Corporation while the Kenya Power and Lighting Company had also occupied a portion of the land. It was not clear how individuals and these companies had acquired Government Land or whether any payments had been made.

In view of the foregoing, the accuracy, completeness and presentation of the financial statements as at 30th June, 2017 cannot be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Land has been annexed from the main allotment of the Remand Home. On the matter of Laporte Investment Ltd. ownership claim of 4.579HA title part of the 28.6HA land that belongs to the institution under the Ministry of Labour and Social Protection. The matter was taken into consideration and the Ministry followed the legal process to reclaim ownership of the said parcel of land. The Ministry notified the Office of the Attorney General on the issue vide letter REF. MEACL&SP 35/1 dated 4th December, 2017 (copy attached**).**

The Ministry pursued the issue on M/s China Roads and Bridges Corporation with the National Land Commission. The National Land Commission gave the company consent to occupy the facility as they prepared a lease agreement on tenancy of the land between the company and the Ministry on 8th January, 2018. A reminder letter on the same was also written to the Commission the 21st September, 2018 and 3rd April 2019**.** On the issue of Kenya Power and Lighting Company, The Ministry of Labour, Social Security and Services" entered into a renewable lease agreement with The Kenya Power and Lighting Company" on the 26th July, 2013 for purposes of construction of a power sub-station for a period of one year. The Department is making follow up with the National Land Commission to fast track issuance of titles to all the 30 institutions offering services to children across the country.

Committee Observations and Findings

(i) The Committee observed that the Lease Agreement between The Kenya Power and Lighting Company and the State Department was finalized on the 26th July, 2013 and their Occupancy is therefore appropriate;

(ii) The Committee observed that the Lease Agreement between the M/s China Roads and Bridge Cooperation and the State Department has not been finalized. Any Occupancy by M/s China Roads and Bridge Cooperation would be illegal;

(iii) The Committee observed that the State Department has not contested the title deed Ref: L.R No. 22355M/S issued to Laporte Investment Ltd on 31/12/2002;

(iv) **The Committee observed that apart from writing a letter to the Artoney General, the State Department has not done enough to resolve the ownership assertion by Laporte Investment Ltd;**

(v) **The Accounting Officer was directed to furnish the Committee with the Contacts detail for Laporte Investment Ltd and M/s China Roads and Bridge Cooperation on or before Friday, May 3, 2019; and**

(vi) **The matter remains unresolved.**

Committee Recommendations

The Cabinet Secretary responsible for matters of Social Protection and the Chairperson, National Land Commission should expedite the process of survey and issuance of title for the land in the 30 institutions offering services to children across the country and report back the progress to the National Assembly within three (3) months after the adoption of this report.

470. Cash Transfer Agreements with Payment Service Providers (PSP)

470.1. Unfavorable Agency Agreements

During the year under review the State Department for Social Protection transferred to the Kenya Commercial Bank (KCB) a total of Kshs.6, 597,592,650 for onward payment to beneficiaries under the three cash transfer programs out of which a commission of Kshs.128,180,384.00 was paid to the KCB Bank. A further, Kshs.2,624,352,209.00 was transmitted through Equity Bank Limited for onward payment to beneficiaries and a commission of Kshs.80,296,209 paid to Equity Bank.

However, it was noted that the Agency Agreements did not contain a clause for payment of interest for substantial unpaid balances held by the Agents. For instance, KCB had unpaid balance of Kshs.861, 316,000.00 while Equity Bank had a balance of Kshs.27, 244,000.00 at the close of the year. The unpaid amounts were not refunded within the stipulated period i.e. 14 days after each payment cycle and no interest was paid into the account. The state Department was therefore deprived off interest which could have been earned.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Agency Agreements did not contain clause for payment of interest for substantial unpaid balances held by the Agents. It was however not possible to revise this contract clause due to foreseeable litigation challenge that would arise from such revisions. Nevertheless, the new multiple PSP choice model contract by giving beneficiaries bank accounts has significantly reduced the incidence of uncollected funds because the failure rate of crediting bank accounts is very minimal hence only a little amount is returned to the Ministry's Holding Account. The primary consideration in the agency agreement has been to pay beneficiaries promptly, in a timely and predictable manner but not for earning interest as this will deviate from core mandate and also will need to budget for the same as AIA.

Committee Observations and Findings

- **(i) The Agency Agreements signed between the State Departments and KCB Plc and Equity Bank Plc did not contain a clause for payment of interest for substantial unpaid balances held by the Agents;**
- **(ii) KCB Plc had unpaid balance of Kshs. 861,316,000.00 while Equity Bank had a balance of Kshs. 27,244,000.00 at the close of the year. The unpaid amounts were not refunded within the stipulated period i.e. 14 days after each payment cycle and no interest was paid into the account; and**
- **(iii)The Committee marked the matter as resolved.**

Committee Recommendations

- **(i) Within three (3) months after tabling of this report, the Accounting submit to the Auditor-General bank statements from KCB Plc and Equity Bank Plc showing how much interest was earned from the unpaid balance of Kshs. 861,316,000.00 at KCB Plc and Kshs. 27,244,000.00 at Equity Plc at the close of the year;**
- **(ii) Within three (3) months after tabling of this report, the Managing Director/CEOs of KCB Bank Plc and Equity Bank Plc provide to the Auditor-General a written justification as to why the unpaid amounts were not refunded within the stipulated period of 14 days after each payment cycle as per the contract; and**
- **(iii)The Cabinet Secretary follow up the matter and report back to Parliament within three (3) months after tabling and adoption of the report.**

470.2. Low absorption Rate of cash transfers by Beneficiaries

In addition , available data shows that in two transactions cycles for March,2017 to June 2017, a total of Kshs 2,944,072,000.00 was transmitted through KCB agent with Kshs 2,082,784,000.00 paid out leaving a balance of Kshs 861,316,000.00 not paid translating to an absorption rate of 70% while in the same period ,Kshs 233,888,000.00 was transmitted through Equity Bank with Kshs 206,644,000.00 paid out leaving a balance of Kshs 27,244,000.00 translating to an absorption rate of 90% of the total funds disbursed.

The main reason for this could have been attributed to the fact that KCB is paid commission upfront while Equity is paid per transaction. No reasons were given for the low absorption rate by KCB.

Submission by Accounting Officer

The low absorption of funds by KCB was occasioned by several factors, namely:

a. The payment periods were shortened in order to pay beneficiaries within the limited timeframes. This would often take place near the close of a financial year where a payment cycle could be shortened from the regular 21-day period in order to pay, reconcile, request for funds for the next cycle, and pay for the May-June cycle that ordinarily spill into July of every year.
b. Offline Payments. Unlike the EBL which had donor facilitation to procure equipment for satellite upload of payment, the KCB Bank contract allowed them to make offline payments (where there was no network). This also meant that a number of payments could have taken place at the close of the payment cycle but would not be uploaded in time for reconciliation; hence a reporting of low absorption.

Committee Observations and Findings

(i) Two transactions cycles for March,2017 to June 2017, a total of Kshs 2,944,072,000.00 was transmitted through KCB agent with Kshs 2,082,784,000.00 paid out leaving a balance of Kshs 861,316,000.00 not paid translating to an absorption rate of 70% while in the same period ,Kshs 233,888,000.00 was transmitted through Equity Bank with Kshs 206,644,000.00 paid out leaving a balance of Kshs 27,244,000.00 translating to an absorption rate of 90% of the total funds disbursed;

(ii) According to the Auditor-General, the incidences of low absorption of cash transfers to beneficiaries was still evident in the financial year 2017/2018;

(iii) The low absorption of cash transfers to the beneficiaries has contributed to untold sufferings faced by the orphans, vulnerable and elderly persons who are the target beneficiary of the government's safety net programme; and

(iv) The matter remains unresovled.

Committee Recommendations

(i) Within three (3) months, the Managing Director, KCB Plc provide a written justification to the Auditor General providing reasons as to why in the two transactions cycles for March, 2017 to June 2017, a total of Kshs 2,944,072,000.00 that was transmitted through

KCB Agency only paid out Kshs 2,082,784,000.00 leaving a balance of Kshs 861,316,000.00 not paid translating to an absorption rate of 70 percent; and

(ii) The Cabinet Secretary follow up the matter and report back to Parliament within three (3) months after tabling and adoption of the report.

470.3. Unpaid Cash Transfers Balances still held by Service Provider-Postal Corporation of Kenya.

The statement of receipts and payments reflects a figure of Kshs.18,014,360,263.00 under use of goods and services out of which Kshs.12,027,528,771.00 is reflected as capital transfers to service providers for onward transfer to individual beneficiaries.

Available information disclosed that the Department had previously contracted the Postal Corporation of Kenya (PCK) as an agent to deliver cash to the vulnerable beneficiaries throughout the country. However, after expiry of the contract between the state department and the agent PCK, a balance of Kshs 169,300,000.00 remained unpaid. As at 30th June 2017, the agent had not refunded the unpaid balances. Correspondences, seen between the state Department and the Accounting Officer State Department for Broadcasting and Telecommunication Ref: ML & EAA 9/45 dated 12th July 2016 and which was also copied to the National Treasury, requested the Agent to refund the funds but to date no action has been taken.

It is not clear why the State Department has not taken legal action against the Postal Corporation of Kenya to have the amount of Kshs 169,300,000.00 which has been outstanding since 2015 (3 Years) without earning any interest refunded.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Kshs.169, 300,000 had not been refunded to the Ministry by the Postal Corporation of Kenya (PCK) as at July 2016. This amount consists of Kshs.105, 578,000 for the OPCT, Kshs.35, 000,000 for the CT-OVC and Kshs.28, 722,000 for the PWSD. Various correspondences with the Executive Office of the President, The National Treasury, Postal Corporation of Kenya, State Department for Broadcasting and Telecommunications to try and resolve this have not been very successful. So far only Kshs.10, 236,541 has been refunded for the PWSD programme thus leaving a balance of Kshs.159, 063,459 un-cleared by PCK.

Committee Observations and Findings

(i) **Unpaid Cash Transfers Balances of Kshs.169, 300,000 had not been refunded to the State Department from the Postal Corporation of Kenya (PCK) as at July 2016;**
(ii) **The unpaid cash transfer balance consisted of Kshs.105, 578,000 for the OPCT, Kshs.35, 000,000 for the CT-OVC and Kshs.28, 722,000 for the PWSD;**
(iii) **The has been various correspondences with the Executive Office of the President, The National Treasury, Postal Corporation of Kenya, State Department for Broadcasting and Telecommunications to try and resolve this have not been very successful. So far only Kshs.10, 236,541 has been refunded for the PWSD programme thus leaving a balance of Kshs.159, 063,459 un-cleared by PCK; and**
(iv) **The Committee observed that according to the auditor general, the position remains the same.**
(i) **The matter remains unresolved.**

Committee Recommendations

(i) **Within three months after tabling and adoption of this report, the Postmaster General & CEO of the Postal Corporation of Kenya provide in writing the Auditor-General reasons as to why the PCK has failed to pay the State Department the balance of Kshs.159, 063,459; and**
(ii) **The Director DCI should within three (3) months of tabling and adoption of this report commence an investigation into this matter with a view to charge any public officer found culpable with an offence of financial misconduct as stipulated in Section 197 of the PFM Act, 2012**

471. Pending Bills

Examination of the pending bills records availed for audit revealed that the State Department had pending bills totaling Kshs 45,798,210 while the list of pending bills annexed to the financial statement reflects pending bills totaling Kshs 53,230,730.00 as at 30th June 2017. The figure of pending bills was therefore understated by Kshs.7, 432,520.00. Further the pending bills have no details or supporting documents as required. In addition, as at the time of the audit in March 2018, the bills totaling Kshs.29, 336,545.00 had been cleared leaving a balance of Kshs.23, 894,185.00.

Had the bills been cleared by 30th June 2017, the statement of receipts and payments would have reflected a surplus of Kshs.247, 101,205.00 instead of a surplus of Kshs.300, 331,935.00 now shown. Consequently, the accuracy, validity and completeness of the pending bills of Kshs. 53,230,730.00 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the state department had pending bills amounted to Kshs.45,798,210 during the financial year 2016/2017 which were still at the procurement unit. However, the correct figure of Pending bills annexed to the financial statements was 5,048,273.00 and not 53,230,730.00 which has been confirmed by the Auditors. The department made efforts to ensure that all the pending bills were paid during the following financial year. Payment vouchers were availed to auditors for review.

Committee Observations and Findings

(i) The Committee observed that the pending bills had been cleared in the subsequent financial year and that the auditor general has confirmed that the pending bills amounted to Ksh. 53,230,730.00 and not Ksh. 5,048,273.00.
(ii) The Committtte marked the matter as resolved.

Committee Recommendations

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

472. Stalled Project

472.1. Proposed Dormitory for Dagoretti Rehabilitation Girls School.

A contract for the construction for the proposed Dormitory for Dagoretti Rehabilitation School-Tender no. CWO/NRB/D15/16/2015-2016 was awarded to M/S Wanjugi Construction Company at a contract sum of Kshs 21,370,279.80. The contract commenced on 2nd August 2016 with an expected completion date of 2nd February 2017, a period of 29 weeks.

According to a site minutes dated 18th January 2017, the project had stalled with only 20% of the work done. Information available indicates that the contractor had written to the state department seeking for an extension period of 32 weeks which had not been granted. Audit inspection carried out in September 2017 revealed that the construction works had stalled at the upper slab level. The contractor was yet to start roofing the building and there was no activity on site during the time of visit.

As at the time the project stalled, the contractor had received payments totaling Kshs 9,731,997.00 or 45% despite completion of only 20%. In view of the foregoing, it has not been possible to confirm project completion and value for money for amounts paid of Kshs.9, 731,997.00 as at 30th June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the project delayed beyond the stipulated time frame, occasioned by a budget cut experienced during that financial year. We wish to state that the work has been going and the project is nearing completion. Status of the project as at 3 April 2019 stands at 95%. Project Status report from the Ministry of Public Works and housing is attached.

Committee Observations and Findings

(i) The Committee observed that the project stands at 95% completion as at 3rd April 2019.
(ii) The Committee observed that value for money has not been achieved since the dormitory has not been occupied.
(iii)The matter remains unresolved.

Committee Recommendations

The Auditor- General undertake value for money audit of this project as provided for in Section 36(2) of the Public Audit Act, 2015 and report back to the National Assembly within three (3) months after tabling and adoption of this report

473. Budget and budgetary performance

473.1. Receipts

Analysis of the actual receipts against the budgeted amounts revealed the following variances:

Receipts	**Budget Kshs.**	**Actual Kshs.**	**Excess(+)/Shortfall (-)Kshs.**	Variance %
Exchequer releases	22,424,255,811	22,346,997,040	-77,258,771	1
Other Receipts	43,765,000	30,594,990	-13,170,010	30
Total Receipts	**22,468,020,811**	**22,377,592,030**	**-90,428,781**	**0.4**

ii) Expenditure

Analysis of the actual expenditure against the budgeted amounts revealed the following variances:

Payments	Budget Kshs.	Actual Kshs.	Over(+)/Under (-) Kshs.	Variance %
Compensation of Employees	1,133,409,158	1,074,059,631	-59,349,527	5
Use of goods and services	18,300,066,605	18,015,689,376	-284,377,229	2
Transfers to Other Government Units	2,608,940,847	2,607,942,766	-998,081	0
Acquisition of Assets	425,604,201	379,568,322	-46,035,879	11
Other Payments				
Total	**22,468,020,811**	**22,077,260,094.57**	**-390,760,716**	**2**

The overall under absorption of Kshs.390, 760,716 or 2% was attributed to change between the original and final approval budget as a result of supplementary budget and receipt of supplier's invoices after closure of the financial year.

Submission by Accounting Officer

The Accounting Officer submitted that the department is in concurrence with the reasons for the overall under absorption as stated above.

Committee Observations and Findings

It was observed that the above two paragraphs were for the information purposes to the Accounting Officer. The Accounting Officer was directed to take note of the Comments of the auditor General and improve on the same in the subsequent Financial Years.

Committee Recommendation

The Accounting Officer should ensure that the State Department prepares a realistic budget and annual implementation work plan to increase the levels of absorption. Further, there is need for timely release of exchequer by the National Treasury to reduce low absorption of development funds.

39.0. MINISTRY OF MINING

FINANCIAL STATEMENTS FOR VOTE 1191

Mr. John Morangi Omenge, the Accounting Officer for the State Department of Mining (Vote 1191) appeared before the committee on 16th April 2019 to adduce evidence on the Audited Financial Statements for the State Department of Mining (Vote 1191) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Benard K. Orina - Ag. Director Human Resource Manger**
2. **Ms. Pauline Luganje - Chief Finance Officer**
3. **Mr. Enoch Kipseba - Ag. Director Directorate of Mining Promotion and Value Addition**
4. **Mr. Raymond Mutiso - Director Mining**

Basis for Qualified Opinion

484. Unsupported Donor Funded Expenditure

The statement of receipts and payments reflect proceeds from domestic and foreign grants amount of Kshs.10,000,000 (2016 – Kshs.43,673,906) and as disclosed under Note 1 to the Financial Statements. This amount is in respect of United Nations Development Programme (UNDP) funded project pass-through income for expenditure incurred and settled directly by the donor on behalf of the Ministry. However, the expenditure has not been supported by the requisite payment vouchers, expenditure returns and schedules indicating reporting currency conversion rates. Available information, indicate that the payments were made to the advisors to the Cabinet Secretary during the year. However, the basis and nature of the services rendered to the Cabinet Secretary could not be established.

In the absence of documentary evidence in support of the expenditure, it has not been possible to confirm the probity and validity of the foreign grants amount of Kshs.10, 000,000.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of receipts and payments reflect proceeds from domestic and foreign grants amount of Kshs.10,000,000 (2016 – Kshs.43,673,906) and as disclosed under Note 1 to the Financial Statements. This amount is in respect of United Nations Development Programme (UNDP) funded project pass-through income for expenditure incurred and settled directly by the Donor on behalf of the Ministry.

The expenditure was under the Extractive Industry for Sustainable Development, a project in the then Ministry of Mining which was funded by the United Nations Development Program (UNDP) under the Extractive Industries for Sustainable Development Kenya (2013-2015) and UNDP agreement. Funds to support the various activities of the project were channeled directly through income (A.I.A) as foreign grant. The Ministry of Mining budgeted for the grants in the Development Vote in the year under review.

The Expenditures and Payments were incurred and settled directly by the Donor on behalf of the Ministry of Mining. At the end of the year the Donor was requested to provide the Ministry with relevant documents supporting the expenditure. Though they were not provided at the time of the audit, the following have now been provided and are attached to this report namely, Authenticated Combined Expenditure Returns Report, detailed Schedules of Expenditure Report in US Dollars and Exchange Rates used being given as a Note at the end of this schedule.

We have written to the UNDP Country Director requesting for confirmation of the said documents and are awaiting their response**.** However, UNDP is open for any discussions with the Office of the Auditor General.

Committee Observations and Findings

(i) **The Committee observed that according to the Auditor General, the Ministry wrote to the County Director UNDP to provide the required documents and no response has been received to date.**
(ii) **The Committee observed that the matter was raised in the report of the Auditor General for the financial year 2015/2016 and was discussed during the Committee sitting on 5th February 2019.**
(iii) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documents to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

485. Pending Accounts Payable

Note 17.1 to the Financial Statements discloses pending accounts payable of Kshs.51, 484,152 (2016 – Nil). Had the pending accounts payable been paid during the current year, the financial statements would have reflected a deficit of Kshs.22, 099,001 instead of the surplus of Kshs.29, 385,151 reported. This is indicative of the Ministry failure to adhere to Public Financial Management guidelines on budgeting by incurring expenditure in excess of the approved budget.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Note 17.1 to the Financial Statements discloses pending accounts payable of Kshs.51,484,152 (2016 – Nil). Had the pending accounts payable been paid during the current year, the financial statements would have reflected a deficit of Kshs.22, 099,001 instead of the surplus of Kshs.29, 385,151 reported.

The Ministry had pending bills amounting to Kshs.51, 484,152 for the supply of goods and services in the both Recurrent Vote and Development Vote for the Financial Year 2016/17. The payments had not been made due to liquidity challenges.

The approved budget for the then Ministry of Mining in respect to the Financial Year 2016/17 was Kshs.4,551,364,217 which was reduced to Kshs.2,075,487,124 in the Supplementary Estimates No. 1 of Financial Year 2016/17. This translated to a budget reduction of Kshs.2, 475,877,093.

The pending bill amount of Kshs.51, 484,152 arose out of lack of Exchequer in the 4th Quarter of the Financial Year 2016/17 and Austerity measures (Budget cuts). It is noted that by the time of the Budget cuts, the expenditures had already been incurred and funds had already been committed.

However, the bills have since been verified and validated by the Internal Audit, and paid as first charge in the Financial Year 2017/18 Budget allocation. Considering that Government Accounts are done on Cash Basis and not on Accrual Basis, there is therefore however no room for adjustment of the previous Accounts.

Committee Observations and Findings

- **(i) The Committee observed that according to the Auditor General, the pending bills were settled in the financial year 2017/2018.**
- **(ii) The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that pending bills are treated as a first charge on the approved budget of the subsequent financial year and should prepare estimates of expenditure and revenues of the entity in conformity with the strategic plan pursuant to the provisions of section 68(2) (h) of the Public Finance Management Act, 2012. Further, the Cabinet Secretary for the National Treasury should put in place mechanisms to ensure that bills due are promptly settled to ensure responsive, prompt, effective, impartial and equitable provision of services as articulated in Section 7 of the Public Service (Values and Principles) Act, 2015.

486. Verification and Ownership of Motor Vehicles

The summary of fixed asset register under Annex 3 discloses non-current assets balance of Kshs.1, 388,393,858 (2016-Kshs.355, 047,038) as of 30th June 2017. Included in the balance is transport equipment with historical cost of Kshs.5, 245,495. As reported in 2015/16 the transport equipment includes motor vehicle registration number GKB 433D whose physical existence could not be verified as it is not in use at the Ministry. According to Management, the vehicle has not been returned by the then Cabinet Secretary upon transfer.

Also included in the balance is a drilling rig whose ownership could not be established for lack of logbook. Although, according to management a request has been made to the National Transport and Safety Authority (NTSA) for issuance of the logbook it has not been issued. Consequently, it was not possible to confirm the fair statement of fixed assets balance of Kshs.1, 388,393,358 as at 30th June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the summary of fixed asset register under Annex 3 discloses non-current assets balance of Kshs.1,388,393,858 (2016-Kshs.355,047,038) as of 30th June 2017. Included in the balance is transport equipment with historical cost of Kshs.5, 245,495. As reported in 2015/16 the transport equipment includes motor vehicle registration number GKB433D whose physical existence could not be verified as it is not in use at the ministry and then the Crawler Drilling Rig as indicated. GKB 433D was assigned to the former Cabinet Secretary, Hon. Najib Balala while in the then Ministry of Mining.

The vehicle has since been officially transferred to Ministry of Tourism vide letter Ref.: DNR/TR/1 dated 18th September, 2018. The Crawler Mounted Core Drilling Rig was requisitioned and procured under Ministerial Tender No. MOM/EQ/2013-2014. It is in good working condition and currently stationed at Madini House in Industrial area.

This Ministry commenced the process of registering the Crawler Drilling Rig with a letter Ref: MOM/CR/4/1/ dated 25th September, 2018 written to the National Transport and Safety Authority (NTSA) to do the registration. Noting that NTSA had not responded to the request, the Ministry further on 12th April, 2019 wrote a reminder to NTSA and is awaiting response.

Committee Observations and Findings

(i) **The Committee observed that according to the Auditor General, the vehicle was transferred to the Ministry of Tourism vide letter Ref: DNR/TR/1 dated 25th September, 2018 while the Crawler Drilling Rig is awaiting registration by NTSA.**
(ii) **The Vehicle registration number GKB 433D was assigned to the former Cabinet Secretary, Hon. Najib Balala while in the then Ministry of Mining.**
(iii) **The vehicle has since been officially transferred to Ministry of Tourism vide letter Ref.: DNR/TR/1 dated 18th September, 2018.**
(iv) **The matter remains unresolved.**

Committee Recommendations

Within three upon adoption of this report, the Accounting Officers should ensure that vehicles assigned to State Officers serving in respective portfolios are registered and transferred accordingly whenever reorganization of Government occurs

REVENUE STATEMENTS – MINISTRY OF MINING

Basis for Qualified Opinion

487. Cement Levy

The statement of receipts and transfers reflects cement levy totaling to Kshs.503, 400,309. However, records in support of the levy indicates that the Ministry did not veriFinancial Year the production levels reported by the various cement companies. Consequently, the Ministry relied solely on self-declared production figures of the cement companies. Although according to management, the Ministry's inspection capacity has been enhanced through recruitment of inspectors of Mines, verification of production is yet to be done. It was further observed that three (3) cement companies had not paid levies relating to both the current and previous years attributing this to challenges related to business decline. According to management levy collection enforcement measures applied have not yielded any collections because cement production and business is currently regulated under industrialization and not Petroleum and Mining sector. Further, and although according to management, the Ministry has entered into a Memorandum of Understanding (MOU) with the Kenya Revenue Authority (KRA) to collect the levy Cement levy on its behalf, the memorandum is yet to be actualized. Under the circumstances, it has not been possible to confirm the accuracy and completeness of the reported cement levy of Kshs.503, 409,309.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry had been receiving self-declared remittances of cement levy from the cement manufacturers. However, to veriFinancial Year these declarations a Task Force was formed and members appointed, vide letter Ref: MOM/SP.AUD.AUD/09/ (32) dated 17th April, 2018, with the objective of ascertaining the remittances.

The Task Force completed the assignment for 2017/18 and prepared a report showing the status of payments of levy by the various companies on the basis of which the Ministry has been engaging the companies for payment of their arrears.

However, to date, both East African Portland Cement Company (EAPCC) and Athi River Mining (ARM) Cement Company continue to face financial difficulties and are still unable to pay the cement levies. As a result of financial difficulties, ARM has been placed under joint administration. However, the Ministry endeavors to pursue the payments from the two companies.

Savannah Cement committed to clear its arrears and went ahead to provide a payment plan for the same. So far the company has paid amounts of Kshs.10, 000,000; Kshs.10, 000,000; Kshs.60, 000,000 as at 30/3/19.
Payment of Cement Levy is pursuant to legal Notice No.220 of 2014 issued under the Mining Act Cap.306 of Kenya, which has since been replaced by the Mining Act, 2016. The Principal Secretary in July, 2018 reconstituted the Task Force to review company production sales, payments e.t.c. for the year 2018/19.

Following the Task Force's report on the cement companies, the State Department shall pursue recovery of arrears through issuance of demand notices and other measures. This is because now new Mining law provides for licensing and penalties in default, by Cabinet Secretary, Ministry of Petroleum and Mining for limestone extractions which had previously been regulated by County Councils, under the Trust Land Act and did not enable the same to this Ministry.

The Sovereign Wealth Fund Bill by the National Treasury currently under discussion now provides for payment of mineral royalties and levies to KRA, thereby precluding the need for the MOU.

Committee Observations and Findings

- **(i) The Committee Observed that a Task Force was formed to ascertain the remittances and presented its findings in a report dated 18th June 2018.**
- **(ii) the Committee observed that mining companies were found to be in arrears totaling to Ksh. 938,499,422 as at 30th May 2018, due to under-declaration. a total of ksh. 140, 684,422 in prior year's arrears had been according to the Task Force.**
- **(iii) The Committee observed that as at 30th June 2018, the outstanding arrears stood at Ksh. 898,048,630;**
- **(iv) The Committee marked the matter as resolved**

Committee Recommendations

The Cabinet Secretary for National Treasury should always ensure that there is a designated receiver of revenue for all National Government entities in line with the provisions of Article 209(1), (2) and (4) of the Constitution of Kenya 2010 and Section 75 of the PFM act 2012

488. Mining Royalties – Royalties from Carbacid Company Limited

The statement of receipts and transfers reflects mining royalties totaling to Kshs.107, 179,357. These amounts exclude royalties of unknown value due from the Carbacid Company Limited on account of carbon dioxide. Although, verification of the company's production and sales returns as well as negotiation for payment of the outstanding levies for the year 2017 is ongoing between the two parties, the levy is yet to be collected. In the circumstances, it has not been possible to confirm the accuracy and completeness of mining royalties totaling to Kshs.107, 179,357.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry had at the time of the audit not been receiving returns on production on sales from the Company. However, through a letter Ref: L/57/I/168 of 11th May 2017, the company was asked to submit the returns and pay up the corresponding arrears in royalty. The company submitted production and sales returns vide their letter dated 10th November, 2017, covering returns for period August 2017 to June 2017. On 21/11/2017 the company paid royalty arrears for the period amounting to Kshs.46, 411,674.20.
Further, to veriFinancial Year the completeness of the returns a Task Force was formed and members appointed by the Ministry, vide letter Ref: MOM/SP.AUD.AUD/09/ (32) dated 17th April, 2018, with the objective of ascertaining the remittances. Report of the Taskforce indicated unpaid royalty amounting to Kshs.6, 433,076. The amount was paid in November 2018.

Committee Observations and Findings

(i) The Committee observed that the Task Force determined outstanding arrears in royalties to be Kshs.6,433,077 after the company made some payments totaling Kshs.46,611,674 within the year.
(ii) The Committee observed that according to the Auditor General, outstanding amount was subsequently cleared.
(iii)The Committee marked the matter as resolved.

489. Royalties from Base Titanium Limited

However, as reported in the 2015/2016 report, records in support of these royalty receipts indicates that the Ministry did not veriFinancial Year the export quantities and prices reported by the company, which form the basis for computation of royalties. Consequently, the Ministry relied solely on the company's self-declared export quantities and prices. Although, according to management, the Ministry was in the process of engaging an expert for the purpose of verification of export details, the exercise of verification had not been done for the year ended 30th June, 2017. Under the circumstances, it was not possible to confirm the accuracy and completeness of the royalties totaling to Kshs.404, 220,727.

The statement of receipts and transfers reflect receipts from Base Titanium totaling to Kshs.404, 220,727. Records in support of the Royalty receipts indicate no evidence of the Ministry having verified the reported production quantities and prices reported by the Company.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry had been receiving self-declared remittance of Royalties from the company. However, to veriFinancial Year this declaration the Ministry did invoke Annex 'D' of the Special Mining Lease No. 23 which states that "The Commissioner may at his/her discretion and at the cost of the Lessee order that the pricing of the products sold be verified by an independent audit to be undertaken to veriFinancial Year the declarations on quantities, price and Royalty Payments".

This was done with Price Waterhouse Coopers (PWC) Kenya under the audit and their report stated that there were no material discrepancies between the declarations and findings of the audit. Going forward, to ensure independence of the contracted auditors, the Ministry will review the payment arrangement for the independent auditors such that the audit fee will be first deposited with the Ministry by the Leasee, after which the Ministry will then make the payment.
The findings by PWC were also confirmed by the Task Force from the Ministry appointed on 17/4/2018. The Ministry has now posted a resident officer at BT mining and mineral processing site. Further, the Ministry has opened an office at Likoni Shipping Point with officers veriFinancial Yearing the Company's Exports.

Committee Observations and Findings

(i) **The Committee observed that the Ministry task force confirmed PwC's position that there were no material discrepancies in the declarations and sales reports examined by the taskforce.**
(ii) **The Committee observed that the Ministry has opened an office at Likoni shipping point to veriFinancial Year the Company's exports; and**
(iii) **The Committee marked the matter as resolved**

Committee Recommendations

i. **The Cabinet Secretary should within three (3) months after adoption of this report embark on development of policy guidelines on payments of royalties. The guidelines should address sales reporting and royalty remittances on various minerals, auditing of sales to ensure mining companies pay the royalties that is due to the government; and**
ii. **The Cabinet Secretary for National Treasury should always ensure that there is a designated receiver of revenue for all National Government entities in line with the provisions of Article 209(1), (2) and (4) of the Constitution of Kenya 2010 and Section 75 of the PFM act 2012.**

Emphasis of Matter

Shortfall in Revenue Collection

The statement of comparison of budget and actual amounts which reflect actual revenue received from two revenue streams and the budgeted amounts, resulting to shortfall in revenue collection, as detailed in the table below;

	Company	Budget (Kshs.)	Actual (Kshs.)	Variance (Kshs.)	Variance (%)
1	Magadi Soda	86,764,751	50,620,761	36,134,990	41
2	Cement Levy	613,312,555	503,400,309	109,912,246	18%

According to management, this had resulted from non-payment by some companies and delay of entry of data into the cadastre system, for Cement Levy and Magadi Soda revenue respectively. Consequently, the revenue collection targets for the Ministry were not achieved.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of comparison of budget and actual amounts which reflect actual revenue received from two revenue streams for Tata Chemicals Magadi and Cement Levy and the budgeted amounts, had shortfall of Ksh.36,134,990 representing 41% and Kshs 109,912,246 representing 18% respectively.

The budget revenue projection figures for the two streams for the year 2016/2017 were the respective actual collections made in the previous year of 2015/2016., i.e. Kshs.86, 764,751 for Tata Chemicals Magadi and Kshs.613, 312.555 for the Cement Levy.

The shortfall in the cement levy collection was partly attributable to slowdown in economic activities for the reporting period. Levy for the Cement Minerals is charged at Kshs. 140.00 per tonne of cement with effect from 1st January 2014 as per Legal Notice No. 222 of 20th December 2014.

According to the Economic Survey, 2018, by the Kenya Bureau of Statistics, growth in the construction sector decelerated for a second year in row to stand at 8.6% in 2017. Cement consumption decreased by 8.3% to the previous year. *(Source; Page 20 of Economic Survey, 2018).* Cement production and/or consumption are dependent on the performance of the construction sector.

In addition, some of the Cement companies had fallen short in remittance of the cement levy and the State Department did constitute a taskforce to audit the arrears owned to the Department by the companies as earlier indicated.

The general global downturn and low commodity prices over the audit period affected operations by Tata Chemicals Magadi, resulting in sporadic curtailment of production and exports.

Further, previously Tata Chemicals Magadi Limited had been reluctant in reporting of their production, sales and royalty calculations. According to the company, they were operating under a land lease, and were not subject to the Mining Act.

However, the ministry has asserted its authority on the company and the company is now submitting returns and obtaining export permits for its products. Over 90% of the Magadi Soda products are destined for export market and through the issuance of exports, the ministry is able to monitor the company's export sales and the corresponding payable royalties.

Following the appointment of the Taskforce to audit and veriFinancial Year revenue payable by the cement and mining companies, royalty arrears for the Magadi Soda Products were computed and reported. Subsequently the company has made payments of Kshs.135, 377,550 in 2017/18 and Kshs. 97,567,500 by 31st March 2019 under the year 2018/2019.

Further, the State Department has opened a new office, Nairobi West Regional Mining Office to improve the Ministry's monitoring and enforcement of the Mining law requirements in Kajiado County, including for Tata Chemicals Magadi Limited.

Submission by Magadi Soda

The management submitted that they have been paying royalties in time and that the only issue is the self-declaration of the production in terms of royalties. They also reported that the plant was brought up in 2014 and has more than 60 companies in over 150 countries. It is also in all continents except Antarctica.

The management also submitted that the plant was established in 1911 and acquired in 2005. They reported that soda ash is produced in US, UK and Kenya.

Committee Observations and Findings

- **(i) The Committee observed that the ministerial task force determined that Tata chemicals was in arrears of Kshs.50,621,479 relating to 2016/2017 and earlier years;**
- **(ii) The Committee observed that as at 30 June 2018, the reported arrears totaled Kshs.274,038,197; and**
- **(iii) The Committee marked the matter as resolved**

Committee Recommendations

- **i. Within three (3) upon adoption of this report, the Cabinet Secretary for National Treasury should ensure that arrears of Kshs.274,038,197 owed by Magadi Soda is received by a designated receiver of revenue in line with the provisions of Article 209(1), (2) and (4) of the Constitution of Kenya 2010 and Section 75 of the PFM act 2012; and**
- **ii. The Cabinet Secretary should within three (3) months after adoption of this report embark on development of policy guidelines on payments of royalties. The guidelines should address sales reporting and royalty remittances on various minerals, auditing of sales to ensure mining companies pay the royalties that is due to the government.**

490. Irregular Export Permits

As reported in the 2014/15 and 2015/16 reports, information available indicated that export permits with a value of US$18,619,645 (approximately Kshs.1.9 billion) were issued during 2014/15 financial year, by an unauthorized officer whose employment contract expired on 19th April 014. This was contrary to the then Mining Act, according to which, exports permits were to be signed by the Commissioner of Mines or an authorized officer whose authority had been delegated in writing. Consequently, the validity of the revenue collections on the export permits issued by the unauthorized officer could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Information available indicated that Export Permits with a value of US$18,619,645(approximately Kshs.1.9 billion) were issued during the year by an officer deemed to have been unauthorized officer whose employment contract expired on 19th April 2014. However, the accurate position is as follows:

The office of the Cabinet Secretary in the Ministry of Mining in 2014 had put in place administrative measures to bring transparency and accountability in processing of the Export Permits where vetting of the Applications to Export Minerals was separated from issuance of the Export permits. To operationalize this process, the Mineral Audit Unit was formed with among other functions to audit Applications for Export Permit.

The above officer referred as unauthorized was the Head of the Unit and therefore, as a matter of procedure, had to vet the applications and forward them to the Commissioner of Mines with advisory notes. The authority to issue the permits was done by the Commissioner of Mines.

The Accounting Officer confirmed to the Committee that records in their office indicate that the said officer was Mr. Said Athman a substantively appointed Mining Secretary with the Personal Number 2008080402 in Job Group ‘T’. He was transferred from the Ministry of Devolution and Planning on 25th September, 2013.

Committee Observations and Findings

(i) **The Committee observed that the officer had been conducting verification of the export permits including checking the samples;**

(ii) **The Committee observed that the said officer Said Athman Mtwana’s employment contract with the Public Service Commission as Secretary of Culture (Job Group T) expired on 20th April, 2014;**

(iii) **The Committee observed that he was subsequently appointed supernumerary to the post of Advisor (Job Group T) on Local Agreement Terms with effect from 20th April, 2014;**

(iv) The Committee observed that the Public Service Commission on 6th May 2015 through a letter reference No. PSC/18/1/(49) responding to a request from the Cabinet Secretary, informed that the officer ceased to be Secretary of Culture with effect from 20th April, 2014 and therefore renewal of his contract in that capacity at the Ministry of Mining could not arise; and

(v) The Committee marked the matter as resolved

40.0. MINISTRY OF TOURISM

FINANCIAL STATEMENTS FOR VOTE 1201

Mr. Joe Okudo, the Accounting Officer for the State Department of Tourism (Vote 1021) appeared before the committee on 18th April 2019 to adduce evidence on the Audited Financial Statements for the State Department of Tourism (Vote 1021) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Said Athman - Tourism Secretary**
2. **Mr. Japheth Ndambuki - Senior Supply Chain Officer**
3. **Mr. Isaac Mbithia - Principal Accountant**
4. **Mr. Vincent Bwire - Chief Tourism Officer**
5. **Mr. Felix Omondi - Assistant Secretary**

Basis for Qualified Opinion

491. Cash and Cash Equivalents

The cash and cash equivalents balance comprises of cash held at the Central Bank of Kenya under the recurrent, development and deposits accounts all amounting to Kshs.45,101,844 as at 30 June 2017. However, the reconciled closing balances as per the financial statements and the manual cashbook that was availed for audit review did not agree with the balances disclosed in the IFMIS system generated cashbook as tabulated below;

Account	Manual Cashbook/ Financial Statements Balance Kshs.	IFMIS Cashbook Balance Kshs.	Variance Kshs.
Recurrent	13,008,083	30,350,000	(17,341,917)
Development	266,871	3,209,372,249	(3,209,105,378)
Deposits	31,826,889	1,676,872 30	30,150,017

In the circumstances, the two sets of accounting records were not reconciled and the accuracy and completeness of cash and cash equivalents balance of Kshs.45,101,844 as at 30 June 2017 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that reconciled closing balances as per the Financial Statements and the manual cash book availed for audit review did not agree with the balances disclosed in the IFMIS system generated cash book.

The balances shown in the IFMIS generated cash cook are not reconciled due to system challenges with the cash management module. These challenges include;

i) Missing online bank statements
ii) Creation of system acquired liabilities
iii) Missing transitions when bank statements are loaded.

The IFMIS department has continued to address these challenges with aim of reconciling these differences.

The balances in the Financial Statements are fully supported by Certificate of Balances and Bank reconciliation statements as at 30th June, 2017.

Committee Observations and Findings

(i) The committee observed that IFMIS generated cash cook was not reconciled due to system challenges with the cash management module.
(ii) The Committee observed that the Cash book has since been adjusted and the balances in the Financial Statements are fully supported by Certificate of Balances and Bank reconciliation statements as at 30th June, 2017.
(iii)The Committee marked the matter as resolved.

Committee Recommendation

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

492. Acquisition of Assets – Tourism Recovery

During the year under review, the Ministry spent an amount of Kshs.1,042,214,337 under expenditure Item acquisition of assets (tourism recovery) sub- item; research, studies, project preparation, design and supervision. A scrutiny of the expenditure revealed that an amount of Kshs.206,569,933 was incurred on items not related to tourism recovery. Further most of the expenditure were recurrent in nature rather than development (acquisition of assets) as ought to have been the case. Consequently, it is not possible to confirm validity of funds amounting to Kshs.206,569,933.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that an amount of Ksh.206,569,933 was incurred on items not related to tourism recovery. It was also true that some of the expenditure were recurrent in nature rather than development.

The pending bills for State Department for Commerce and Tourism for the Financial Year 2015/2016 had to be settled as a first charge from existing budget since the Recurrent budget did not have sufficient funds to settle all the pending bills. This was as per Treasury Circular No.18/2016. Most of the expenditure incurred in payment of the pending bills was related to tourism recovery as it was for payment for quarterly communication services. The other pending bills were capital in nature thus paid from acquisition of assets.

The bills paid are as tabulated below:

	Transaction details			
	PV.NO.	Payee	Amount	Details
1	PV003377	M/S GrayLing Communications LTD	156,291,765.00	PENDING BILL FOR QUARTERLY COMMUNICATION CONSULATANCY SERVICES
2	PV003459	COMMISSIONER OF VAT	1,690,027.30	VAT FROM STALWART MANAGEMENT CONSULTANCY SERVICE LTD
3	PV003459	STALWART MANAGEMENT CONSULTANCY SERVICE LTD	15,210,245.20	PAYMENT TO STALWART MANAGEMENT CONSULTANCY -PENDING BILL FROM 2015/2016FINANCIAL YEAR
4	PV03788	JOYCHET ENTERPRISES LIMITED	10,048,036.00	PROCESSING OF PENDING BILL FOR THE PROPOSED SUPPLY, DELIVERY AND INSTALLATION OF PACKED AIR CONDITIONING UNITS AND EMERGENCY SOLAR LIGHTING SYSTEM FOR THE NATIONAL WEIGHTS AND MEASURES-LABORATORIES SOUTH NAIROBI, FOR THE STD
5	PV03862/1	FLOLIZZ CONTRACTORS LIMITED	6,720,692.00	PROCESSING OF PENDING BILL FOR THE PROPOSED RENOVATION AND REFURBISHMENT AT THE KIBT'S OFFICE AT WEIGHTS AND MEASURES COMPLEX- SOUTH C; FOR THE SDT
6	PV003167	NATIONAL OIL CORPORATION OF KENYA	4,659,167.50	SUPPLY OF PETROL 30612 LTRS AND DIESEL 30612 LTRS TO THE MINISTRY OF TOURISM FOR OFFICIAL USE.
7	PV003050	DELTAPHASE SOLUTIONS LIMITED	1,950,000.00	BEING PROCESSING OF PENDING BILL, FOR UPGRADE OF MOBILE PROVERS FOR FUEL DEPOT USE, FOR SDT
8	PV002997/	LLOYD MASIKA LIMITED	10,000,000.00	PAYMENT FOR RENT AREAS FOR 2015/2016-TELPOSTA TOWERS
		TOTAL	**206,569,933.00**	

Committee Observations and Findings

(i) **The Committee observed that the Accounting Officer was satisfactory; and**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

(i) **Accounting Officers must at all times ensure that they are responsible for the management of the entity's assets in a way which ensures that the National Government entity achieves value for money in acquiring, using and disposing of those assets pursuant to the provisions of section 72(1) of the Public Finance Management Act, 2012; and**
(ii) **The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills are available they should form a first**

charge in the subsequent year's budget thereby impending smooth implementation of the subsequent budget.

493. Wasteful Expenditure on Payment of a Pending Bill

The Ministry made a payment of Kshs.150 million to a local law firm in respect of pending bill from the former Ministry of Trade. Available information indicates that the payment was in respect of an initial bill of Kshs.12 million payable to Tele News Africa and Atlantic Region but which was in contention as the contract for advertising services by the firm had expired in June in 2004 but the firm continued to render the service. The Attorney General vide letter Ref. A.G/CIR/3016/04 in 2006 observed that the Ministry was obligated to settle the claim since the Ministry agreed to participate in disputed third phase of the programme.

As at 17 June 2010, the bill had accumulated to Kshs.52,606,872 being outstanding amount plus 3% interest since 2004. In August 2011, Attorney General advised that the Ministry of Trade and Industry to pay the contractual amount but negotiate on the interest payable even though there was no formal contract for phase II but this advice was not adhered to.
The firm went to Court for non-payment and by the judgement dated 24 July 2012 ruled in their favour, the firm was awarded Kshs.110,061,691 being the initial Kshs.12 million plus 26% interest since April 2004. Part payment was made in July 2013 of Kshs.65 million as interest continued to accumulate. As at December 2016, the outstanding bill had accumulated to Kshs.210 million.

It was noted that there was lack of diligence on the side of the then Ministry officials in allowing the company to continue offering the service without a valid contract. There was also further negligence on part of the officials in not adhering to the professional advice by the Attorney General to pay the outstanding amount and negotiate the interest payable in 2011. Had this advice been followed, this could have saved the Government the interest accumulated of Kshs.198 million.

Consequently, there is risk of further loss of public funds through continued accumulated interest and penalties occasioned by the Ministry's officials. Further the Ministry should fast track on settlement of this issue to avoid further interest and penalties.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the payments to Tele News Africa and Atlantic Region have delayed. However, in an endeavor to expeditiously clear this bill, the ministry undertook a payment of Kshs.150 million in June, 2017 to curb the accrual of interest, based on advice from the solicitor General vide his letter to the Principal Secretary dated 17th

January, 2017 Ref:AG/GC/MOC/124/12.

The ministry has also proceeded to re-direct the matter back to State Department for Trade as the rightful custodian of this matter as per the letter to the Solicitor General dated 5th March 2019 Ref:MOT/1/5. All subsequent payments should be undertaken by State Department of Trade.

Committee Observations and Findings

- **(i) The Committee observed that the ministry paid a further 70 million in the year 2017/18 in addition to the 150 million paid in June 2017 bringing the total to 220 million.**
- **(ii) The Committee also observed that the ministry has also re-directed the matter to the state department for Trade.**
- **(iii) In addition, the Committee observed that there is the risk of further loss of public funds through continued accumulation of interests and penalties.**
- **(iv) The Committee further observed that the ministry officials should provide a brief history of the Contract and reasons why the Attorney Generals advice was not adhered to.**
- **(v) The matter remains unresolved.**

Committee Recommendations

Within three (3) months upon adoption of this report, the ODPP should prosecute those found culpable.

Other Matter

494. Pending Bills

Bills amounting to Kshs.24,162,162 relating to 2016/2017 were not settled during the year but were instead carried forward to 2017/2018 financial year. Failure to settle the bills in the year to which they relate adversely affects the following year's provision to which they have to be charged. Had the bills been paid and the expenditure charged to the financial statements of 2016/2017, the carried forward bills would not have caused budgetary strain to 2017/2018 financial year given that there was budgetary provision for the year under review.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that bills amounting to Ksh.24,162,162 relating to 2016/2017 were carried forward to 2017/2018 Financial Year.

The bills were processed through IFMIS and a request for funding was made to the exchequer. The funding received from the exchequer was not sufficient to pay all the bills. Some of the bills had been transmitted through Internet banking but failed to go through due to beneficiary accounts issues. Thus, these bills were carried forward to 2017/2018.

Committee Observations and Findings

(i) The Committee observed that the pending bills normally distort the budget of the current year but with adequate Exchequer releases the issue may be avoidable. The pending bills have since been cleared.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills are available, they should form a first charge in the subsequent year's budget thereby impending smooth implementation of the subsequent budget.

495. Budget Under-Absorption

During the year under review, the following expense items were noted to have been underspent;

Item	**Final Budget Kshs**	**Actual Expense Kshs**	**Underutilization Kshs**	**% Underutilization**
Use of Goods and Services	123,688,649	102,666,515	21,021,954	17%
Subsidies	200,000,000	0	200,000,000	100%
Transfers to Other Government Units	4,245,575,000	3,997,132,313	248,442,688	6%
Acquisition of Assets	1,222,439,250	1,042,700,957	179,738,293	29%

Failure to fully utilize the budgeted provisions is likely to lead to negative impact on the service delivery and achievement of the overall objectives of the Ministry.

Submission by Accounting Officer

Item	Under-Utilization	Reason For Under-Utilization
	Kshs.	
Use of Goods and Services	21,021,954	Some processed payments had to be cancelled due to lack funding from the exchequer.
Subsidies	200,000,000	The Subsidies for Charter Incentive Programme as was projected for the Financial Year was not transferred to Kenya Tourism Board. KTB had not exhausted the funds allocated in 2015/2016 financial year and thus continued to utilize the same until year end.
Transfers to Other Government Units	248,442,688	This was occasioned by the SAGAS not collecting the total Appropriation-in-Aid as budgeted for. This is due to low enrolment of students at Utalii College and its satellite College and decline in sales due to still completion and political situation affected the hotel industry.
Acquisition of Assets	179,738,293	The implementation of some projects such as Murera-Farm Gate and Mama Ngina Waterfront was not completed in 2016-2017Financial Year.

Committee Observations and Findings

(i) The Committee observed that the Ministry has since improved on their budget absorption gauging from the 2017/18 financial Statements presented for audit.

(ii) The Committee also observed that the Mama Ngina water front is at 42% completion level with an estimated expenditure of Kshs.106.7million already incurred while repair and rehabilitation of Farm Murera Gate road is at 75.6% completion level.

(iii)The Committee observed from that according to the Auditor General, the matter was resolved.

41.0. STATE DEPARTMENT OF PUBLIC SERVICE AND YOUTH

FINANCIAL STATEMENTS FOR VOTE 1211

Dr. F. O Owino, the Accounting Officer for the State Department of Youth, Public Service and Gender (Vote 1211) appeared before the committee on 6th June 2019 to adduce evidence on the Audited Financial Statements for the State Department of Youth, Public Service and Gender (Vote 1211)) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Matilda Sakia - AG DG National Youth Service**
2. **Mr. Denis Mutuku - Secretary Huduma**
3. **Ms. Florence W Kivunda - Assistant Accountant General**
4. **Mr. Samson Palia Wangusi - Director Administration**
5. **Mr. George W. Mwangi - Principal Accountant**
6. **Mr. Isaac Ngige - Parliamentary Liaison Officer**
7. **Mr. Francis Muteti - Chief Finance Officer**
8. **Mr. John O. Olima - Senior Principal Finance Officer**
9. **Mr. Nicholas Kamau - Chief Finance Officer-Youth**

Basis for Qualified Opinion

496. Mis-allocation of Expenditure

The statement of receipts and payments reflects expenditure of KShs.7,628,895,236 under use of goods and services. The amount includes KShs.723,975,418 relating to rentals of produced assets as disclosed under Note 5 to the financial statements. However, the figure of KShs.723,975,418 also include an amount of KShs.76,873,868 which ought to have been charged to the following expenditure items of the account:

S/No	Correct Account	Amounts (Kshs)
1.	Purchase of equipment	46,831,830
2.	Accommodation and travel	2,510,590
3.	Repairs and maintenance	27,531,448
	Total	76,873,868

Submission by Accounting Officer

The Accounting Officer submitted that it was true that KShs.46,831,830, KShs.2,510,590 and KShs.27,531,448 totaling KShs.76,873,868 for various payments was charged to rentals of produced assets instead of purchase of equipment; accommodation and travel, and repairs and maintenance respectively.

These expenditures were under NYS Youth Empowerment Programme – (Head 1211000600) in 69 informal Settlements (Cohorts) which included Slum upgrading and Environmental cleanup where heavy machineries were used. During the year under review, the intervention activities increased significantly without corresponding increase in the allocation of funds. To cater for all these expenses, it necessitated the use of funds allocated for Hire of Equipment, Plant & Machinery which is a sub-item in the rentals of produced Assets item. The Department has put measures, to ensure that mischarging of Accounts Items will not re-occur.
He also submitted that the CFO Mr. Bernard Maiga and head of accounting Mr. Sammy Mbugua unit had been interdicted.

Committee observation and Findings

(i) The submission by the Accounting Officer was satisfactory; and
(ii) The Committee marked the matter as resolved.

497. NYS Huduma cohorts account –National bank

Examination of the revised financial statements shows that the State Department has declared a Cohorts Account held at National Bank of Kenya with a bank balance of Kshs. 442,890,677.00. Although the cashbook, bank balance certificate, bank reconciliation and board of survey certificate have been provided for audit verification, it was not possible to confirm the liability as declared in note 11 to the accounts as no listings were provided in support.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the listing was not provided earlier. The list is broken down as follows: -

a) Weekly summary – week 36 to week 40
b) Huduma kitchen – week 36 to week 40
c) Samples of Saccos – week 36

However, the detailed breakdown forming the Kshs.442,890,677 has been provided in soft form due to its bulky nature. The entire 442M has been paid to the outstanding beneficiaries; 64M has not yet been paid due to wrong account details for beneficiaries.

Committee Observations and Findings

(i) The Accounting Officer submitted a detailed soft copy of the breakdown of outstanding payments forming Kshs.442,890,677.00;
(ii) The Auditor Genral has not verified the documents;
(iii)The matter remains unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General with all information and documents required to fulfill its functions pursuant to the provisions of section 62 of the Public Audit Act, 2015.

498. Other Grants and Transfers

The Statement of receipts and payments reflects on amount of Kshs.69,698,661.00 in respect of other grants and transfers which include Kshs.26,669,673.00 and Kshs.43,028,988 relating to membership dues and subscriptions to international organizations and scholarships and other educational benefits respectively.

Submission by Accounting Officer

Payment vouchers amounting to Kshs.1,162,282.00 and Kshs.4,589,758.00 for membership dues, scholarships and other educational benefits are listed here below and are available for audit verification.

Annex 3 (i)

S/NO.	PAYEE	AMOUNT (KSH.)
1.	Kenya Pipeline Co. Ltd (Conference facility)	60,400.00
2.	Francis Mutua (Attend Seminar in China)	408,720.00
3.	Jackson Awanga (To attend Seminar in China)	326,976.00
4.	Kenya School of Government (Conference facility)	366,186.00
	Total	**1,162,282.00**

Annex 3 (ii)

(b) Scholarship and other Educational Benefits

S/NO.	PAYEE	AMOUNT (KSH.)
1.	Kenya School of Government (Conference facilities)	267,960.00
2.	ESAMI (Tabitha Kago)	222,860.00
3.	ESAMI (Karimi Muriithi)	228,800.00
4.	ESAMI (Eric Kirui)	154,500.00
5.	ESAMI (Naomi Onyango)	156,000.00
6.	Kenya School of Government (Payment of Conference facilities)	313,200.00
7.	Kenya School of Government (George Manyi)	140,360.00
8.	Kenya School of Government (Rose Wangeci)	146,276.00
9.	Kenya School of Government (Newly HRMD recruited staff)	2,018,400.00
10.	College of Human Resource (Faith Kathure)	107,950.00
11.	College of Human Resource (Faith Munyiva)	135,150.00
12.	JKUAT (Alfonson Munyali)	355,000.00
13.	Kenya School of Government (Ephram K. Kariithi	140,360.00
14.	Kenya School of Government (Barnabas Swanya)	78,300.00
15.	Kenya School of Government (Rose M. Muisyo)	120,640.00
	Total	**4,585,758.00**

These items in the financial year 2018/2019 have been budgeted as transfer to Kenya School of Government (KSG) to correct the anomaly.

Committee Observations and Findings

The Committee marked the matter as resolved after the Auditor General confirmed that they verified the vouchers.

499. Accounts Payables

The statements of assets and liabilities reflects a balance of kshs.789,066,011 against accounts payables as at 30th June 2017 and as disclosed under note 11 to the financial statements. Included in the balance are outstanding payables for deposits, NYS-service men and women and allowances, and NYS Huduma Cohorts totaling kshs. 231,544,785, kshs.114, 630,549 and kshs. 442, 890,667 respectfully.

However, the listing in support of amounts owing to NYS- service men and women savings and allowances of Kshs.114,630,549 and NYS Huduma cohorts of kshs.442,590,667 were not provided for verification. Further the deposits balance of kshs.231, 544,785 includes an amount of kshs. 189,510,151 in respect of NYS Savings and welfare which was not adequately supported.

Submission by Accounting Officer

The Accounting Officer submitted that it was true there was an omission which we highly regret. The listing of Kshs. Kshs.114, 630,549 for amounts owed to NYS Servicemen/women has now been provided in both hard and soft copy.

Committee Observations and Findings

(iv) The Accounting Officer submitted a detailed soft copy of the breakdown of outstanding payments forming Kshs.442,890,677.00;
(v) The Auditor Genral has not verified the documents;
(vi) The matter remains unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General with all information and documents required to fulfill its functions pursuant to the provisions of section 62 of the Public Audit Act, 2015.

500. Use of Goods and Services (Supplies Branch) – Specialized Materials and Services

The total expenditure of Kshs.7,628,895,236 on use of goods and services disclosed in Note 5 to the financial statements includes an amount of Kshs.2,820,467,149 incurred on procurement of specialized material and services. Audit verification of records and documents in respect of purchase of food and rations procured at a total cost of Kshs.54,848,750 and charged to the specialized material and services expenditure item revealed the following anomalies: -

i. The procurements were made on the strength of a contract from Supplies Branch, Ministry of lands Housing and Urban Development dated 20 August 2014 and 16 December 2014.
ii. The procurement contracts included a firm that was registered on 16th June 2015 which was more than six months after the above contract was issued by the Supplies Brach.The suppliers were awarded contracts to supply the goods before the firms were registered with the State Department relying purely on the Supplies Branch Contract and without verification of the firms' details.

Submission by Accounting Officer

The Accounting Officer submitted that the State Department did not have contractors at the time. This necessitated the adoption of contracts from the Ministry of lands and Urban Development (Supplies Branch) Pursuant to Section 27 (5) of the Public Procurement and Disposal of Assets 2005. It was assumed that due diligence had been done by the contracted department. The officer in charge supplies branch forwards supply circulars to government ministries and departments and all public institutions.

Committee Observations and Findings

(i) The Committee observed that the Department used invalid contract documents to procure for goods and services contrary to the exisiting law;
(ii) The Committee observed that contracts were irregularly awarded to unregistered firms; and
(iii)The matter remains unresolved.

Committee Recommendations

Within three (3) months upon adoption of this report, the ODPP should prosecute those found culpable.

501. Acquisition of Assets-Construction of Buildings

Disclosed under Note 8 to the financial statements is expenditure Kshs.616,376,731 on construction of buildings which includes a payment of Kshs.25,572,858 or 60% of the contract sum Kshs.42,621,430 made to a contractor as a down payment in respect of construction of Huduma Centre in Mandera.

Although the management requested for restrictive tendering citing section 102(1) (b) of the Public Procurement and Asset Disposal Act 2015, no evidence has been provided to show there was time pressure or that the costs would be disproportionate.

Submission by Accounting Officer

The Accounting Officer submitted that the establishment of the Huduma Centres in Bomet, Mandera, Vihiga, Tana River, West Pokot and Elgeyo Marakwet Counties had been earmarked to be undertaken in the second quarter of the 2016/2017 financial year.

However, the funds for the projects budget for the projects was released in January 2017 following our request to the National Treasury dated 21st October 2016. The State Department could not therefore commence on the procurement process for the building contractors without ascertaining the availability of required funds.

In addition, the process of procuring the Building and Project Management Consultants was ongoing with the following activities undertaken in the period December to February 2017:

No.	Activity	Date of Completion
1.	Preparation and Forwarding of the Professional Opinion to the Accounting Officer	8th December 2016
2.	Approval of Award	10th January 2017
3.	Notification of Award	17th January 2017
4.	Acceptance by the shortlisted consultants	31st January 2017
5.	Contract signing	2nd February 2017

The consultants were expected to supervise and manage the construction of the six centres. Upon the signing of contracts and funds being available, they were immediately instructed to visit the proposed sites, prepare drawings and the bills of quantities for preparation of bid documents. The Bills of Quantities would be used regardless of the procurement method adopted for the selection of Building Works Contractors.

The choice of Restricted Tendering Method was informed by the delay release of funds and the conclusion of the procurement of project managers.

The negotiated Performance Contract for the Cabinet Secretary for the Public Service, Youth and Gender was availed and the Technical Committee directive to set up and operationalize the Huduma Centers by 30th June 2017 to demonstrate the Ministry's deliverables for that financial year.

Committee Observations and Findings

(i) The Committee observed that the Accounting Officer relied on a negotiated performance contract between the Cabinet Secretary and the Accounting Officer;

(ii) The Committee observed that the Accounting Officer used restricted tender method which is only allowed in exceptional circustances which did qualiFinancial Year in the prevailing circumstances;

Committee Recommendations

Within three (3) months upon adoption of this report, the ODPP should prosecute those found culpable.

502. Acquisition of Assets – Construction of Buildings

The expenditure of Kshs 616,376,721 on construction of buildings also include an amount of Kshs 6,398,170 paid to a sub-contractor for supply and installation of fittings at Kibra Huduma Centre.

i. The HSCM wrote a professional opinion Ref. NYS.CONF/E&S/4/34 advising the Accounting Officer to approve payment for services rendered by the sub-contractor even though there was no existing contract between the state department of Public Service and Youth and the sub-contractor. The request was approved and formed an integral basis for the payment.

Submission by Accounting Officer

The Accounting Officer submitted that that was a Procurement vide request for quotation as provided for under Section 88 of the Public Procurement and Disposal Act 2005. The bidders were issued with RFQ No. NYS/8/2015-2016. M/S Amukune and Sons was identified as the lowest contractor and due to the urgency of works the contractor was requested to carry out the works as Local Service Order was being processed.

The Original works were for construction of a Hall but it was later decided that it be a Huduma Centre. The furniture and fitting were not in the original contract and the department undertook the works internally to have the Huduma Centre. These works were not included in the original Bills of quantity.

The works were procured internally by the department. The execution and supervision was done by the department. The Technical Section (Building Section) issued the certificate of completion after ascertaining the works were practically complete.

The processing of payment in IFMIS was done as at 30th June 2017, however after the transfer of the payment to Internet Banking system it was not possible to transmit the same immediately due to delay in exchequer release at the end of the year. Therefore, the final transmission was done in the month of July 2017 when the exchequer was received. The expenditure and the exchequer relate to financial 2016/2017.

Committee Observations and Findings

(i) The Committee observed that the Accounting Officer was using an annulled procurement law;
(ii) The matter remains unresolved.

Committee Recommendations

Within three (3) months upon adoption of this report, the ODPP should prosecute those found culpable.

503. Acquisition of Assets-Purchase of Specialized Plant, equipment and Machinery/Rehabilitation of Civil Works

The financial statements disclose under Note 8 expenditure of kshs. 1,536,686,813 and kshs. 2,531,054,565 for the purchase of specialized plant machinery and rehabilitation of civil works, respectively. Payments totaling Kshs. 139,890,886 charged to the expenditure items and made to various suppliers were in respect of procurements processed under the contracts from the supplies branch, Ministry of Lands, Housing and Urban development. However, the payments were found to have anomalies as per the audit report.

Submission by Accounting Officer

The Accounting Officer submitted that the anomalies are noted, the payment vouchers and the framework agreements from supplies branch are under investigation by the DCI.

The State Department has since corrected this anomaly by concluding its own framework agreements for use in procurement of goods and services.

Committee Observations and Findings

The Committee observed that the was under investigations by the DCI

504. Acquisition of Assets –Rehabilitation of Civil Works

Rehabilitation of Civil Works expenditure of Kshs.2, 531,054,565 noted above also include an amount of Kshs.264, 280,805 incurred in respect of construction of eight Huduma Centres. The procurement was done under restricted tendering whilst the procurement did not meet the criteria set for use of this method.

Further, the State Department of Public Service and Youth procured services of private consultants at a fee of Kshs.5, 899,175 for design of buildings, preparation of bills of quantities, preparation and evaluation of tender documents, tendering process, supervision and approval of work programs which ordinarily whereas the Ministry of Lands, Housing and Urban Development is mandated to undertake those process for all government projects. No satisfactory explanation has been provided for the use of private consultants.

Submission by Accounting Officer

The Accounting Officer submitted that the Huduma Kenya Secretariat has been implementing the Huduma Kenya Program in phases from the year 2013: -

- The pilot Huduma Centre was conceptualized, designed and set up by the University of Nairobi Enterprise Services (UNES).
- The second phase of implementation of the Huduma Kenya Program included the setup of City Square, Machakos and Makadara Huduma Centres. These were done under the supervision of Departments of Public Works at the County Levels. Because the services provided by the Directorate of Public Works had been devolved to the counties.
- During the third phase in which 10 Huduma centers were operationalized at the former Provincial Headquarters, the Secretariat engaged Ministry of Public Works to provide the design of Huduma Centers, preparation of Bills of Quantities, preparation and evaluation of tender documents as well as supervision of works for the first ten (10) Huduma centers. There were several challenges encountered including:

a) The Engineers and Quantity Surveyors involved were under the newly constituted County Governments.
b) Being new outfits, the Counties had a lot of projects and the priority was being given to the principal employer (the County Government).
c) This caused delays in the generation of designs, drawings, development of Bills of Quantities and supervision. Decision making on the sites was also delayed due to lack of presence of the supervisors.

- Thereafter, the Secretariat engaged the University of Nairobi Enterprises and Services (UNES). UNES lacked the required personnel as they were also lecturers who would mostly be busy with classwork. The situation was further compounded by the fact that UNES was facing delays in facilitating movement of the lecturers to the various sites for supervision of works in good time. This affected the project implementation because of lack of presence of supervision and decision making on the site with the contractors.
- The National Construction Authority (NCA) was engaged to provide similar services for subsequent 20 Huduma Centers and being a new outfit, it lacked capacity in personnel, greatly affecting project delivery.

- The University of Nairobi and National Construction Authority provided the services at a fee.

Considering that Ministries enter into performance contracts that must be fulfilled within specified periods of time, it was therefore more cost effective to procure the service from the open markets. See attached letter from Ministry of Lands, Housing and Urban Development indicating their inability to take up the projects.

Additionally, the State Department of Public Works assisted in the procurement of the private consultants right from the development of the terms of reference, preparation of tender documents, and evaluation of bids to drafting of contracts.

Committee Observations and Findings

(i) The Justifications and supporting Documents have since been submitted and verified by the Office of the Auditor General.
(ii) The Committee observed that the explanation by the Accounting Officer was satisfactory; and
(iii) The Committee marked the matter as resolved.

Committee Recommendations

(i) The Accounting Officer must, at all times, ensure, that they submit all information required for audit purposes in compliance with the Auditor General's management letters on a timely basis to forestall audit queries; and
(ii) The Accounting Officers must ensure, at all times, that they avail supporting documentation to the financial statements to the Office of the Auditor General pursuant to section 68 (2)(k) of the Public Finance Management Act, No. 8 of 2012, and within three months as required under Article 229 (4) of the Constitution of Kenya.

505. Stalled construction project

The acquisition of assets expenditure of Kshs 5,134,698 as disclosed in note No. 8 to the financial statement includes an amount of Kshs 616,376,731 under construction of buildings. The amount includes a payment of Kshs 25,912,277.45 for construction of classrooms and workshops at National Youth Service Ruaraka which has been going on for over seven years. The project was started in the year 2011 with contract duration of 52 weeks but is yet to be completed with the latest extended completion period to 28 April 2017.

Submission by Accounting Officer

The Project Manager has been able to keep extending completion dates as per conditions of contract clause 17.1 and which were subsequently approved by the MTC's over the period under review. Secondly, NYS experienced unprecedented challenges during the 2014-2015 and 2017-2018 financial years where payments to various suppliers were stopped for quite a while.

However, lately the department has held meetings with both the contractors and project manager to find ways of fast-tracking completion. Copies of minutes of meeting between the contractors and the department have been availed. They have now applied for extension of time to the Project Manager (Public Works) who has recommended extension and now a request has been sent to the Accounting Officer for approval.

iii. Physical inspection of the projects in 2016-2017 revealed that the contractors had abandoned the site and the projects were yet to be completed. Further, there were visible huge cracks on the walls, the buildings appeared to be dilapidated and in deplorable state.

Submission by Accounting Officer

The Accounting Officer submitted that the visible huge cracks on the walls are at the expansion joints. Building regulations make it mandatory that buildings longer than 30m be provided with an expansion joint that separates the building into two to allow expansion/contraction of a building fabric depending on the climatic conditions prevailing. The cracks have no structural effect and the remedy to such cracks is to hack down along the joint and application of a master sealant. The department has been unable to complete these projects due to inadequate budget provision for this construction.

Committee Observations and Findings

(i) The Committee observed that the project has been long outstanding since year 2011;
(ii) The Committee observed that construction period was supposed to be 52 weeks and has severally been extended;
(iii) The Committee observvded that the project has stalled and no contractor on site;
(iv) The matter remains unresolved.

Committee Recommendations

(i) The Accounting Officers must ensure that the construction of public buildings is undertaken following the right standards and any poor workmanship corrected to avoid possible occupational safety hazards; and

(ii) The Accounting Officer should expedite completion of the building.

506. Replacement of parts for thirteen Huduma Centers Que Management System (QMS)

The requisition attached to the payment voucher was for replacement of faulty parts, but a schedule of services provided in support of the payment shows that Kshs.26, 851,682 was paid for training and other support services which were not part of what was requisitioned and contracted initially.

The Contract document did not provide for future parts replacement as it is practically impossible to quantiFinancial Year the need, however the state department made an advance payment of Kshs.26,851,682 for parts replacement and training without any form of analysis showing the expected duration of utilization as defined by the manufacturer or market survey to inform costing of the orders.

Submission by Accounting Officer

The Accounting Officer submitted that the ICT unit at the Huduma Kenya Secretariat undertook a site survey exercise of the Queue Management System in thirteen Huduma Centres after which the team generated a comprehensive report on the status of the Queue Management System in the Centres with recommendations for corrective action.

The findings of the site surveys included:

i. Need for scheduled quarterly preventative maintenance of entire Queue Management systems in the 13 Huduma Centers
ii. Need for on call support to address ad hoc support escalations of Queue Management systems components and system downtimes in the 13 Huduma Centers
iii. Continuous training of Huduma ICT administrators and staff in the centers as well as MDA Service Provider staff occasioned by high staff turnover as a result of transfers to newly established Huduma Centers
iv. Need to expand the QMS to include additional service counters for newly deployed services in the 13 Huduma Centers
v. Need to renew vendor support and warranties for the 13 Huduma Centers.

It was on the basis of these recommendations that the Program Officer raised a requisition on 15th October 2015 for replacement of parts, support, and maintenance and for expansion of the QMS System to accommodate additional services in the Centres. M/s Magnate Ventures was engaged on the basis of the existing Framework Contract through a commitment letter issued on 3rd November 2015 to replace the QMS parts in the 13 Huduma centers and also provide preventive maintenance, on call support, training, warranty and vendor support for a period of two years.

The support services paid for under subject procurement were as below:

No.	Item	Total (Kshs.)
1.	Implementation and Configuration for additional services	8,710,000
2.	Testing and Commissioning	1,831,700
3.	Logistics	4,264,000
4.	Physical Infrastructure Costs	1,188,200
5.	Documentation including reporting	1,236,300
6.	Training	1,862,224
7.	Yearly maintenance (13 Centres)	7,759,258
	Total	**26,851,682**

As noted above, the State Department of Public Service and Youth did not pay Kshs.26, 851,682 in advance for parts to be utilized in future. The firm provided training since it was a requirement for building capacity of users of the equipment comprising of technology skills, knowledge transfer and on the job skills transfer. This is a standard practice for all ICT technology solutions implementations.

Committee Observations and Findimgs

(i) The Committee observed that the Accounting Officer made payments for replacement of faulty parts of QMS system worth Ksh.26,851,682.00;

(ii) The Committee also observed that services rendered were both for maintenance, replacement, training and additional of service counters in the 13 new Huduma centres;

(iii)The Committee marked xthe matter as resolved.

507. Pending Bills

The State Department reported pending bills totaling Kshs.2,964,606,488 as at 30 June 2017 as detailed in Annex II to the financial statements. Had the bills been paid and the expenditure charged to the accounts for 2016/2017, the statement of receipts and payments would have reflected a deficit of Kshs.2,866,729,587 instead of the surplus of Kshs.97,876,901 now shown for the year ended 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that the State Department reported Pending Bills totaling Ksh.2,964,606,488 as at 30th June 2017. It is also true that the statement of receipts and payments reflected a surplus of Ksh.97,876,901 which was enough to pay the reported Bills.

The Financial Statement was prepared using IPSAS Cash Basis and therefore the statement of Receipt and Payment compares actual receipts in form of exchequer and the expenditures in form of payments. Exchequer was requested from the National Treasury once payments are processed. The Ksh.2,964,606,488 billion pending bills were processed but Treasury did not release exchequer to the State department. It was good to observe that the Statement of appropriation summary which compares the budget and the expenditure shows a surplus of Kshs.6,989,045,723 which represented the un-utilized budget.

Committee Observations and Findings

(i) The Committee observed that there were huge pendings bills worh Ksh.2,964,606,488.00 as at 3oth June 2017;
(ii) Mastter remains unresolved.

Committee Recommendations

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills are available, they should form a first charge in the subsequent year's budget thereby impending smooth implementation of the subsequent budget.

42.0. STATE DEPARTMENT FOR GENDER AFFAIRS

FINANCIAL STATEMENTS FOR VOTE 1212

Hon. Safina Kwekwe Tsungu, the Accounting Officer for the State Department of Gender Affairs (Vote 1212) appeared before the committee on 28th August 2019 to adduce evidence on the Audited Financial Statements for the State Department of Gender Affairs (Vote 1212) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). She was accompanied by the following officials:

1. **Mr Samuel Arachoi - Secretary Administration**
2. **Mr George Wambua - Chief Supply Chain Management Officer**
3. **Mr Calipth Ombati - Director of Administration**
4. **Mr Peter G. Karogi - Assistant Accountant General**
5. **Mr Silas Wachira Nthigah - Senior Accountant**
6. **Mr Isaac N. Ngige - Parliament Liaison Officer**
7. **Mr Kioko Kakyema - Head Supply Chain Management**
8. **Mr James A. Songeni - Director General (SEE)**
9. **Mr Luke Nkumbuku - Director anti-Gender Based Violence**

Basis for Qualified Opinion

508. Mis-allocation of Expenditure

The following expenditure items were charged to the wrong accounts for the period under review:

Item Charged	**Particulars**	**Amount (KES)**	**Items Ought to Have Been Charged**	**Particulars**
2110100	Basic Salaries	275,000	2110200	Temporary wages
2210200	Domestic travel and subsistence	1,695,000	3111100	Purchase of specialized plant, equipment and machinery

2210300	Domestic travel and subsistence	299,910	2210400	Foreign travel & subsistence
2210300	Domestic travel and subsistence	6,464,450	2210800	Hospitality supplies & services
2210600	Rentals of produced assets	480,000	2210300	Domestic travel and subsistence
2210800	Hospitality supplies & services	1,478,224	2211000	Purchase of specialized materials & services
2210800	Hospitality supplies & services	330,000	2210200	Communication supplies and services
2211000	Specialized materials & services	356,400	2210500	Printing advertising & information supplies & services
2211100	Office & General supplies & services	1,527,960	2210200	Communication supplies and services
2211100	Office & General supplies & services	1,334,700	2210500	Printing advertising & information supplies & services
2211100	Office & General supplies & services	11,600,000	3110700	Purchase of motor vehicles
2211100	Office & General supplies & services	1,388,126	3111199	Specialized plant, equipment & machinery
3111100	Specialized plant, equipment & machinery	4,870,000	2211100	Office & General supplies & services
Total		**32,099,770**		

However, had the expenditure items been charged to the correct accounts, this would have resulted to over expenditure amounting to Kshs.32,102,770 under the correct items of the account.

Submission by Accounting Officer

The Accounting Officer submitted that in the financial year 2016/17, austerity measures reduced the State Department's budget on operations and maintenance by 30% as per attached supplementary 1 budget circular.

It was true that some expenditure were mis-allocated. During this time, the new State Department was in dire need for office equipment and services as it was receiving both technical and administration staff. Due to the urgency, some related accounts were interchanged to cater for lack of / inadequate provisions. However, going forward the management has ensured that expenditures are correctly charged by making provisions for all the required budget lines. The mis allocations have been explained below;

Items Charged	**Particulars**	**Amount Kshs**	**Item ought to Have Been charged**	**Particulars**	
2110100	Basic Salaries	275,000	2110200	Temporary wages	The State Department was operating with a skeleton staff. In this regard, with the approval of the Accounting Officer, two casuals were engaged to undertake ICT related tasks. However, there was no budgetary provision for Temporary wages, therefore the wages were charged under basic salaries which is a related item. In the subsequent year, 2017/18 the Department ensured that the temporary wages item was factored in the

					budget to avoid similar occurrence.
2210200	Communication	1,695,000	2210200	Communication	This was purchase of phone handsets and therefore correctly charged under communication
2210300	Domestic travel and subsistence	229,910	2210300	Domestic travel and subsistence	This was domestic travel for officers on official duty, and it was correctly charged
2210300	Domestic travel and subsistence	6,464,450	2210800	Hospitality	This was payment for venues and hospitality for delegates attending various conferences; International women's day, sensitization of persons with disabilities, and payment to various committees.
2210600	Rental of product assets	480,000	2210300	Domestic Travel and subsistence	This was Taxi charges refund for staff working late. The amount was charged under hire transport due to insufficient funds in the Domestic travel account
2210800	Hospitality supplies and services	1,478,224	2211000	Purchase of specialized	The expenditure was charged correctly as per the LPO but there was

				materials and services	an error of narration on the voucher
2210800	Hospitality	333,000	2210200	Communication	This was purchase of airtime for senior staff. The amount was misallocated due insufficient funds in the right account,
2211000	Specialised materials and services	356,400	2211000	Specialised materials and services	This was for purchase of corporate branded uniforms and thus charged in the correct account
2211100	Office and General supplies and services	1,527,960	2210200	Communication supplies	This was purchase of laptops which is in the category of general office supply and correctly charged
2211100	Office and General supplies and services	1,334,700	2211100	Office and General supplies and services	This was purchase of branded notebooks and other office supplies and therefore charged in the correct account
3110700	Purchase of motor vehicle	11,600,000	3110700	Purchase of motor vehicle	This was purchase of 2 vehicles correctly charged
2210200	Communication supplies and services	1,338,126	2210200	Communication supplies and services	This was payment for supply and installation of telecommunication equipment correctly charged

311100	Specialised plant, equipment	4,870,000	2211100	Office and General supplies and services	This was purchase of assorted office equipment charged in a related account due to insufficient funds
		32,102,770			

Committee Observations and Findings

- **(i) The Committee observed that there was no budgetary provision for temporary wages**
- **(ii) The Committee observed that the purchase of specialized plant, equipment and machinery of Kshs.1,695,000 was resolved.**
- **(iii) The Committee observed that the foreign travel and subsistence of Kshs.299,910 was resolved.**
- **(iv) The Committee observed that the matter on hospitality, supplies and services remains unresolved save for Kshs.837,900 paid for conference facilities and travelling subsistence allowances which are related expenditure.**
- **(v) The Committee observed that the domestic travel and subsistence of Kshs.480,000 is still unresolved because the explanation that was given was not supported.**
- **(vi) The Committee observed that the explanation on the communication supplies and services of Kshs.333,000 was not supported.**
- **(vii) The Committee observed that the matter on office and General supplies and services of Kshs.4,870,000 was not resolved. This is because out of the thirteen reported cases of misallocation, six, representing Kshs.12,403,662 or about 39% of the total of Kshs.32,102,770 remains unresolved.**

Committee Recommendations

Accounting Officers must ensure that proper management and control of, and accounting for their finances in order to promote the efficient and effective use of budgetary resources pursuant to the provisions of section 68(2)(m) of the Public Finance Management Act, 2012.

509. Second High-Level Meeting (HLM2) Expenditure

The State Department of Gender Affairs received an amount of Kshs.29,059,003, in the form of Authority to Incur Expenditure during the year under review from the National Treasury, to fund Plenary 5 on Economic Empowerment of Women at the Second-High Level Meeting (HLM2) of the Global Partnership for Effective Cooperation (GPEC) held in Nairobi. Although the activity was included in the State Department`s amended annual work plan it was not factored in the budget. Out of the monies received, an amount of Kshs.9,132,600 was used for transport refunds and daily subsistence allowance for county delegates, youth and gender officers while Kshs.12,136,674 was spent on delegates accommodation. However, no documentation was provided to support the basis of identification and selection of the delegates, exhibitors, entertainer and moderators. Further, the rates of compensation for delegates, exhibitors and entertainers were not supported in any way.

Submission by Accounting Officer

The Accounting Officer submitted that during HLM2 Meeting on Global Partnership for effective Development Co-operation held in Nairobi from 25th November to 1st December 2016, the State Department of Gender Affairs received Authority to Incur Expenditure of KES 29,059,003 from The National Treasury. KES 12,136,674 was spent on delegates' accommodation in Kasarani Stadium Hostels.

i) **Selection of Delegates:** Delegates were drawn from the 47 counties as per the National Treasury guidelines on mobilization of grassroot participants to the HLM2.

ii) **Recruitment of Moderators:** Moderators were agreed on during a meeting where a criterion was developed.

iii) **Rates of subsistence allowance:** The rates of compensation for delegates subsistence allowance were drawn from the approved SRC Circular of 10th December 2014- Review of Allowances in the Public Service. Non- Civil Servants were compensated at slightly above J/G 'E' (Ksh. 2,500).

iv) **Rate for transport Refund:** Delegates were refunded transport costs on a two-way basis at market rates prevailing at the time. Refer to the attached schedule. Consideration was given to travel within a given county to and from a central bus-stage.

Committee Observations and Findings

(i) The Committee observed that the documentation to support the basis of identification and selection of delegates, exhibitors, entertainer and moderators are now provided and verified. In addition, the rates of compensation are now supported.

(ii) The Committee marked the mater as resolved.

510. Domestic Travel and Subsistence

Domestic travel and subsistence expenditure of Kshs.28,242,898 disclosed under Note 13 to the financial statements includes an amount of Kshs.966,160 in respect of air tickets which was not supported by procurement documents. Further, the expenditure of Kshs.28,242,892 includes an amount of Kshs.4,000,000 described as reimbursement to National Government Affirmative Action Fund. However, the expenditure was similarly not supported by any documentation. The validity of the expenditure on air tickets and reimbursement cannot be confirmed in the circumstances.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Domestic travel and subsistence expenditure of Kshs.28,242,898 as reflected on Note 13 of the financial statements includes an amount of Kshs.966,160 in respect of air tickets. The department has since submitted all air ticket procurement documents for the year under review totaling Kshs 2,293,521 for audit review.

Refund to NGAAF: The International Women's Day was held on 8th March 2017. The State Department was required to cater for transport cost for delegates attending the event. Due to system challenges, it was not possible to process the payment. An advance of KES 4,000,000.00 was received from National Government Affirmative Action Fund approved by the Principal Secretary who is the fund administrator. Attached please find the schedules showing how the money was spent. The money was later refunded to NGAAF.

Committee Observations and Findings

(i) **The Committee observed that the amount of Kshs.966,160 for air tickets was not supported by procurement documents. Documents attached invoices, do not support the procurement process. The matter remains unresolved.**
(ii) **The Committee observed that the expenditure and refund to NGAAF has now been supported and verified. The committee marked the m atter as resolved.**

Committee Recommendation

The Accounting Officer should within three (3) months after the adoption of this report ensure that the supporting procurement documents of Kshs.966,160 for air tickets are submitted to the auditor general for audit verification.

511. Routine Maintenance - Motor Vehicles & Other Transport Equipment

The State Department procured motor vehicle spare parts, tyres, periodic services, repairs and maintenance amounting to Kshs.3,630,828 against routine maintenance- motor vehicles and other transport equipment. However, there was no of pre and post inspections by relevant officers on work done or services carried out on these vehicles before effecting the payments. Consequently, the validity of the expenditure could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the Department procured motor vehicles spare parts, tyres and carried out services, repairs and maintenance amounting to Ksh. 3,630,828 as reflected in the financial statements under routine maintenance of motor vehicles. It was also true that pre and post inspection was not done on some repairs and maintenance of motor vehicles.

This is because pre inspection and post inspection is only done when major repairs are carried out. However, the department may not require pre and post inspection reports on minor repairs, routine services and procurement of tyres as this is may not be necessary. Out of the Kshs 3,630,828, an amount of Kshs 1,394,000 was spent on major repairs, inspection reports attached. The balance of Kshs 2,236,828 was spent on minor repairs and services.

Committee Observations and Findings

(i) The Committee observed that relevant pre and post inspections reports on work done or services carried out on the vehicles have now been provided and verified.
(ii) The Committee marked the matter as resolved.

512. Routine Maintenance – Other Assets

The financial statements at Note 13 also discloses a total of Kshs.7,134,150 in respect of routine maintenance - other assets. This expenditure includes an amount of Kshs.2,638,000 in respect of refurbishment of the office of Principal Secretary which was procured through use of restrictive tendering method. However, project status report to support the extent of work done was not provided for audit review. Information provided by the project manager indicated that the refurbishment works carried out by the contractor were less than those specified in the bills of quantities even though the contractor had been paid in full. The validity of the expenditure of Kshs.2,638,000 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true an expenditure of Kshs. 2,638,000 was incurred in respect of refurbishment of the office of principal secretary.

The office of the Principal Secretary was refurbished to the satisfaction of the client. The Project Manager (supervisor), Ministry of Transport Infrastructure, Housing & Urban Development submitted a certificate of practical completion to the State Department of Gender Affairs which was used to effect payment.

Committee Observations and Findings

(i) The Committee observed that although a certificate of practical completion was issued and used to effect the payment, the works carried out by the contractor were less than those specified in BQs yet the contractor was paid in full.
(ii) The matter remains unresolved.

Committee Recommendations

The Accounting Officer should, within three (3) months of the tabling this report, provide the relevant documents to the Auditor General, to enable verification of supplies, works done and original payment vouchers.

513. Acquisition of Assets

The expenditure of Kshs.548,467,992 on acquisition of assets includes an amount of Kshs.12,034,480 in respect of purchase of office furniture and general equipment. However, the details of furniture and equipment procured, their current location and the custodians were not provided for audit verification.

Further, the expenditure of Kshs.548,467,992 includes an amount of Kshs.477,000,000 described as domestic lending and on lending in respect of a transfer to Women Enterprises Fund for onward lending to borrowers and does not constitute acquisition of assets. In addition, the expenditure of Kshs.548,467,992 includes an amount of Kshs.38,663,262 in respect of research, studies, project preparation, design and supervision. The expenditure relates to implementation of enhancing gender directorate role in gender mainstreaming and women empowerment project undertaken in partnership with UN Women.

Even though accountability for the funds is the responsibility of State Department of Gender Affairs, procurement and payment for goods and services for the project are outside the control of the State Department and so is the monitoring and evaluation of the project's progress. It is, therefore, not possible to ascertain value for money for the expenditure of 38,663,262 and the impact of the project.

Submission by Accounting Officer

i) The Accounting Officer submitted that it was true that the acquisition of assets expenditure of Kshs.548,467,992 which includes Kshs.12,034,480 in respect of purchase of office furniture and general equipment. The details of the furniture and office equipment procured, their current location and the custodian have since been updated in the asset register and provided for audit verification.

ii) It was true that the acquisition of assets figure of Kshs.548,467,992 includes an amount of Kshs.477,000,000 which is correctly described as domestic lending and on lending which is a transfer to Women Enterprises Fund for onward lending to borrowers. The item of domestic lending and on lending has been classified as an asset in the Treasury's Chart of accounts and as such is the treatment in the financial statements as specified on the reporting template.

iii) It was also true that acquisition of assets amount of Kshs.548,467,992 includes expenditure amounting to Kshs.38,663,262 in respect of Research, studies, project preparation, design and supervision. This item has also been classified under fixed asset. The State Department for Gender Affairs did monitoring of the Interventions undertaken under this Project. The Interventions included; Capacity building of planning officers and county youth officers on budget allocation and implementation for KNAP 1325, development of National Gender and Development Policy, formulation of MTP 111 Gender chapter, capacity building on collection and analysis of Gender disaggregated data and commemoration of UN Days on Gender. These interventions have resulted to; reduced prevalence of GBV including FGM, enhanced knowledge on gender issues, Compliance with International Treaty/Conventions obligations on gender, improved management and coordination of gender programs through development of various gender policies, enhanced research on gender for Policy decision, increased access to Quality GBV services and enhanced advocacy on gender issues in the Country. However, this project (**Enhancing Gender Directorates Role in Gender Mainstreaming and Women Empowerment**) is self-reporting.

Committee Observations and Findings

(i) The Committee observed that details of furniture and equipment procured, their locations and the custodians are now provided and verified. The committee marked the matter as resolved.

(ii) The Committee observed that on domestic lending and on lending, the explanation provided was satisfactory. The committee marked the matter as resolved.

(iii) The Committee observed that even though accountability for the funds under UN Women Project is the responsibility of the Department, procurement and payment for goods and services for the project are outside its control; and

(iv) The matter remains unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they are responsible for the management of the entity's assets in a way which ensures that the National Government entity achieves value for money in acquiring, using and disposing of those assets pursuant to the provisions of section 72(1) of the Public Finance Management Act, 2012.

514. Hospitality Supplies and Services

The expenditure of Kshs.17,576,823 on hospitality supplies and services includes an amount of Kshs.1,489,316 relating to provision of conference facilities for hosting of seven meetings at a hotel in Nairobi. However, no documents or records were provided for audit review to support how the service provider was identified and awarded the contract, to explain the nature of the conference, to identiFinancial Year the participants and to prove that the conference took place. Besides, an amount of Kshs.54,000 for accommodation charges had no detail of the participant accommodated at the hotel while expenditure amounting to Kshs.728,665 had no supporting documents at all.

Submission by Accounting Officer

The Accounting Officer submitted that the formation and documents relating to the kind of conferences held at Intercontinental Hotel have been provided as per the summary provided below:

i) 1/9/2016: A meeting on Strategy for the Promotion of greater access by Women to Elective positions dated 2/6/2016. (Amount Kshs. 49,400)**.**
ii) 19/8/2016: Accommodation for three women who attended meeting for the Promotion of greater access by Women to Elective positions on 15th and 16th August, 2016. (Amount Kshs. 54,000)**.**
iii) 17/8/2016: Consultative meeting on participation of women in Elections. (Amount Kshs. 54,000)**.**
iv) 3/8/2016: Conference Meeting with political parties. (Kshs. 200,750).
v) 6/7/2016: Consultative meeting on women elective position held 5th July, 2016. (Amount Kshs. 303,000).
vi) Meeting of eminent women leaders in Kenya to discuss the role of women and securing peace during the fourth coming August, 2017 of KES 84,500.
vii) KES 54,000 was spent as payment of accommodation of Prof. konditi J, Seii Tabitha and Siparo Mary while attending the meeting of eminent women leader on the forth coming 2017 elections.
viii) 728,665 was to cater for conference packages for two meetings namely the consultative meeting on participation of women in elections held on 8 February 2016 and

consultative meeting with political parties leader held on 24th June, 2016. An indemnity was provided.

The service provider was identified and awarded through quotation.

Committee Observations and Findings

(i) **The committee observed that there was no evidence that the process of identiFinancial Yearing, evaluating and awarding the service provider was subjected to due procurement process. Although the nature of the conference has now been explained, it has not been explained how the attendees/ participants were identified.**

(ii) **The committee observed that the Expenditure amounting to Kshs.728,665 has not been supported.**

(iii) **The Committee marked the matter as resolved.**

Committee Recommendations

The Accounting Officer should, within three (3) months of the tabling this report, provide the relevant documents to the Auditor General, to enable verification of supplies, works done and original payment vouchers.

515. Pending Bills

The State Department of Gender Affairs reported pending bills amounting to Kshs.12,737,993 as at 30 June 2017. However, bills amounting to Kshs.11,519,228 were not supported with any relevant documentation including contract documents, purchase/service orders, invoices and delivery notes. Consequently, the pending bills of Kshs.12,737,993 cannot, therefore, be confirmed as all valid and fairly stated.

Had, the pending bills of Kshs.12,737,993 been paid and the expenditure charged to the accounts for 2016/2017 financial year, the statement of receipts and payments would have reflected a deficit of Kshs.12,203,015 instead of the surplus of Kshs.534,978 now shown for the year ended 30 June, 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Department reported pending bills of Kshs.12,737,993 for the year under review. The support documents for KES 11,484,199 have since been submitted for audit review.

The surplus of KES 534,978 as reported in the financial statements was based on the exchequer issued. However, the budget had a balance of KES 115,282,383 hence the expenditure of KES

12,737,993 would still have been within the budget had the National Treasury issued an exchequer of paying the bills outstanding as at 30th June, 2017.

Committee Observations and Findings

(i) **The committee observed that the documents to support pending bills worth Kshs.1.3M have not been submitted so far.**
(ii) **The matter remains unresolved.**

Committee Recommendations

The Accounting Officer should, within three (3) months of the tabling this report, submit the relevant documents to support pending bills worth Kshs.1.3M to the Auditor General.

516. Fixed Assets

(i) Fixed Assets Register

The State Department did not maintain fixed assets register during the year under review. Consequently, the completeness and accuracy of the fixed assets balances totalling Kshs.32,804,730 as 30 June 2017 as summarized in Annex 3 to the financial statements cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Department did not maintain a fixed asset register and therefore it was not possible to veriFinancial Year and confirm the figure of Kshs.32, 804,730.00 as reflected in the fixed assets schedule attached to the financial statements. The Department has since updated the fixed asset register with all the assets acquired upto June 2017 and the same has been submitted for audit review.

Committee Observations and Findings

(i) **The Committee observed that the submitted register is not updated. For instance, the furniture worth Kshs.12M has not been included. Only 3 vehicles out of 7 have been included in the register. It also wrongly includd item (Vehicle – Kshs.4.3M) procured on FINANCIAL YEAR2017/2018 ; and**
(ii) **The matter remains unresolved.**

Committee Recommendations

The Accounting Officer should, within three (3) months of the tabling this report, ensure the assets register is updated and submitted to the National Assembly for examination.

(ii) Ownership of Motor Vehicles

Records available indicate that the State Department has seven vehicles without logbooks. Physical verification revealed that two of the seven vehicles are currently not in the custody of the Statement Department. In the circumstances, the ownership of the vehicles cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the two vehicles that were in use by State Department of Correctional services have since been returned and are serviceable and in good condition.

Committee Observations and Findings

(i) **The Committee observed that the vehicles logbooks have now been provided and verified;**
(ii) **The Committee observed that 2 of the 7 vehicles have now been returned and verified to be in custody of the Department; and**
(iii) **The Committee marked the matter as resolved.**

Other Matter

517. Procurement of Goods and Services

(i) Direct Procurement and Request for Quotations

During the year under review, the State Department procured goods and services worth Kshs.15,135,031 as indicated below using direct procurement and request for quotations method of procurement

Description	**Amount (KES)**	**Particulars**
Foreign travel	2,106,800	Air ticket (Direct Procurement
Printing & advertising	2,881,085	Branded Lessos & T-shirts (Quotations)
Office & general supplies	4,587,876	Computers (quotations)

Office furniture	2,055,670	Chairs & condom Dispensers (Quotations)
Office furniture	3,503,600	Office furniture (Quotations)

Submission by Accounting Officer

a) Voucher number 31; **Air ticket** to New York was procured for 4(four) persons each with a different ticket of Kshs.526,700/= totaling Kshs.2,106,800 from Hubaal Travel agencies which is a pre-qualified supplier. The travel notice was short hence direct procurement was used in reference to public procurement and Asset Disposal, Act 2015 section 103 (e).

b) The department procured **branded lessos and T shirts** from impressions advertising ltd totaling KES 2,881,085 through quotation and each item did not exceed the quotation threshold.

c) **Office and general supplies - Desktop Computers.** It is true the Department procured Desktop Computers of value above prescribed threshold. The department required the Computers urgently for operation since it was very new without equipment and the time required for restricted or open tender is long. The items were sourced through quotations floated to three firms; M/s. Digital Vision Global Limited, M/s. Bluesky Consultants Limited and M/s. Read on Technologies Limited which are prequalified under the department. M/s. Bluesky Consultants Limited was awarded having been the lowest responsive bidder and reputable firm in Computers supply.

d) **Office furniture-**The quotations attached to voucher no, 359 payable to Eledac Supplies Agencies of KES 2,055,670 had 7 different items and each item was below quotation threshold. Voucher number 35 of KES 3,503,600 for Office Furniture; At Treasury the State Department of Gender Affairs was being housed by the Ministry of Planning. The space allocated to State Departments Staff was too minimal. The Department urgently started relocating staff who had no offices to Telposta Towers. Due to urgency, the Department procured the Furniture from Victoria Furniture Ltd through quotation.

(ii). Cash Procurements

Further, in contravention of the public procurement and Asset Disposal act, 2015 goods and services worth KES 1,832,316 and whose individual expenditure were above the prescribed threshold of KES 30,000 were procured directly using cash as shown below:

Particulars	Amount (KES)
Routine maintenance – motor vehicles	465,266
Communication supplies and services	82,300
Domestic travel costs and subsistence	683,950
Hospitality supplies and services	175,000
Office and general supplies and services	425,800
Total	**1,832,316**

The Accounting Officer submitted that it was true that the State Department for Gender procured goods and services worth KES 1,892,316 via cash as tabulated below.

Item	Date	No.	Amount	Particulars
Routine maintenance – Motor vehicles				
2220101	25th May	142	31,000.00	Motor vehicle spare parts
2220101	17th May	103	35,000.00	Repairs of motor vehicle
2220101	30th Mar.	147	52,138.00	Servicing motor vehicle
2220101	8th Nov.	4	53,112.00	Servicing of motor vehicle
2220101	24th Oct.	5	60,799.00	Repairs of motor vehicle
2220101	16th May	58	65,000.00	Towing of motor vehicle
2220101	24th Oct.	6	71,417.00	Repairs of motor vehicle
2220101	27th June	231	96,800.00	Repairs of motor vehicle
Communication supplies & services				
2210203	28th Oct.	15	36,300.00	Office stamp
2210201	24th Oct	3	46,000.00	Airtime

Routine maintenance – Other assets				
2220205	30th Nov.	45	60,000.00	National flags
Domestic Travel				
2210301	30th June	49	120,000.00	Transport refunds
2210303	30th Jan.	77	79,400.00	Pass out parade expenses
2210303	29th June	270	140,000.00	Entertainment
2210303	30th June	448	344,550.00	Expenses on sensitization
Hospitality supplies & services				
2210801	30th June	311	50,000.00	Meeting expenses
2210802	30th June	312	125,000.00	Meeting expenses
Office & General supplies				
2211102	4-Jan		100,000.00	Toners
2211101	7th June	75	30,300.00	Stationery
2211101	29th June	271	43,000.00	Stationaries
2211101	30th June	704	112,500.00	Calculators
2211101	29th June	294	60,000.00	Stationaries & Computer Service
2211101	30th June	322	80,000.00	Stationaries
			1,892,316.00	

Routine maintenance – Motor vehicles

The total amount of Ksh. 465,266 in regard to maintenance of motor vehicles was done using cash procurement because some vehicles did not have logbooks. These have since been requested for from NTSA and purchased.

Maintenance – other assets

Being a newly created Department, the office of the Principal Secretary needed the flags to have the image of the nation and spirit of the East African Community integration. Immediate use necessitated cash purchase. The flags were qty 2 Large with their stands; one for Kenya and the other one for East Africa. Each costed Kshs. 30,000/= which is within the threshold for cash procurement. The total cost Kshs. 60,000/=.

Domestic travels

An amount of KES 120,000 was refund for transport to Women who attended the Conferences in respect of meetings with Community Based Organizations and Sensitization of persons living with disability held in Mombasa between 11th to 17th June, 2017. An amount of KES 79,400 was DSA paid to officers in State Department for Gender who were invited to participate in the NYS Pass out and to man the State Department's exhibition stand. This was an imprest which was later surrendered. An amount of KES 140,000 was in respect of entertainment by Kayamba Africa who was invited to perform to a group of 4 Countries who had attended a meeting on Gender Equality and Women Empowerment. This was not paid in cash, but through IFMIS to the supplier.

An amount of KES 344,550 was expenditure in respect to 3 conferences;

I. Issuance of cheques in Tana River, Kwale, Kilifi and Mombasa Counties from 12th to 13th June 2017.
II. Meeting with Community Based Organization in Mombasa County from 11th and 17th June, 2017.
III. Sensitization of persons living with disability on AGPO on 16th June, 2017.

Hospitality

An amount of KES 50,000 was for purchase of snacks during Gender Mainstreaming meeting for 15 persons on 20th June, 2017. Expenditure of KES 125,000 was for half day conference for female Principal Secretaries on gender mainstreaming. The amount was used to purchase snacks and lunches for 20 persons.

Office and general supplies

The State Department for Gender Affairs was created under Executive Order No. 1/2016 but started its operation in July 2017. The department faced a problem of understaffing for a long period of time. This delayed the setting up of the infrastructure for e- procurement. Cash purchases were made for some office supplies required to run the office.

Committee Observations and Findings

(i) **The Committee observed that the conditions for direct procurement of air tickets were not satisfied. The matter remains unresolved;**
(ii) **The Committee observed that printing and advertising was a single order and which was above the recommended threshold for request for quotations method of procurement;**
(iii) **The Committee observed that the order of office and general supplies of desktop computers was above the recommended threshold for request for quotations method of procurement. The committee observed that procurement did not qualiFinancial Year as an urgent need as per the Public Procurement and Assets Disposal Act, No. 33 of 2015;**
(iv) **The Committee also that Kshs. 2,055,870 used on office furniture was a single order and which was above the recommended threshold for request for quotations method of procurement. The matter remains unresolved; and**
(v) **The Committee observed that Kshs. 3,503,600 used on office furniture was a single order and which was above the recommended threshold for request for quotations method of procurement.**
(vi) **The matter remains unresolved.**

Committee Recommendations

(i) **Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012; and**
(ii) **Within three (3) months upon adoption of this report, the ODPP should commence prosecution process for those Officers found culpable.**

43.0. STATE LAW OFFICE AND DEPARTMENT OF JUSTICE

FINANCIAL STATEMENTS FOR VOTE 1252

Mr. Kennedy Ogeto, the Accounting Officer for the State Law Office and Department of Justice (Vote 1252) appeared before the committee on 29th August 2019 to adduce evidence on the Audited Financial Statements for the State Law Office and Department of Justice (Vote 1252) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Benjamin Oyile - Senior Deputy Secretary**
2. **Mr. Elijah Kabiru - Deputy Accountant General**
3. **Ms. Njeri Wachira - Deputy Solicitor General**
4. **Mr. Cyrus Njenga - Seniot State Counsel**
5. **Ms. Lucy Mugo - Chief State Counsel**
6. **Mr. W. Masinde - Chief Finance Officer**
7. **Mr. Charles Mutinda - Deputy Chief Legal Counsel**
8. **Ms. Anne Mutua - Ag. Administration and Human Resources**
9. **Mr. Miginjo Richard - Deputy Chief Finance Officer**
10. **Ms. Fidelis Muruki - Supply Chain Management Officer**
11. **Ms. Mary Njuya - Deputy solicitor General**
12. **Mr. C. Wasilwa - Chief State Counsel**
13. **Mr. Kenneth Gathuma - Ag Director General Business Registration Service**
14. **Mr. Erastus Mbalu - Personal Assistant**

Basis for Qualified Opinion

518. Accuracy and Completeness of the Financial Statements

518.1 Discrepancy between the IFMIS Financial Statements and the Presented Financial Statements

As reported in the 2015/2016 audit, similarly the figures reported in the financial statement for 2016/2017 submitted for audit review differ with IFMIS produced schedules. The statement was prepared outside IFMIS and the discrepancies have neither been explained nor reconciled. As a result, it has not been possible to confirm the accuracy and completeness of the financial statements.

Submission by Accounting Officer

The Accounting Officer admitted that the figure reported in the financial statements do not tie with the figures in IFMIS. The discrepancies were only in a few cases and not in all figures. The variance was as a result of bank auto-reconciliation function in IFMIS not being fully functional where Central Bank of Kenya had not posted all the electronic bank statements for uploading by the IFMIS department at the National Treasury.

This was a universal problem in all MDAs. However, the figures in the financial statements are the actual figures and are supported by the relevant schedules and notes in the financial statements. He stated that they had done comprehensive and complete manual bank reconciliation for 3 years (FINANCIAL YEAR2016/17, FINANCIAL YEAR2017/18, FINANCIAL YEAR2018/19) and had embarked on auto-reconciliation in liaison with Central Bank of Kenya and National Treasury IFMIS department.

This is expected to make IFMIS figures to always agree with financial statements figures.

Committee observations and Findings

- **(i) The committee observed that the variance was as a result of bank auto-reconciliation function in IFMIS not being fully functional where Central Bank of Kenya had not posted all the electronic bank statements for uploading by the IFMIS department at the National Treasury.**
- **(ii) The committee observed that the problem persisted in 2017/2018 with figures reported in the financial statements not tallying with identical account balances in the Integrated Financial Management and Information System IFMIS records.**
- **(iii)The matter remains unresolved.**

Committee Recommendations

The Accounting Officer should ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

518.2 Suspense Account

As reported in the 2015/2016 audit report, the matter of un-analysed suspense account balance of Kshs.82,485,174 is still pending and no proper explanation nor reconciliation has been given for it.

Submission by Accounting Officer

The Accounting Officer admitted that the statement of assets as at 30th June, 2016 reflected a balance of Kshs.82,485,174.35 as suspense account. The IFMIS print out as at 30.06.2016 was done and show the analysis of the suspense to be as follows:-

Domestic debtors / advances	Kshs. 2,968.10
Other debtors and prepayments	Kshs. 46,883,657.30
Government imprests	Kshs. 24,866,512.40
Suspense and clearance accounts	Kshs. 10,732,036.55
Total	**Kshs. 82,485,174.35**

These items were as a result of lack of bank auto-reconciliation and non-clearance of unaccounted transactions in the IFMIS. The unaccounted transactions were cleared, and the suspense account corrected as shown by the revised financial statements. The matter was resolved.

He indicated that they appeared before PAC on 26th February, 2019, one of the paragraphs numbered 510.2 was on the Suspense Account indicated on the current paragraph 518.2. The Accounting Officer is now fully complying with the provisions of Section 68(2) of PFM Act, 2012 and that the financial and accounting records are presented within three (3) months after close of the financial year.

Committee Observations and Findings

- **(i) The Committee observed that the lack of bank auto-reconciliation and non-clearance of unaccounted transactions in the IFMIS;**
- **(ii) The Committee observed that the unaccounted transactions were cleared, and the suspense account corrected as shown by the revised financial statements;**
- **(iii) The Committee observed that the Accounting Officer is now fully complying with the provisions of Section 68(2) of PFM Act, 2012; and**
- **(iv) The Committee marked the matter as resolved.**

519. Pending Bills

The Accounting Officer disclosed pending bills amounting to Kshs.74,283,875.00 being bills that were not paid in the financial year 2016/2017 but were instead carried forward to 2017/2018. Failure to settle bills during the year which they relate distort the financial statement for the year and adversely affects the provisions of the subsequent year to which they have been charged. In addition, supporting documents for all the pending bills were not provided for audit review.

The Accounting Officer should explain why the expenditure was incurred without commitment in the IFMIS system. The Accounting Officer should ensure that adequate planning is done so that all activities are undertaken within the financial year to which the voted provisions relate.

Submission by Accounting Officer

The Accounting Officer disclosed pending bills amounting to Kshs. 74,283,875 for 2016/2017 financial year. These bills were carried forward to 2017/2018 financial year where failure to settle bills during the year which they relate, distorted the financial statements for that year and adversely affects the budgetary provisions for subsequent financial year.

These pending bills were as a result of austerity measures through budget-cuts by the National Treasury across all Ministries Departments and Agencies during 2016/2017 financial year. Consequently, there was unavailability of funds in the budget even after commitments had already been done. All the supporting documents for the pending bills were availed for audit review in the subsequent years.

The pending bills that were lacking supporting documents and were procedurally incurred have already been paid after providing the supporting documents
The commitments are now done by adhering to the vote control procedures by filling in a form designed to be completed before any expenditure can be incurred.

Committee observations and Findings

- **(i) The Committee observed that the Accounting Officer had not provided a schedule of the amounts unpaid which belonged to vendors without verification;**
- **(ii) The Committee observed that a list of pending bills with details of the last date of payment had been availed to the auditor general for verification; and**
- **(iii) The matter remains unresolved.**

Committee Recommendations

The Accounting Officer should ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

520. Cash and Cash Equivalents

As reported in the year 2015/2016, the cash and cash equivalents balance of Kshs.390,684,826 as at 30 June 2017 are not supported or analysed as detailed below:

520.1 Non-submission of the Recurrent Account Bank reconciliation statements for the Financial Year 2016/2017

The financial statements as at 30 June 2017 reflects a balance of Kshs.390,667,616 for cash and bank balances for the recurrent, development and deposits accounts; recurrent having a balance of Kshs.140,089,488. However, the bank reconciliation statements for the recurrent account were not made available for audit scrutiny despite numerous requests. This is contrary to Section 9(1)(e) of the Public Audit Act, 2015 that empowers the Auditor-General access to all information and documents. The state department was therefore in breach of law.

Submission by Accounting Officer

The Accounting Officer admitted that the financial statements reflect a balance of Kshs.390,667,616.00 for cash and cash equivalent for the Recurrent, Development and Deposits accounts. Further it is true that the recurrent bank reconciliation statement had balances of Kes.140,089,488.00. The Office of the Attorney General and Department of Justice has been in the process of reconstructing the cash books, bank reconciliations and deposits analysis. The OAG& DoJ formed an Internal Committee to undertake the bank reconciliation to clear the outstanding balances issue. This has assisted in cleaning up all the unaccounted transactions in the system and explain the outstanding balances the Recurrent, Deposit and Development bank accounts. The reconciliations are now up to-date.

He indicated that they appeared before PAC on 26th February, 2019 with the response on balances of Kes.188,433,566.00 in financial year 2015/2016 and was presented to PAC under paragraph 511. The Committee recommended as follows:

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

The issue has been resolved after proper books of account were prepared and bank reconciliation provided.

Committee observations and Findings

- **(i) The Committee observed that the bank reconciliation statements had been availed to the auditor general for verification.**
- **(ii) The Committee observed that the paragraph had previously been discussed in its sitting of 26th February, 2019.**
- **(iii) The Committee marked the matter as resolved.**

520.2 Un-supported payments in bank statements not in Cash Book

The deposits bank reconciliation statement shows an amount of Kshs.71,565,424.50 being payments in bank statement but not in the cash book. There is no analysis to clariFinancial Year what kind of payments were paid directly from the bank. Further, the authority for the payments was not available for audit verification. As a result, the accuracy and completeness of the deposit cashbook balances as fairly stated could not be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted that the deposits bank reconciliation statement showed an amount of Kshs.71,565,424.50 being payments in bank statement but not in the cash book. The analysis has now been done and reconciliation completed. All authority for the payments has been availed for audit verification. The auditors have been given all the support documents for direct payments and up to-date bank reconciliation for confirmation.

Committee observations and Findings

- **(i) The Committee observed that an analysis of the receipt schedules and bank reconciliation statements had been availed to the auditor general for verification.**
- **(ii) The Committee marked the matter as resolved.**

520.3 Receipts in Bank Statements not yet Recorded in the Cash Book

An amount of Kshs.78,339,170 is indicated as receipts in bank and not yet recorded in the cash book. No details of the receipts were provided for audit review.

Submission by Accounting Officer

The Accounting Officer admitted that an amount of Kshs.78,339,170 is indicated as receipts in bank and not yet recorded in the cash book. The analysis of all receipts and payments have now been done and availed for audit verification. The amounts are now recorded in the cash book and submitted to auditors for verification. Bank reconciliation have been completed and availed to auditors.

Committee observations and Findings

- **(i) The Committee observed that an analysis of receipts had been done and copies of cashbook extracts where posted had been availed to the auditor general for verification.**
- **(ii) The Committee marked the matter as resolved.**

520.4 Unsupported Payments

The deposit account is used for the purpose of paying out compensation after the completion of court cases to plaintiffs. The government entities who are the paying agents normally deposit money to be paid out to Third Parties, the Solicitor General processes payments to such parties based on court proceedings outcomes presented to them. The analysis of all recipients should be prepared by Solicitor General.

The Accounting Officer only produced a schedule of receipts from the various Government Institutions but did not present to us the payment schedule for the recipients/plaintiffs. Further, the Ministry did not analyse how funds brought forward from previous year were paid out and why there was an unpaid bank balance of Kshs.234,006,128 by the closure of the financial year under review.

Submission by Accounting Officer

The Accounting Officer stated that there were no payment schedules for the recipient plaintiffs. All funds received had been analysed, posted in the cash book and analysis provided to Auditors for verification. The payment schedules had been prepared for all recipient and analysis of how funds brought forward were paid and provided to the auditors for verification. The analysis of payments reveals that in the Financial Year 2016/2017, claims totalling to Kshs.572,439,785.95 were successfully processed.

The unpaid bank balances were due to lack of documentation such as bank details from the clients. All the recipients are now regularly contacted to provide details to facilitate expeditious processing of payments.

Whereas there was no analysis of how funds brought forward from previous year were paid out and why there was an unpaid bank balance of Kshs.234,006,128 by the closure of the financial year under review, he stated that processing of claims based on funds deposited with the Attorney General's Office is an ongoing process that does not stop with the end of the Financial Year.

It is noteworthy that when funds are deposited with the office, the depositing Ministries are duty bound to inform the Office of the Attorney General in writing of the deposited funds and their purpose, being settlement of a particular claim.

It is noteworthy that there have been instances where funds are deposited with the Attorney General and the Office is not notified. In such cases, the Office cannot process the funds as the action Department (Civil Litigation Department) without the prior information of the deposited funds. For instance, Kshs.4,107,087.95 was on 20th March 2015 deposited with the Office of the Attorney General by the Ministry of Transport and Infrastructure being payment for Arbitration between Africa Project Co-ordination Agency Ltd but advise of the deposited funds was only given vide letter dated 9th November 2016 when there were adverse proceedings ongoing. See attached deposit and letter dated 9th November 2016.

Further, when the Office of the Attorney General is notified in writing by Ministries of the deposited funds, the office as a first step prepares a letter addressed to the advocates on record in the various claims and requests for the bank payment details and documents being: -

i. Bank details of the payee;
ii. Duly filled discharge voucher;
iii. Tax compliance;
iv. Certificate of Registration of the advocates firms;
v. Copy of Identity Cards of the Plaintiffs (if it is a company the Director); and
vi. IFMIS Number upon successful registration on IFMIS System.

There are instances where some advocates have, for unknown reasons, failed to supply the requested information and this impacts on processing of the deposited funds. An analysis of the files in which advocates were in year 2017 and the years before notified of the deposited funds and requested to avail the requisite details and documents, but they are yet to comply.

To resolve this challenge, he stated that they were in the process of preparing reminder letters to the advocates to avail the requisite details and documents as per paragraph above to facilitate processing of the deposit funds outstanding to date.

Committee observations and Findings

- **(i) The Committee observed that the funds had been received and an analysis of payments relating to prior years had been availed for audit verification.**
- **(ii) The Committee marked the matter as resolved.**

520.5 Unsupported Receipts

It was observed that by the closure of the financial year 2016/2017, the Accounting Officer has received Kshs.165,765,256 from unknown sources and the amount thus remained unpaid by the end of that period. Further, no efforts were seen geared towards identiFinancial Yearing the paying agents and the plaintiffs for onward transmission.

In view of the foregoing, the accuracy and completeness of the cash and cash equivalents could not be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted to receiving Kes.165,765,256 from unknown sources and the amounts remained unpaid by end of the year. Efforts had been made to identiFinancial Year sources and purposes of the funds. Most of the payments have been made and the remaining ones are well analysed and ledgers opened to fast-track the payments.

The receipts were now supported with analysis from sources and details obtained to ensure they pay the agents and the plaintiffs. The receipts in the deposits account are diverse and for different purposes. Where Ministries through RTGS deposit funds with the Office of the Attorney General and do not, in writing notiFinancial Year the Office, the purpose for which the payment is effected, it presents a challenge resulting into non-processing of the funds as the processing must be linked to a specific claim.

With respect to the remaining ones, most of the payee beneficiaries have been notified of the received funds and the Claimants/Advocates requested to submit requisite documents to facilitate processing. Where the documentation is yet to be received, reminder letters have been drafted and the documentation is awaited**.**

Committee Observations and Findings

- **(i) The Committee observed that an analysis of receipt schedules had been provided to the Office of the Auditor General for audit verification and had been satisfactorily verified by the Auditors.**
- **(ii) The Committee marked the matter as resolved.**

521. Human Resource Management

521.1 Failure to Bond Trainees

The Human Resource Policies and Procedures Manual for the Public Service May 2016 section H.13 provides that "(1) The Government shall bond serving officers proceeding on approved courses of training locally or abroad lasting six (6) months and above to enable the government to benefit adequately from its investment in training. (2) Where a State Department considers the value/cost of a course lasting less than six (6) months to be high and constraining the organization's training budget, the officers will be bonded for a minimum period of one year but not exceeding five (5) years (3) the bond period will be determined by the duration of the course as follows: -

Training Bond Period

- i. Six -months up to one year – (One year)
- ii. More than one year up to two years – (Two years)
- iii. Between two and three years – (Three years)
- iv. More than three years as per the duration of the course but not exceeding five (5) years. Section 129 (3) states that the bond amount will be the total cost of the training. (4) In case of default, the bondee and/or surety will be required to redeem the bond amount on prorate basis. (5) Details on the administration and implementation of the training bond are contained in the Public Service Training Bond Guidelines".

The training department spent Kshs.58,848,271.50 being Kshs.51,793,466 under Office of the Attorney General and Department of Justice and Kshs.7,054,805.50 under account 2630101 during the financial year 2016/2017 to train and develop the Office of the Attorney General and Department of Justice staff.

Contained in the expenditure are courses whose durations were beyond 6 months and thus the beneficiaries ought to have been given a training bond. A scrutiny of the documents availed did not reveal any evidence of bonding. Further, no evidence was availed to show that the Office of the Attorney General and Department of Justice had any training needs analysis to guide the office on planning the expenditure on the item.
This is contrary to Human Resource Policies and Procedures Manual for the Public Service, section H1 (5).

Submission by Accounting Officer

The Accounting Officer admitted that the Training Department spent Kes.58,848,271.50 during the financial year 2016/2017 to train and develop the OAG&DOJ staff. He regreted that evidence for bonding was not provided at the time of audit. The OAG & DOJ complied with the HRD Policies and Procedures Manual for Public Service May 2016 section H.13 and he provided a list of all staff trained during the period and a list of officers who were bonded together with the fully completed bonding forms during that period.

Further the OAGDOJ has a Training Needs Assessment analysis to guide the office on planning the expenditure on the item. A Training Needs Analysis was undertaken during the period and a TNA report of the same produced.

Committee observations and Findings

(i) **The Committee observed that the list of staff trained, the list of those bonded, and bonding forms have been availed. The training needs analysis report has also been availed.**
(ii) **The Committee marked the matter as resolved.**

521.2 Unsupported Stipend Payment

During the year under review, the Accounting Officer paid stipend allowances amounting to Kshs.9,333,272. However, there was no supporting documentation to show how the payees were recruited and the circular determining the amount of the stipend to be paid. In addition, there is no description of work being done by the payees despite the payments made on a monthly basis.

Submission by Accounting Officer

The Accounting Officer admitted to paying stipend allowance amounting to Kshs.9,333,272 during the year under review since the pupils were competitively and procedurally recruited. The necessary approvals for their appointment were approved by the Public Service Commission and the Authorized Officer. Their stipends were determined and approved by the Public Service Commission as per the Circular on approved stipend and subsistence allowance for interns in the Public Service. He tabled the following documents:

a) Vacancy advertisement and approval letter by Public Service Commission, Advocates training programme from Kenya School of Law, Circular Letter from Public Service Commission approving stipend allowance, Attendance register, and Pupils handing over reports.
b) The office is in the process of improving the pupilage program by customizing the pupilage policy for the OAG & DOJ in line with Internship Policy for Public Service 2015.

Committee observations and Findings

(i) The Committee observed that the necessary documents had been availed to the Auditor General for audit verification.
(ii) The Committee marked the matter as resolved.

522. Irregular Payments

522.1 Leases

During the financial year, Attorney General and Department of Justice spent Kshs.96,541,610.60 on rental payments for various leases across the country. However, the payments were not well supported since some leases were expired or paid using scanned invoices. Further, there were cases of rent and service charge over payment. In addition, some of the leases are not registered. In the circumstances, it was not possible to confirm the accuracy of the payment of Kshs.96,541,610.

Submission by Accounting Officer

The Accounting Officer admitted that the Office of the Attorney General and Department of Justice spent Kshs. 96,541,610.60 on rental payments for various leases across the country. He further admitted that payments were not well supported by then.

He stated that he had handled the issue on a case by case basis providing support documents. In some instances, the process of renewal of leases were still on-going and the Office paid the leases on the basis of periodic tenancy under the terms of the expired leases. The expired leases have now been renewed and in the process of registration.

There was a case of Cooperative Bank House Service Charge overpayment which has been analyzed and there was no overpayment, but payment of service charge short fall paid in earlier invoices. The overpayment adduced was due to the additional service charges that accrue and shared or apportioned to all tenants on a prorate basis to cover the short fall. This has been availed for Audit verification.

Committee observations and Findings

- **(i) The Committee observed that record keeping within the State Law office was a challenge.**
- **(ii) The Committee observed that the copies of lease agreements have been availed. The analysis of the cooperative bank service charge apportionment has also been availed.**
- **(iii)The Committee marked the matter as resolved.**

522.2 Payment of Un-taxed airtime allowances instead of issuing scratch cards and payment of Un-analyzed Telephone Bills

Contrary to the Office of the President circular OP/Cab/15 of 5 March 2010 on Economic Utilization and efficient delivery of telephone services in the public sector and the letter 1005/2 from Commissioner of Domestic Taxes Kenya Revenue Authority of 22 August, 2012, the Accounting Officer paid untaxed allowances to the staff amounting to Kshs.40,498,026 during the financial year 2016/2017 instead of procuring the cards and issuing out.

Further, there was no list prepared showing how the allowances were paid per officer in accordance with the ceilings set by the circular. It was not possible to confirm whether all intended recipients received the cash since much of it was paid in bulk to one office to pay the others. No list of recipients was attached. In the circumstances, it was not possible to confirm the accuracy of the telephones bills payment of Kshs.40,498,026 as at 30 June 2017.

In addition, the Accounting Officer spent Kshs.6,165,315 to pay office telephone bills for the senior officers and the switchboard during the financial year. There is no list availed to show how many office lines were allocated to the officers and whether the expenditure ceilings were observed.

Submission by Accounting Officer

The Accounting Officer admitted that the Office of the Attorney General and Department of Justice paid un-taxed allowances to Officers in the Financial Year 2016/17. The payments were prepared in accordance with officer's entitlement as per the Office of the President Circular No. OP/CAB/ 15 of March 2010. He regretted that the list of recipients was not availed at the time of the audit. The list of recipients had now been availed for Audit review. The payment made in bulk to one officer was also distributed to each recipient with a schedule signed by each beneficiary as provided for audit review.

He further admitted that an analysis of Kshs.6,165,315.00 for bills relating to senior Officers and the Switchboard during the same Financial Year had not been availed at the time of Audit. The list had now been prepared and availed for Audit review.

Committee observations and Findings

(i) **The Committee observed that the documents were yet to be analyzed and verified by the Office of the Auditor General; and**
(ii) **The matter remains unresolved.**

Committee Recommendations

The Accounting Officer should ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor General for audit verification within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and section 68(2k) of the PFM Act 2012.

522.3 Payment of Cleaning Services Using Expired Contract

Under operating expenses is payment of cleaning services. It was observed during the year under review between July 2016 to March 2017 a local cleaning firm provided cleaning services to Office of the Attorney General without a valid contract. The earlier contract expired on June 2016 but they were allowed to continue giving services without a contract and were paid Kshs.639,117. The payment was therefore paid irregularly.

Submission by Accounting Officer

The Accounting Officer admitted that between July 2016 and March 2017 the Office obtained cleaning services with an expired contract. This was occasioned by lengthy process of procuring cleaning services which had not been concluded by the time the old contract expired. During this intervening period, the Ministerial Tender Committee granted approval for extension of the previous contract. Therefore, the payment of Kshs.639,117 was for services offered as the office was procuring cleaning services. The necessary approvals had been granted in consideration of the fact that cleaning services is an essential service for conducive working environment.

Committee Observations and Findings

(i) **The Committee observed that the approval for extension by the Ministerial Tender Committee had been verified by the Auditor.**
(ii) **The Committee marked the matter as resolved.**

522.4 Use of Expired Contract and Irregular Renewal of Cleaning and Security Contracts

The Contract for cleaning services and security services were awarded by the Ministerial Tender Committee at its meeting OAG&DOJ/003/001/2016/17 held on 23 September, 2014 for a period of two years. The contracts commenced on 1 November 2014 and was to expire on 30 October 2016. However, by the time of the expiry, the Ministry had not procured fresh services. The contracts through approval by Solicitor General was extended for a period of 3 months (November-December 2016 and January 2017) irregularly since the evaluation committee was not involved as required by the Act.

The new contract for cleaning eventually commenced on 1st April 2017. Thus, for two months i.e February and March 2017 there was no biding contracts yet the two companies continued providing services. The procurement documents for the new contract were not availed for review and it's not clear how the same security firm won the tender.

In the circumstances, it was not possible to confirm whether the office got value for the money paid.

Submission by Accounting Officer

The Accounting Officer admitted that the contracts for cleaning and security services were expired and extended for three months i.e November, December, 2016 and January 2017 through approval by the Solicitor General. However, the requirement to involve the Evaluation Committee only came into effect in January 2017, after the approval of the Solicitor General had been granted.

He also admitted that the two companies provided services for two months i.e. February and March 2017 but on the basis of approved extension of contracts by the Solicitor General. The procurement documents for the new contracts were availed for review by the auditors. He further admitted that the same security firm won the tender and this was as a result of a competitive process through Open Tender. The necessary tender documents have been availed for Audit review.

Committee Observations and Findings

- **(i) The Committee observed that the necessary tender documents had been verified by the Auditor.**
- **(ii) The matter remains unresolved.**

522.5 Non-Procedural Procurement of Fuel

The government gave a directive that all fuel should be procured from National Oil Corporation which is a government corporation. During the 2016/17 Financial Year, the Ministry procured all fuel consumed from a local petroleum dealer contrary to the Government directive. It is not clear why government regulations were not followed.

Under the circumstances, the propriety and value for money for the expenditure of over Kshs.143,844,069 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer admitted that the Government gave a directive that all fuel should be procured from National Oil Corporation which is a Government Corporation. It was also true that, the Ministry procured all fuel consumed from a local dealer R.H.Devani (Shell Petrol Station). However, M/s R.H Devani had a framework contract with the Ministry of Transport, Infrastructure Housing and Urban Development to supply fuel to Ministries, Government Departments and Agencies vide contract No. SB/004/2017. The Treasury directive did not nulliFinancial Year the framework contracts which had been issued by the Ministry of Transport, Infrastructure Housing and Urban Development where the Office of the Attorney General had already engaged M/s R.H.Devani in a valid contract. A breach of such a contract could have costed the office a huge sum of money.

He also stated that in the Financial Year 2016/17 the Office of the Attorney General and Department of Justice procured all fuel consumed from M/s R. H Devani Limited. The Office of the Attorney General and Department of Justice did not procure any fuel from M/s National Oil Limited. The Procurement from M/s R H Devani Limited was based on an existing Contract Agreement NO. SB/1/2016/2017 for supply and delivery of Petroleum Products (Bulk) which was availed for Audit verification.

Committee observations and Findings

(i) **The Committee observed that the framework contract between the dealers and the Ministry of Transport, Infrastructure Housing and Urban Development had been availed for audit.**
(ii) **The matter remains unresolved.**

Committee Recommendations

Within three (3) months from the adoption of this report, the Accointing Officer should verify the Financial Year framework contract between the dealers and the Ministry of Transport, Infrastructure Housing and Urban Development and report back to the National Assembly.

523. Failure to Maintain a Fixed Asset Register

As reported in the previous year (2015/2016), the Ministry had not yet updated its summary fixed assets register.

The Ministry has acquired fixed assets of Kshs.51,316,035 as at 30 June 2017. However, there are no proper records in terms of an asset register listing all those assets, location and the core details regarding them. Only a listing containing a few block class items was made available for audit review. Further, the summary of fixed assets indicates Kshs.59,921,641 accumulated despite the Ministry acquiring and owning fixed assets worth Kshs.59,921,641 as at 30 June 2016 in different offices. The Accounting Officer has not implemented a physical identification system by tagging/ coding the assets except for some project assets. This would result to loss of the assets through theft and misplacement.

In consequence, the existence, custody, security and valuation of the fixed assets of the Ministry could not be confirmed as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer admitted that the Ministry acquired fixed assets of Kes.51,316,035 as at 30th June, 2017. He also admitted that there were no proper records in terms of an Asset register listing all those assets, their location and the core details regarding them. Further, no system of identification e.g. tagging/coding of the assets had been done, thus putting the assets at risk of getting lost through theft and misplacement.

However, the Office of the Attorney General and Department of Justice, commenced the exercise of having a comprehensive list of all its assets, both at the headquarters and field offices, their serial numbers where applicable and location. This would be followed by tagging/coding of all the assets. The list of Assets, their core details and their location had been made available for audit review.

Committee observations and Findings

(i) **The Committee observed that there were no proper records in terms of an Asset register listing all those assets, their location and the core details regarding them.**
(ii) **The Committee observed that there was no system of identification e.g. tagging/coding of the assets had been done, thus putting the assets at risk of getting lost through theft and misplacement.**
(iii) **The Committee observed that the list of Assets with details and location has been availed.**
(iv) **The Committee marked the matter as resolved.**

524. Outstanding Imprest

The financial statements reflect an outstanding imprests of Kshs.1,489,476 as at 30 June 2017. The office has not explained why the imprests were not surrendered as required by regulations. Further, there was no evidence of efforts made towards recovering the imprest from the officer's salaries.

As a result, accuracy and recovery of the outstanding imprest of Kshs.1,489,476 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted that the financial statements reflected outstanding imprests of Kshs.1,489,476 as at 30th June, 2017. The imprests were cleared as follows:

Demand letters were written to officers with outstanding imprest to clear the items. The outstanding imprest of Kes.1,499,470 had been surrendered as follows:

S/No.	Name	Amount Surrender	Amount Un-surrendered	Date cleared
1	Ann Mwangi	28,960.00	-	07.05.2018
2	Catherine Bunyasi	40,000.00	-	17.11.2017
3	Ericson Obura	130,290.00	-	23.10.2017
4	Rodgers Sekwe	14,000.00	-	17.11.2017
5	Peter Thande	130,290.00	-	23.10.2017
6	Lucy Kagwanja	327,652.00	-	30.06.2019
7	Solicitor General	677,740.00	-	07.05.2018
8	Abdilahi Hussein	94,000.00	-	07.05.2018
	Total	1,499,470		

The actual total imprest were Kes.1,499,470 after casting error was also eliminated. We have embarked in an imprest clearance exercise by checking errors in both manual and system records to ensure proper imprest figures are carried forward. Steps have been taken to ensure recoveries are done through salaries department.

Committee Observations and Findings

(i) The Committee observed that the demand letters were written to officers with outstanding imprest to clear the items;
(ii) The Committee observed that all imprests of Kshs.1,489,476 had been surrendered; and
(iii) The Committee marked the matter as resolved.

Other Matter

525 . Operating with Old and Unserviceable Motor Vehicles

For effective operations and service delivery, the Transport department should have an efficient, effective and serviceable fleet of vehicles to serve other departments. Out of the total fleet of 80 motor vehicles as per the list availed to us, 23 vehicles were found to be un-serviceable (29%) which affected the department from discharging its mandate effectively. Further there was no evidence availed to us to show any disposal and replacement plans

Submission by Accounting Officer

The Accounting Officer admitted that the Office had 23 unserviceable vehicles as part of its transport fleet. The vehicles were not disposed since they were being rehabilitated to provide critical transport service as there was no budget for replacement/procurement of new motor vehicles.

However, in the FINANCIAL YEAR 2019/20 there is a budget for procurement of motor vehicles and we therefore shall be disposing of the old vehicles in Quarter Two (2) of this Financial Year. This will enable the department / office discharges its mandate effectively. The disposal and replacement plans are in the process of being finalized**.**

Committee Observations and Findings

- **(i) The Committee observed that the list of vehicles and those due for disposal had been availed for verification.**
- **(ii) The Committee marked the matter as resolved.**

526. Lack of a Written Anti-virus Policy

It was observed that the IT department has not developed a written anti-virus policy that details the responsibility of management and staff, how anti-virus is to be maintained and specific instructions of what to do in an emergency. Lack of the policy exposed the office to various IT risks.

Submission by Accounting Officer

The Accounting Officer admitted that at the time of Audit, the IT Department had not developed a written Antivirus Policy that details the responsibility of management and staff, how anti-virus is to be maintained and specific instructions on what to do in an emergency. However, this has been redressed and there is now an existing written Anti-Virus Policy for OAGDOJ developed by ICT department. This has been availed to auditors for audit review.

Committee Observations and Findings

(i) The Committee observed that an Anti-Virus policy has since been developed and availed for Audit verification.

(ii) The Committee marked the matter as resolved.

527. Non-operationalization of the Audit Committee

The Ministry did not have a functional audit committee, thereby affecting the functioning of internal audit and the entire functions that ought to have been carried out by the Audit Committee, which would affect the independence of the internal auditors.

Submission by Accounting Officer

The Accounting Officer admitted that there was no functional Audit committee in the OAG&DOJ. The process to establish the Audit Committee was initiated and recruitment process carried out as evidenced by the copies of the minutes which he tabled dated 23rd November 2017. However, the candidates shortlisted and selected to fill the positions could not meet the constitutional requirements on regional balance and gender representation.

A letter had been written to National Treasury explaining the current position and also requesting for authority to re-advertise the positions. All efforts are being made to make the Audit Committee operational.

Committee Observations and Findings

(i) The Committee observed that therw was no functional Audit committee in the OAG&DOJ.

(ii) The Committee observed that the committee had not been established despite the efforts being made because the candidates shortlisted and selected to fill the positions could not meet the constitutional requirements on regional balance and gender representation.

(iii)The matter remains unresolved.

Committee Recommendations

The Accounting Officer should, within three months of the tabling of this report ensure that the Audit Committee is established and report back to the National Assembly.

528. Excess Service Charge-Rentals of Produced Assets

As reported in the previous year of 2015/2016, the payment of kshs.2,651,745 as service charge to Co-operative Bank House is yet to be explained, as the basis for payments were not clear. Management has not acted on the audit recommendations made during the audit of 2015/2016.

Submission by Accounting Officer

The Accounting Officer admitted that the Office of the Attorney General and Department of Justice paid Kshs. 2,651,745.00 as excess Service Charge to Cooperative Bank House. The excess Service Charge was occasioned by the higher cost of services at the Cooperative Bank House in which we hold a lease.

These common service costs were confirmed following audit and the same apportioned to all tenants on a pro-rated basis. Details of the same have been availed for Audit review.

This matter was addressed during our PAC appearances on 26.02.2019 under paragraph 513. A report was done to the Auditor General and the matter was resolved.

Committee Observations and Findings

- **(i) The Committee observed that the office of the Attorney General and Department of Justice paid Kshs. 2,651,745.00 as excess Service Charge to Cooperative Bank House;**
- **(ii) The Committee observed that the query was addressed during the department's appearance before the Committee on 26th February 2019; and**
- **(iii) The Committee marked the matter as resolved.**

REVENUE STATEMENT – STATE LAW OFFICE AND DEPARTMENT OF JUSTICE

529. Non-provision of Contracts

Office of the Attorney General and Department of Justice – Revenue statement contracted service providers to collect revenue on their behalf. These service providers are Safaricom, E-Citizen and

Huduma Centre (Postal Corporation of Kenya). However, the contracts between service providers and Office for the Attorney General and Department Justice – Revenue statement were not provided for audit. We, therefore, could not establish whether the contract terms were biding and adhered to.

Submission by Accounting Officer

The Accounting Officer admitted that at the time of Audit services contract for Revenue collection were not availed. The copies of Safaricom and the Postal Corporation of Kenya contract have now been availed for Audit verification and e-citizen engagement arose as a result of presidential directive through National Treasury.

Committee Observations and Findings

(i) **The Committee observed that there was no existing contract between the state department and E-Citizen;**
(ii) **The Committee observed that the contracts with Safaricom and Postal Corporation had since been availed for Audit verification; and**
(iii) **The matter remains unresolved.**

Committee Recommendations

The Auditor General should, within three (3) months from the adoption of this report, veriFinancial Year the contracts with Safaricom and Postal Corporation and report back to the National Assembly.

530. Previous Years Balances

Section 64 of Public Finance Management Act, 2012 requires Accounting Officer to ensure that adequate safeguards exist and are applied for prompt collection and accounting for all National Government Revenue and other public moneys relating to their departments. It was however observed that in 2015/2016, year audit, an amount of Kshs.164,322,122 was reflected as revenue balance that was not transferred to Treasury. This amount included revenue amount from Huduma Centre of Kshs.138,683,190, Kenya Commercial Bank Kshs.8,412,009, Deposits amount Kshs.1,099,057, Safaricom Kshs.1,538,316 among others. No analysis of the above amount was brought forward to the current year of 2016/2017 indicating clearly the current status of the unremitted funds.

Further, Revenue collected from Public Trustee amount to Kshs.1,099,057 was transferred to State Law deposit account on August 2015 but no evidence was provided to confirm that these funds were transferred to Exchequer by 30 June 2017.

Similarly, Huduma Centre was contracted by Office of the Attorney General and Department of Justice to collect revenue on behalf of Office of the Attorney General. All revenue collected by Huduma Centre was to be remitted to National Treasury. It was however observed that as at 30 June 2016, Postal Corporation of Kenya has not remitted Kshs.138,683,190 to the Central Bank Revenue Account. This balance was carried forward to 2016/2017 and by end of 2016/2017 no evidence was provided to support the remittance.

It is therefore not clear the whereabouts of the funds of the funds and why it has remained unaccounted for to date.

Submission by Accounting Officer

The Accounting Officer admitted that as at 30th June, 2017 Postal Corporation had not remitted Kshs.138,683,190 to Central Bank of Kenya Revenue Account.

The Postal Corporation of Kenya has vide its letter Ref. No. DF/5260/PMG/03/04/17 of 4th April 2017 acknowledged owing this Office the unremitted revenue. This matter was escalated to the Principal Secretary – The National Treasury who in his letter Ref. No. AG/CONF/7/01/VI/TY of 23rd January 2018 is handling the matter directly with the Postal Corporation of Kenya.

Further, the unremitted revenue from Postal Corporation of Kenya was to be transferred to Central Bank of Kenya (CBK) revenue collection account as directed by PAC on 26.02.2019. This is yet to be done. The deposit account of OAGDOJ received Kes.1,099,057 from Public Trustee. This amount has been identified and all efforts being taken to transfer the amount to CBK – National Treasury Account. The Kenya Commercial Bank (KCB) amount of Kes.8,412,009 has already been remitted to CBK – revenue collection account. All the above matters were presented to PAC on 26.02.2019 and recommendations made.

Committee Observations and Findings

(i) **The Committee observed that this was a prior year matter that has been tabled in the report for Financial Year 2015/16.**
(ii) **The Committee marked the matter as resolved.**

531. Revenue Regional Offices

Section 82(1) of the Public Finance Management Act 2012 requires that at the end of each financial year, Solicitor General prepares an account of the revenue received and collected by the Receiver. It was observed that a summary of returns of the revenue collected from the regions/districts have not been availed for audit verifications. It was not possible to confirm the revenue collected in the regions and how this was remitted to National Treasury. No analysis of revenue collected from regions/districts was availed.
In the circumstances, the revenue collected balance indicated in the statement could not be ascertained, and how the figure was arrived at.

Submission by Accounting Officer

Marriages revenue collection FINANCIAL YEAR 2016/2017 from the regions:

The Accounting Officer admitted that the regional offices collected revenue from various sources. However, the returns and analysis of the revenue collected for the year under review was not provided during the audit. In the year under review, a summary of returns of the revenue collected from the regions and districts was not availed for audit review.

The office embarked on collection of returns for the 2016/17 Financial Year. The exercise begun with collection of the required returns from the regional offices, namely: Mombasa, Malindi, Embu, Kiambu, Meru, Nyeri, Nakuru, Eldoret, Kakamega, Kisumu, Kisii, Machakos, Bungoma, Baringo, Laikipia, Busia, Kajiado, Kitui, Thika, Turkana, Taita Taveta, Kwale, Tharaka Nithi, Nyandarua and Nyamira. The returns have now been availed to the auditors for audit verification. Moving forward, the Office has developed a reporting template for regional and county offices that will harmonize the reporting processes and documentation.

The Public Trustee revenue collection for FINANCIAL YEAR2016/2017:

The Accounting Officer further stated that the Public Trustee revenue charged on Estates and Trusts is paid by way of cheques drawn in favour of State Law Office and deposited in Kenya Commercial Bank State Law Office Revenue/AIA Account.

He admitted that a summary of returns of revenue collected from the regions were not availed for Audit verification. It was also true that there was no analysis of revenue collected from the regions. Failure to avail a summary and analysis of revenue returns is regretted. The summary and analysis of revenue has since been done and is available for audit review. The office has put in place a reporting framework which incorporates summary of returns of revenue and analysis thereof. All the revenue collected through KCB account was remitted to National Treasury.

Committee observations and Findings

(i) **The Committee observed that a summary of returns of revenue collected from the regions were not availed for Audit verification;**
(ii) **The Committee observed that there was no analysis of revenue collected from the regions;**
(iii) **The Committee observed that the summary and analysis of revenue has since been done and is available for audit review; and**
(iv) **The matter remains unresolved.**

OFFICIAL RECEIVER

532. Accuracy, Completeness and Presentation of Financial Statements

532.1 Receivables

The statements of financial position indicates receivables of Kshs.125,426,843 as at 30 June 2017. However, no supporting documents were provided for audit review. Further, Note 11 to the financial statements reflects a block figure.

Submission by Accounting Officer

The Accounting Officer stated that the Receivables for the official receiver for the year were composed of the following:
a. Deposit Protection Fund kshs.48, 282,583

During the years of 1990s, the official receiver had invested funds in financial institution. Some of which went in liquidation. There are some which are being managed by the Official Receiver, while the rest are being managed by Deposit Protection Fund Board (DPFB). The figure of Kshs.48,282,583 is the balance still being managed by DPFB on behalf of the official receiver.

B. Consolidated Bank Shares Fund kshs.77, 144,260
This involves the shareholding of the official receiver in the bank on behalf of KNAC company liquidation. The breakdown is as follows:

Type of shares	Number	Value
Ordinary shares	835,513	16,710,260
Preference shares	3,021,700	60,434,000
		77,144,260

The supporting documents have now been availed for scrutiny.

Committee observations and Findings

The Committee observed that despite the documents being submitted to the auditor for verification, they were done so late.

Committee Recommendations

Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

533. Un-supported Cash and Cash Equivalents

533.1 Cash and Bank Balances

The statements of financial position and note 9 to the financial statements reflect bank account balance of Kshs.27,264,340 as at 30 June 2017. A scrutiny of the documents provided for audit review show that there was an overstatement of Kshs.1,064,753 under various bank accounts. In the circumstances, the cash and bank balance as at 30 June 2017 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that the Financial statements of the official receiver for the year ending 30th June, 2017 did not overstate the figure of receivables. The table below shows the correct position.

Station	Mombasa (Kshs.)	Kisumu (Kshs.)	Total (Kshs.)
Bankruptcy Estate	240,086.25	711,131.25	951,217.50
Company Liquidation	113,535.35	0	113,535.35
Total			1,064,752.85

He admitted that the bank certificates belonging to Bankruptcy Estate and Company Liquidation for the year ended 30th June 2017 for both Mombasa and Kisumu Stations were not availed for scrutiny by the external auditors.
The bank statements as at 30th June 2017 have now been availed for scrutiny. The certificates of fixed deposits have also been sought for audit review.

Committee observations and Findings

- **(i) The Committee observed that the bank confirmation has now been availed to the auditor for verification, but they were submitted late.**
- **(ii) The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

533.2 Short-term Deposits

The financial statements under note 10 short-term deposited reflects a balance of Kshs.114,403,802 and treasury bills of Kshs.160,000,000 all totalling Kshs.274,403,802 indicated as cash equivalents in the statements of financial position. A scrutiny of the documents provided for audit review show that there was an overstatement of Kshs.9,650,000, which was neither explained nor reconciled.

In view of the foregoing, the cash and cash equivalents balance Kshs.427,094,985 could not be confirmed as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the bank certificates belonging to Bankruptcy Estate and Company Liquidation for the year ended 30th June 2017 for both Mombasa and Kisumu Stations were not availed for scrutiny by the external auditors. The bank statements as at 10th July 2017 for Kisumu bankruptcy estate showing an amount of Kes.7 million to the account. The two accounts for Mombasa which had instructions for auto-rollover, the company liquidation as at 8th January, 2018 showing an amount of Kes.1,580,445.48 and bankruptcy estate dated 8th January, 2018 of Kes.878,543.70 has been attached.

The table below shows the correct position: -

Station	Mombasa (Kshs.)	Kisumu (Kshs.)	Total (Kshs.)
Bankruptcy Estate	**850,000**	**7,000,000**	**7,850,000**
Company Liquidation	**1,800,000**	**0**	**1,800,000**
Total			**9,650,000**

The fixed deposits certificates have been available for audit review.

Committee observations and Findings

(i) The Committee observed that the bank statements have been availed to the auditor for verification, but they were submitted late.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

PUBLIC TRUSTEE OF KENYA

534. Deposits – Imperial Bank

Included in the deposits balance of Kshs.135,400,000 as reflected in Note 13 to the financial statements is Investment Income account balance of Kshs.95,000,000 which in turn includes Kshs.75,000,000 which was held in Imperial Bank before it went under. To date, the deposits have not been recovered although Public Trustee has written to Central Bank (Kenya Deposits Insurance Corporation) and the Liquidator of the former bank requesting for the recovery of their deposits, through letters dated 20 June 2017 and 28 June 2017.

In the circumstances, the recoverability of the deposits of Kshs.75,000,000 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer admitted that the deposit balance of Kshs.135,400,000 as reflected in Note 13 to the financial statements include deposit held in Imperial Bank before it went under. The Public Trustee Invested Kshs.85,000,000 inform off fixed deposits in Imperial bank between April and September, 2015.

In October, 2015 Imperial bank was placed under statutory management by the Central Bank of Kenya. The Office has been pursuing the recovery of the deposits through the Receiver Manager. Out of the Kshs.85,000,000 the office has recovered Kshs.13,000,000. The amount was deposited into National Industrial Credit Bank (NIC) in compliance with instructions of Central Bank of Kenya. The office learnt from print media dated 17th December, 2018 that Imperial Bank depositors are required to open bank accounts with Kenya Commercial Bank (KCB) which ostensibly is taking over Imperial bank. This office wrote to Kenya Commercial Bank seeking recovery and payment of the outstanding Kshs.72 million. Kenya Commercial Bank vide letter dated 12th April, 2019 advised the office to open an account in any of its branches for the purpose of receiving money recovered from Imperial Bank (under statutory management).

The Solicitor General has written to the Cabinet Secretary National Treasury seeking authority to open the Bank Account with Kenya Commercial Bank in compliance with PFM Act, and the bank operations requirements. Therefore, having received Kes.13,000,000 and having been instructed to open an account into which the remaining deposits will be paid, the recoverability of the deposits of Kes.72,000,000 is no longer in doubt.

Committee observations and Findings

(i) **The Committee observed that an amount of Kes.72,000,000 was still outstanding though recoverable.**
(ii) **The matter remains unresolved.**

Committee Recommendations

The Accounting Officer should, within three (3) months of the tabling this report ensure that the outstanding amount of Kes. 72,000,000.00 is recovered in full.

535. Unsupported Investment

The statement of financial position reflects investments of Kshs.253,131,000 as at 30 June 2017 out of which investments worth 53,322,218 were not supported. Further, an amount of Kshs.164,730,000 was indicated as dormant deposits with the Deposit Protection Fund. No reason was provided for not seeking refund of the dormant deposits.

Consequently, the accuracy and completeness of the investment balance of Kshs.251,131,000 could not be ascertained as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer admitted that the statement of financial position reflects investments of Kshs.253,131,000 as at 30th June, 2017 out of which investments worth Kshs.53,322,218 were not supported. The Public Trustee held deposits with various financial institutions. These financial institutions were placed under receivership in the late 80's and 90's and early 2000. In order to protect the interest of investors Central Bank placed them under Statutory Management of Deposit Protection Fund Board which was later succeeded by Kenya Deposit Insurance Corporation (KDIC), while others were placed under the management of Official Receiver and Provisional Liquidator. Proof of debts forms were filed for the purpose of consideration and payment of debts due to the Public Trustee.

The office has been following up unconfirmed deposits with KDIC and Official Receiver from time to time for purposes of recovery. Pursuant to our office letter dated 22nd February, 2019 to KDIC, KDIC confirmed in their response dated 11th March, 2019 that the office held eight deposits accounts with Pan African Credit and Finance Ltd prior to the institutions liquidation in 1994.The communication further confirmed that the accounts were consolidated into two accounts of Ksh.18,454,298.90 and Kshs.6,454,067.30 which were fully recovered.

An analysis and interrogations of Public Trustee financial records confirmed that deposits and accrued interest held in Pan African Credit and Finance Ltd were fully recovered and received in the Public Trustee books on 4th November 1994. On date 6th March, 2018, the Public Trustee wrote to the Official Receiver to confirm deposits held in various institutions which were placed under the statutory management of the Official Receiver by the High Court. On date 6th March, 2018, the Official Receiver confirmed that Public Trustee held deposits with Continental Credit Finance and Pioneer Building Society which confirmation excluded Home Loans Building Society.

On 22nd February, 2019, the Public Trustee wrote to the Official Receiver with a copy of proof of debt filed earlier with Official receiver, regarding deposits held with Home Loans Building Society. Official Receiver in their response dated 4th March, 2019 confirmed that Public Trustee held deposits with Home Loans Building Society amounting to Ksh.2,635,467.35.

The office vide a letter dated 22nd February, 2019 wrote to the Manager KDIC (Kenya Deposit Insurance Corporation) seeking confirmation and recovery of deposits due to the Public Trustee
In their response dated 8th April 2019, KDIC confirmed that the Public Trustee held fixed deposits amounting to Ksh.22,750,358.80 with Central Finance Ltd and Ksh.5,979,666.70 with Allied Credit Limited. This communication supports the investments amounting to Ksh.28,730,022.15 with the two institutions which were wound up because they lacked funds.

In 2017, KDIC vide its letter dated 5th October, indicated that the Public Trustee held deposits with Trade Finance Ltd for Ksh.11,613,780.75 and Ksh.6,108,435.10 in Inter Africa Credit Finance Ltd among others. However, in a subsequent communication dated 11th December 2018, KDIC confirming deposits balances held in Public Trustee Accounts as at 30th June 2018, Trade Finance and Inter Africa Credit Finance LTD were excluded.

The Public Trustee wrote for KDIC seeking clarification why the two institutions were excluded in the confirmation of deposit balances. Their response of 9th January 2019 stated that the financial institutions were wound up. The office will continue to engage the relevant institutions to recover the deposits. The office is in the process of preparing a comprehensive report to the National Treasury regarding the wound-up institutions.

Committee Observations and Findings

(i) **The Committee observed that the documents provided are not conclusive in supporting the balance of Kshs.53,322,218 and Kshs.164,730,000 indicated as dormant deposits with the Deposit Protection Fund.**
(ii) **The Committee marked the matter as resolved.**

44.0. JUDICIARY

FINANCIAL STATEMENTS FOR VOTE 1261

Ms. Anne Amadi the Accounting Officer for the Judiciary (Vote 1261) appeared before the committee on 9th May 2019 and 15th May 2019 to adduce evidence on the Audited Financial Statements for the Judiciary (Vote 1261) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). She was accompanied by the following officials:

1. **Mr. Paul N. Maina - Deputy Chief Registrar**
2. **Ms. Nancy Kanyago - Project Co-Ordinator (JPIP/World Bank)**
3. **Mr. Philip Kakai - Accountant**
4. **Mr. David Rapando - Chief Finance Officer**
5. **Mr. Patrick M. Muchiri - Procurement Officer**
6. **Mr. Edwin Mureti Mbui - Senior Finance Officer**
7. **Mr. John Ole Tambui - Senior Finance Officer**
8. **Ms. Sharon Mwayali - Senior Resident Magistrate**
9. **Mr. Joseph M. Were - Senior Principal Magistrate**

Basis for Adverse Opinion

536. Accuracy and Completeness of the Financial Statements.

Expenditure schedules provided in support of several financial statement balances differed with the respective accounts ledger records as follows:

Expenditure	Financial Statement Balances (Kshs.)	Ledger balances (Kshs.)	Differences (Kshs.)
Transfer to other Government units	743,357,339	544,884,783.40	198,472,555.6
Use of Goods and Services	2,763,619,488	2,820,255,898.95	(56,636,410.95)
Purchase of office Furniture and General equipment	25,466,830	25,520,430.00	(53,600.00)
Purchase of Specialized plant equipment and Machinery	69,023,410	70,501,249.80	(1,477,839.80)
Social Security Benefits	649,422,790	709,151,878.85	(59,729,088.85)
Total	**4,250,889,857**	**4,170,314,241.00**	**80,575,616.00**

The aggregate variance of Kes. 80,575,616 between the two sets of records that are otherwise expected to tally has not been explained. In addition, casting of the ledger account balance for refurbishment and building reflected a balance of Kshs. 59,319,463 shown in the financial statements. No explanation has been given for the difference of Kshs. 9,699,972 between the cast account totals and the ledger balance figure.

In view of the foregoing, the accuracy and completeness of the financial statements cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the above audit finding was true. However, the variances in the ledger and Financial Statements for FINANCIAL YEAR 2016/17 were later adjusted and the amended balances restated in the audited Financial Statements for the year ended 30th June 2018 which now reflects the true position. Further it was confirmed that the ledger account balance for refurbishment of buildings actually reflects Kshs. 59,319,463 as restated and there is no difference. The amount of Kshs. 9,699,972 had been captured as at February 2018 but the ledger amounts did balance at the end of the year.

Committee Observations and Findings

- **(i) The Committee observed that the restated ledger balances were audited and confirmed during the year ending 30 June 2018.**
- **(ii) The Committee observed that the financial statement balances agreed with the ledger balances and bank balances reflect the correct amounts. Reconciliations on the difference between the bank balance and cashbook balance have been provided; and**
- **(iii) The Committee marked the matter as resolved.**

537. Accuracy and completeness of cash and cash equivalents

537.1. Use of Bank Balance in the Financial Statements

The statement of assets reflects a bank balance of Kshs. 5,064,703,729 in respect of accounts held by the judiciary in various banks. However, the respective cashbook reflects an aggregate difference of Kshs. 356,437,590.53between the cash and the bank balances as shown below:

Bank	A/C No.	Bank Balance Kshs.	Cashbook Balance Kshs.	Difference between CBK and B/Bal. Kshs.
Central Bank of Kenya	1000181915	471,977,794	312,228,819	159,748,975
Central Bank of Kenya	1000182048	343,680,031	88,116,727.45	255,563,303.55
Central Bank of Kenya	1000187441	5,736,728	4, 771,341.45	965,387
Central Bank of Kenya	1000182342	560,345,879	620,185,953.57	(59,840,074.57)
Various Commercial Banks		3,682,963,297	Not Provided	-
	Total	**5,064,703,729**	**1,020,531,500**	**356,437,590.53**

No explanation has been provided by management for the overstatement of the statement of assets by Kshs. 356,437,590.53 through the bank balance instead of the cashbook balance.

Submission by Accounting Officer

The Accounting Officer submitted that the use of bank balances instead of cashbook balances was an error but this has since been adjusted and reference is now to the Judiciary's cashbook balances. The restated balances in the audited financial statements for the year ended 30th June 2018 now reflects the cashbook balances and not the bank balances. The difference between the bank balance and the cashbook balance has been explained in the reconciliation statements.

Committee Observations anf Findings

- **(i) The Committee observed that the bank balances reflect the correct amounts.**
- **(ii) The Committee observed that the reconcilliations on the difference between the bank balance and cashbook balance have been provided.**
- **(iii)The Committee marked the matter as resolved.**

537.2. Non-maintenance of Cashbooks

The aggregate bank balance of Kshs. 3,682,963,297 relating to various commercial bank is not supported by cashbook entries and bank statements and certificates. As a result, the accuracy and validity of the bank balance cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the various Commercial bank accounts which have a balance of Kshs. 3,682,963,297 relate to deposit accounts held in various court stations across the country. Each Court station has a supporting cashbook and bank statements which are kept at the stations.

Committee Observations and Findings

(i) The Committee observed that the various Commercial bank accounts which have a balance of Kshs. 3,682,963,297 relate to deposit accounts held in various court stations across the country.
(ii) The Committee observed that the listing of cash balances for all the stations has now been provided.
(iii)The Committee marked the matter as resolved.

537.3. Long outstanding Bank Reconciliation Items

Further, the bank reconciliation statements as at 30th June 2017 presented for audit reflect outstanding reconciling items in respect of payments totaling Kshs. 70,806,300 and receipt totaling Kshs. 1,665,225 which however have been cleared for a long period of time.

Bank	A/C No.	Receipts in the bank statement not in cashbook	Payment in the bank statement not in cashbook
Central Bank of Kenya	1000181915	118,781.85	7,973,213.50
Central Bank of Kenya	1000182048	1,279,431.20	
Central Bank of Kenya	1000182342	267,041.95	62, 833,086
	Total	**1,665,255**	**70,806,299.50**

Management have not provided a plausible explanation for the failure to clear the long-standing balances.

Submission by Accounting Officer

The Accounting Officer submitted that the outstanding reconciling item in respect of payment totaling to Kshs.70, 806,299.00 is composed of fraudulent payments which occurred in September 2013 and has never been recovered. The officers who caused the fraudulent payments were charged in Court and the case is on-going. The listing of that total is shown in the table below and the actual amounts can be found in the respective bank accounts statements.

DATE	DETAILS	AMOUNT
16/09/2013	SPOOFER INNOVATIONS	1,250,000.00
16/09/2013	FINTAX CONSULTANTS	6,490,250.00
		7,740,250.00
DATE	**DETAILS**	**AMOUNT**
16/09/2013	PAROK ENTERPRISES	2,411,210.00
16/09/2013	SPOOFER INNOVATIONS	890,210.00
16/09/2013	BONARZA AGENCIES	12,000,000.00
16/09/2013	MEERKATS KENYA LTD	6,661,790.00
16/09/2013	INTERGRATED REAL ESTATE SERVICE	7,590,000.00
16/09/2013	FINTAX CONSULTANTS	5,590,000.00
16/09/2013	INTERGRATED REAL ESTATE SERVICE	5,730,150.00
16/09/2013	INTERGRATED REAL ESTATE SERVICE	7,200,300.00
16/09/2013	FINTAX CONSULTANTS	4,370,436.00
16/09/2013	COLLDAX AGENCIES	2,853,148.00
16/09/2013	EXIGENT AGENCIES	3,625,120.00
16/09/2013	WILLIAMS LOGISTICS	3,910,722.00
		62,833,086.00

The receipts totaling Kshs.1, 665,255.00 relates to the recalled funds. The funds have now been receipted in the cashbook through F.O 17s.

Committee Observations and Findings

(i) **The Committee observed that the outstanding reconciling item in respect of payment totaling to Kshs.70, 806,299.00 is composed of fraudulent payments which occurred in September 2013 and has never been recovered;**

(ii) **The Committee observed that the officers who caused the fraudulent payments were charged in Court and the case is on-going;**
(iii) **The Committee observed that Kshs.1, 665,255.00 relates to the recalled funds which have now been receipted in the cashbook and outstanding reconciling items were provided; and**
(iv) **The Committee marked the matter as resolved.**

537.4.Unsigned IFMIS Bank Reconciliation Statement

Also, the manual bank reconciliation statement as at 30th June 2017 differs with the unsigned electronic (IFMIS) reconciliation statement attached to the financial statements. No explanation has been provided for the variance and why an unsigned IFMIS bank reconciliation statement was attached to the financial statements.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs. 5,064,703,729 as at 30th June 2017 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the manually prepared bank reconciliation statement differs with IFMIS reconciliation because the IFMIS cashbook module has never functioned properly since the start of IFMIS and therefore, they can never tally.

The Judiciary has engaged the National Treasury to try and rectiFinancial Year the anomaly and discussions are still ongoing.

Committee Observations and Findings

(i) **The Committee observed that the manually prepared bank reconciliation statement differs with IFMIS reconciliation because the IFMIS cashbook module has never functioned properly since the start of IFMIS;**
(ii) **The Committee observed that there was need for feedback to be provided from National Treasury for the non-functioning of the IFMIS; and**
(iii) **The matter remains unresolved.**

Committee Recommendations

The Cabinet Secretary for the National Treasury should, within three (3) months of adoption of this report submits a report on the non-functioning of the IFMIS system to the National Assembly.

538. Accounts Payables (Deposits)

The statement of assets and liabilities as at 30th June 2017 reflects accounts payable a-deposits of Kshs. 4,367,834,191 in respect of deposits held by the Judiciary in various bank accounts. However, note 8A to the financial statements provided to support the deposit account balances reflects a total of Kshs. 4,243,309,176. No explanation has been provided for the difference of Kshs. 124,525,015 between the deposit account and the accounts payable balances otherwise expected to tally under normal circumstances.

Further, the Judiciary has indicated that the balances relate to unreconciled third-party deposits and retentions as at 30th June 2017.However, details of the deposit and retentions have not been provided for audit review and as a result it has not been possible to confirm the nature of the balances. In view of these anomalies, the accuracy and validity of the accounts payable balance of Kshs. 4,367,834,191 as at 30 June 2017 cannot be confirmed.

Submission by Accounting Officer

The Deposit amount of Kshs 4,367,834,191.00 relates to deposit ledgers showing the exact balance of deposits owed to the depositors. The balance as per note 8A relates to actual bank balances at the closure of the financial year. The difference of Kshs.124, 525,015.00 relates to amounts which have never been reconciled by the District Accountants who were managing the deposit accounts before delinking.

The Judiciary has formed a taskforce to address these reconciliation issues and has started with Milimani Law court. The taskforce is expected to address these reconciliation issues in all court stations and provide recommendations to the management on the way forward.

Committee Observations and Findings

(i) The Committee observed that the difference of Kshs.124, 525,015.00 relates to amounts which have never been reconciled by the District Accountants who were managing the deposit accounts before delinking.
(ii) The Committee observed that the listing of the accounts payable has been confirmed for each court station and verified from a sample of court station.
(iii) The Committee marked the matter as resolved.

539. Budgetary Control and Performance.

539.1.Receipts

539.2. As shown in the following table, the actual exchequer release aggregate balance for the year under review totaled Kshs. 2,238,159,131 being 13% less than the budgeted amount of Kshs. 17,109,160,378:

Description	Budget Kshs.	Actual Kshs.	Excess/(Shortfall) Kshs.	Excess/(Shortfall) %
Transfers from National Treasury	17,109,160,378	14,871,001,247	2,238,159,131	13.08%
Total	**17,109,160,378**	**14,871,001,247**	**2,238,159,131**	**13.08%**

No plausible explanation has been provided by management for the shortfall in the balance.

Submission by Accounting Officer

The Accounting Officer submitted that the National Treasury did not issue the entire budgeted exchequer especially for development vote.

Committee Observations and Findings

(i) The Committee observed that the explanation was to be provided by the National Treasury for not releasing budgeted funds;
(ii) The matter was still outstanding by the time of writing this report; and
(iii)The matter remains unresolved.

Committee Recommendations

The Accounting Officers must at all times ensure that they do day to day ledgers and IFMIS reconciliations to avoid backlog and overload of the system leading to failures towards the end of the Financial Year.

539.3.Expenditure

An analysis of the actual expenditure against the respective budgeted amounts revealed the following variances.

Description	Budget Kshs.	Actual Kshs.	(Excess) / Shortfall Kshs.	(Excess) / Shortfall %
Compensation of employees	7,409,187,900	7,266,140,916	143,046,984	1.93%
Use of goods and services	3,368,302,604	2,763,619,487	604,683,117	17.95%
Transfers to other Government units	819,144,890	743,357,339	75,787,551	9.25%
Other Grants and Transfers	167,000,000	-	167,000,000	100%
Social Security Benefits	708,248,253	649,422,790	58,825,463	8.31%
Acquisition of assets	4,689,850,548	461,459,838	4,228,390,710	90.16%
Other Expenses		2,518,017,027	(2,518,017,027)	
Total	**17,161,734,195**	**14,402,017,397**	**2,759,716,798**	**16.08%**

The budgeted expenditure amount of Kshs.17, 161,734,195 was Kshs.52, 573,817 higher than the budgeted exchequer releases of Kshs. 17,109,160,378 received during the year under review. Management has not explained how the excess expenditure of Kshs. 52,573,817 was funded.

In addition, the summary statement of Appropriation for both recurrent and development account as presented in the financial statement does not include a budget for other expenses, yet the actual Other Expenses incurred during the year was Kshs. 2,518,017,027.

Overall, the total incurred expenditure was Kshs. 2,759,716,798 or 16.08% less than the budgeted expenditure of Kshs.17, 161,734,195. The shortfall was mainly attributed to the closure of the IFMIS system and delays to exchequer releases.

Further, no explanation has been provided by the management for the low consumption rate of 10 % recorded against acquisition of assets and nil expenditure on other grants and transfers against a budget of Kshs.167, 000,000. Also, other expenses expenditure of Kshs.2, 518,017,027 reported in the financial statements had not been budgeted for. Included in the Judiciary budget for Compensation of employees was Kshs 121,844,683 relating to the Judicial Service Commission staff which is contrary to section 171 of the constitution that designates the Judicial Service Commission to be an independent body.

In addition, Judicial Services budgeted for Kshs. 962,432,234 for construction projects but only managed to spend Kshs. 231,570,494 of the budget and as a result, the Judiciary was not able to achieve its objectives on expansion of infrastructure for better service delivery.

Further, the financial statements do not comply with International Public Sector Reporting Standards (IPSAS) reporting template because they do not include a footnote showing variances between actual and budgeted expenditures.

Committee Observations and Findings

- **(i) The committee observed that the Judicial Services budgeted for Kshs. 962,432,234 for construction projects but only managed to spend Kshs. 231,570,494 of the budget.**
- **(ii) The committee observed that the explanation of the variances between the actual amount and the budgeted amount has been provided.**
- **(iii) The committee marked the matter as resolved.**

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the budgeted expenditure amounting to Ksh.17, 475,460,378 was higher than the budgeted exchequer release of Kshs.17, 308,460,378 by Kshs.167, 000,000 which was due to donor grant of the same amount which was a direct payment and not revenue. The expenditure of Kshs. 2,518,017,027 relates to transfers to JPIP and Mortgages which are not classified under other items as provided for in the IPSAs reporting template.

The reasons for low absorption per economic classification items is as follows;

- The under-utilization in the overall budget and acquisition of assets was due to delays of funding from exchequer.
- The under-utilization on use of goods and services was due to the lengthy procurement process
- The low absorption of grants was because most of the expenditure was through direct payments by the donor and the payment vouchers are available in the UNDP offices
- The low absorption on acquisition of non-financial assets was due to the lengthy procurement process and lack of exchequer for the development vote.

It was true that included in the budget for the Judiciary was an amount of Kshs. 121,844,683 that was paid to Judiciary staff who are deployed to the Judicial Service Commission to assist in the establishment of the secretariat thus this does not contravene Article 171 of the Constitution.

It was true that the Judiciary managed to spend only Kshs. 231,570,494 of GOK budgeted development vote because:

a) There was delay in procurement process as majority of the projects were to commence during that same Financial Year.
b) Several projects had stalled due to delayed payments occasioned by budget cuts.
c) The need to scale down some of the projects which had higher contract costs. However, the contractor and the Judiciary had not agreed on the scaled down figures.

The financial statements have been amended to agree with the IPSAs reporting templates which now provides footnotes and explanation on the variances in actual versus the budgeted figures.

540. Pending Bills

Pending Bills amounting to Kshs.655, 263,852.47 chargeable to both the recurrent and development Vote were not settled during the year but were instead carried forward to 2017/2018 financial year. However, Annex 1 to the financial statements provided a list of the bills without supporting details such as contracts, certificates of work done and certified, invoices and delivery notes as appropriate.

Further, had these bills been cleared and charged to the vote, the statement of receipt and payments for the year 2016/2017 would have reflected a net deficit of Kshs. 186,280,002 instead of the net surplus of Kshs. 468,983,850 now shown. No explanation was provided for failure to pay the pending bills as they fell due.

In addition, a claim of Kshs. 6,056,511 for payment of work certified as having been completed in Narok County was issued in June 2016. Although the payment was not included in the pending bill balance at vat 30th June 2016 and 30th June 2017 reportedly because the respective contract had expired, management have not provided any explanation for the payment.

As a result of these discrepancies, the accuracy, completeness and validity of the pending bills balance of Kshs. 655,263,852 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the Judiciary's overall budget in the Financial Year amounted to Kshs. 17,109,160,378.00 and the total exchequer release was Kshs, 14,871,001,247.00 giving a difference of unutilized funds of Kshs. 2,238,159,131.00 Therefore, the pending bill totaling Kshs. 655,263,852.00 if charged on the difference between the budget and the exchequer releases would still leave the Judiciary with a balance of Kshs. 1,582,895,279.00

and not a deficit. The bills were not paid because of lack of exchequer and late delivery by the suppliers. A list of the pending bills is attached and all have since been paid.

The claim of Kshs.6, 056,511.00 from Narok Law Courts was raised in June 2017 but was not paid and the claim could not be listed as a pending bill as it was received at headquarters in August 2017 when the contract had expired. Attached is a copies of the certificate payment voucher and contract.

Committee Observations and Findings

The Committee marked the matter as resolved after documents were provided and verified by the auditor who confirmed that the pending bills were treated as a 1st charge in the subsequent financial year.

541. Transfer to other Government units

The Statement of Receipts and Payments reflects a balance of Kshs. 698,357,339.00 being transfers to other Government units. However, the amount differs with the ledger balance figure of Kshs. 544,884,783.40 by Kshs. 152,950,705.00 that represents un-surrendered Authority to Incur Expenditure (AIE's) issued to the Political Parties Tribunal, NCLR, ALB and SCAT. The balance further differs with the sum of Kshs. 423,357,338.00 shown in the analyses provided for audit review.

No explanation or reconciliation has been provided by management for the difference in the amounts reflected in the two sets of records otherwise expected to tally.

Submission by Accounting Officer

The Accounting Officer submitted that the amended receipts and payments now reflect a figure of Kshs. 550,929,338.00 as transfers to other Government Units. The amount differs with the ledger balance figure of Kshs. 544,884,783.40 by Kshs. 6,044,554.60 which was un-surrendered imprests issued to members of the tribunals. This imprest has since been cleared.

Committee Observations and Findings

(i) **The Committee observed that the amended receipts and payments now reflect a figure of Kshs. 550,929,338.00 as transfers to other Government Units;**

(ii) **The Committee observed that the amount differs with the ledger balance figure of Kshs. 544,884,783.40 by Kshs. 6,044,554.60 which was un-surrendered imprests issued to members of the tribunals; and**

(iii) **The Committee observed that the imprest has since been cleared and reconciliations have been done; and**

(iv) **The Committee marked the matter as resolved.**

542. Unvouched Expenditure

During the year under review, supporting documents for various expenditure totaling Kshs. 961,074,060.40 charged against the Judiciary vote were not provided for audit review. The expenditure related to the following items:

Item	**Amount**
	Kshs.
Purchase of Furniture and Equipment	8,861,110
Purchase of Vehicles & Transport Equipment	8,514,880
Group Personal Insurance	943,698,070
Nakuru AIE (Kshs. 11,451,432-11,155,790)	295,642
	961,369,702

Management explained that the documents relating to Group Personal Insurance were taken by Ethics and Anti-Corruption Commission (EACC) for investigation. As a result, only photocopies of the documents were presented for audit, but these could not be reviewed and confirmed in absence of the originals. Consequently, the propriety of the expenditure totaling Kshs.961, 369,702.80 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the payments totaling Kshs. 943,698,070.00 relates to medical premium and group life insurance cover. The original vouchers totaling Kshs. 336,690,370.00 which was paid to Jubilee Insurance Company were surrendered to Ethics and Anti-Corruption Commission who were investigating the procurement process. The balance of that amount totaling Kshs. 598,386,011.00 relates to payments to Liaison Healthcare Ltd whose payment vouchers had been misplaced at the time of audit but have since been found.

Further, a total of 8.621, 689.00 relates to payments to Liberty Life Assurance Company for provision of Group Life Cover (GLA) for Judges.

Committee Observations and Findings

(i) **The Committee observed that the original vouchers totaling Kshs. 336,690,370.00 which was paid to Jubilee Insurance Company were surrendered to Ethics and Anti-Corruption Commission who were investigating the procurement process.**
(ii) **The Committee observed that the vouchers from the EACC were provided and therefore the committee marked the matter as resolved.**

Committee Recommendations

The EACC should always ensure that they avail certified copies of vouchers with the entities before they take the original documents.

543. Accounts Receivable Balance

The statement of Assets and liabilities reflects an Accounts receivable balance of Kshs. 159,213,919 as at 30 June 2017.Included in the balance is Kshs.150, 531,206 that relates to a clearance account. No explanation or analysis has been provided for audit review to validate the clearance account balance of Kshs. 150,531,206.
As a result, the completeness and accuracy of the accounts receivable balance of Kshs. 159,213,919 as at 30 June 2017 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the accounts receivable balance has increased as per the amended financial statements to Kshs. 312,068, 328.00. An amount of Kshs 8,509,853 relates to un-surrendered imprest and an amount of Kshs. 172,860 relates to un-surrendered JPIP imprest issued to staff. The balance of Kshs. 303,385,615 appears in IFMIS Ledger as Clearance Account balance which cannot be reconciled or analyzed as the IFMIS module on auto-reconciliation has never functioned properly. The Judiciary is engaging the National Treasury to rectiFinancial Year the same.
The Accounting Officer also submitted that she will approach the Accounting Officer for Controller of Budget to get a better understanding of conducting daily reconciliations.

Committee Observations and Findings

The Committee expressed concern as to why IFMIS is always a problem with most of the Ministries

Committee Recommendations

The Accounting Officers must at all times ensure that they do day to day ledgers and IFMIS reconciliations to avoid backlog and overload of the system leading to failures towards the end of the Financial Year.

544. Unremitted Tax

Kenya Revenue Authority carried out a compliance audit at the judiciary covering the period July 2013 to June 2016 and issued its conclusions on 13 October 2016. The report concluded that the Judiciary failed to recover withholding tax and tax on employer pension contributions in excess of 20,000 per month per employee contrary to Section 5(4) (C) of the income tax act Cap 470.The omission resulted in a tax assessment bill (including penalties and interest) of Kshs. 306,575,269.

During the financial year under review, The Judiciary paid Kshs. 181,400,212 of the principal tax due on excess pension, and charged the cost to compensation of employees hence overstating the compensation of employees figure by Kshs. 181,400,212 No explanation has been provided as to why an expenditure that was not budgeted for under compensation of employees was charged to the item. Further, the tax due had not been included among pending bill in the year ending 30 June 2016.

In addition, the Judiciary failed to remit the outstanding tax of Kshs. 125,175,057 which included withholding tax of Kshs. 28,930,496 and accrued penalties and interest of Kshs. 96,244,561. Further, the outstanding tax was not included among pending bills in the year ending 30 June 2017.

Management have not explained failure to remit the withheld taxes recovered from suppliers, or account for the taxes withheld.
Again, outstanding tax for the period ending 30 June 2017 calculated as tax due from the employer contributions was not recovered and remitted to the Kenya Revenue authority as is required.

Consequently, the Judiciary risks paying further interest and penalties on the unpaid tax of Kshs.125, 175,057 recovered from the suppliers and the unrecovered tax on employee contributions even as it recorded an excess vote of Kshs. 181,400,212 incurred on compensation of employees during the year under review.

Submission by Accounting Officer

The Accounting Officer submitted that the team from the Judiciary met with Kenya Revenue Authority, presented the files and evidence of payment for the Withholding Taxes. A re - computation was done and a figure was arrived at which was less than what KRA had computed. The same has already been communicated to KRA but they have not responded. Thus, the Judiciary does not owe Kenya Revenue Authority any amount.

Committee Observations

(i) The Committee observed that the KRA later confirmed that there is no issue on outstanding tax.
(ii) The Committee marked the matter as resolved.

545. Fixed Asset Register

The statement of receipts and payments for judiciary for the year ended 30 June 2017 reflects Kshs. 461,459,838 under acquisition of assets. However, the Judiciary did not provide a fixed asset register for audit review to confirm that the acquired assets were taken on-charge and recorded in the register. Also, the financial statements do not include a summary of the fixed assets register as stipulated in the International Public Sector Accounting Standards (IPSA) reporting template prescribed by the National Treasury.

Also, vehicles used by the Judicial Service Commission were not included in the fixed asset register maintained by the Commission but were controlled and managed by the Judiciary. This contravened the Judicial Service Act 13 (1)(a) that required the Commission, to account for vehicles purchased or acquired. However, it was not possible to confirm the inclusion of the vehicles in the judiciary records as no fixed asset register was provided for audit review.

In addition, the Judiciary incurred a total of Kshs. 76,079,641 for purchase of Vehicles and other transport equipment for the year ending 30 June 2017 but no ownership documents for the purchase of two Toyota Prados and one Subaru outback worth Kshs. 27,535,000.00 in aggregate were provided for audit verification. As a result, the ownership and valuation of the vehicles cannot be confirmed.

Failure as reported previously, construction of Embu High Court at a cost Kshs. 320,153,007 is ongoing on a plot that the Judiciary has no ownership documents. In view of the foregoing, the ownership, existence, completeness and accuracy of the acquired fixed assets of Kshs. 461,459,838 at 30 June 2017 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Judiciary does not have a fixed asset register but due to the need to know the assets and their values, Chief Register constituted a committee to compile and come up with an asset inventory and register for the whole Judiciary. The Committee has a draft asset inventory.

The log books for all the motor vehicles assigned to JSC commissioners are available and will be included in the asset register.

It was true that the Judiciary spent Kshs. 27,535,000.00 to purchase two Toyota Prados and one Subaru outback. Copies of the ownership documents are hereby attached.
In relation to Embu Law Courts,

- The plot where the court stands has a Part Development Plan (P.D.P).
- A lot of effort has been done to acquire title deed.

There has never been dispute over the ownership of the land since the court was established in 1973.

Committee Observations and Findings

(i) The Committee observed that the Judiciary did not have a fixed asset register as prescribed by the law.
(ii) The Committee observed that full disclosure of the fixed asset register should be included in the financial statements for Judiciary. The Auditor General reported that the Judiciary has not complied.
(iii) The matter remains unresolved.

Committee Recommendations

Within nine months of the adoption of this Report, the Accounting Officer should avail to the Auditor General a comprehensive fixed asset register for review and verification of the Judiciary.

546. Stalled project

Judiciary had on its roll a total of fifty-five (55) Construction projects valued at Kshs. 6,661,092,518.90 across the country as at 30 June 2017.These comprised twenty-eight (28)

Projects of total cost of Kshs. 5,307,191,144 funded by the World Bank and twenty-seven (27) Projects of Kshs. 1,353,901,374.90 funded by the Government of Kenya.

During the year under review, the department of Judicial Services budgeted Kshs.962, 432,234 for the construction projects but only managed to spend Kshs. 231,570494 of the budget. An audit of a sample of six of the construction projects revealed that all the sampled projects had stalled despite payments made to the respective contractors as detailed below:

546.1. Hamisi Law courts

The contract was awarded on 4 December 2014 for a sum of Kshs. 44,241,130 and was to end on 13 October 2015. After the end of the contract period, the contractor was given four extensions, two of which were not approved by the tendering committee as is required of Section 139 (2) of the Public Procurement and Asset Disposal Act, 2015.

Physical verification of the project observed that the project was 85% complete and had stalled yet total payments for the project were Kshs. 52,500,000 being 95% of the cost of its budgeted cost.

No plausible was provided by the management or the contractor on why the payments made were more than the works done. Also, no explanation was provided as to why the project had stalled.

Management did not explain why it contravened Section 139 (2) of the Public Procurement and Asset Disposal Act, 2015 by extending the contract without approval of the tender committee. Further, the performance security bond for the contract expired on 23 July 2015 but no evidence has been presented to show that the bond was renewed as required under Section 142(1) (2) of the Public Procurement and Asset Disposal Act, 2015.

No plausible explanation has been provided by the management for failure to prioritize completion of the project. Further, in view of the anomalies highlighted, value for money on the expenditure totaling Kshs. 52,500,000 incurred on the project as at 30 June 2017 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Judiciary entered into a contract in December 2014 to construct a court building at Hamisi law court at an original tender sum of Ksh.44, 241,130.00. The contact was to end on 22nd September 2015. Due to none budgeted provision in the subsequent financial year, the project stalled as the Judiciary could not make payments to the contractor. In the Financial Year 2016/2017, having a budgetary allocation for the project, the Judiciary requested the project manager to undertake a project financial appraisal.

The project manager undertook the financial appraisal and recommended a project variation totaling Kshs. 10,958,775.00 making the project cost to be Kshs. 55,199,905.00 the reason being the changes in structural design and specifications which changed the scope of works. He also recommended an extension of time to be granted up to 31st January 2017.

The project has had only two (2) extension of time and were approved by the tender committee as required by the Public Procurement and Asset Disposal Act, 2015 as shown in the table below;

Extension Number	Date of Tender Committee Meeting	Extended upto	Copy of Minutes attached	Variation
1st Extension	7th June 2016	31st January 2017	Annex XIX	24%
2nd Extension	1st November 2017	11th April 2018	Annex XX	none

Following the Certified Certificates, the project is physically completed at 92%, the certified payments totals Kshs.50, 971,814.10 which is 90% of the contract sum therefore as per the BQs we have not overpaid the contractor.

Following the last extension of contract time to end on 11th April 2018, the contractor provided a performance bond expiring on 31st March 2018. The project was completed last year and handed over.

Committee Observations and Findings

- **(i) The Committee observed that based on the explanation of project completion. The building is no longer stalled.**
- **(ii) The committee observed that the project should be revisited to confirm whether it is in use.**
- **(iii)The Committee marked the matter as resolved.**

546.2. Siaya Law courts

The contract was awarded on 22 January 2016 for a sum of Kshs.342, 751,951 with a project completion date of 21 September 2017. However, physical verification of the project revealed that the project was 55% complete but had stalled, although payments totaling Kshs. 184,810,820.89 had been made to the contractor being 54% of the cost of the project.

No justification has been provided by the management for failure to complete the project despite the project's completion period having expired on 21 September 2017.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the Judiciary entered into a Contract to construct a Court building at Siaya Law courts at a contact sum of Kshs. 342,751,951.30 on 22nd January 2016.The contract was to end on 21st September 2017.

It was also true that at the time of audit the total amount certified and paid was Kshs. 184,810,820.89 which represents 54% of the contract sum and the physical completion was 55%. The project had stalled because of the delay by the project manager to adjust the project design and drawings to fit in the available plot size.

The contractor resumed work after the redesign and extension of contract time to 22nd May 2018 as per the tender committee meeting minutes dated 7th November 2017 and again extended to 22nd September 2019 as per tender committee meeting minutes held on 14th November 2018.
The project is now over 70% complete and is expected to be completed within the current contract time.

Committee Observations and Findings

- **(i) The Committee observed that at the time of audit the total amount certified and paid was Kshs. 184,810,820.89 which represents 54% of the contract sum and the physical completion was 55%.**
- **(ii) The Committee observed that the contractor resumed work after the redesign and extension of contract time to 22nd May 2018**
- **(iii) The Committee observed that the project should be visited to confirm the status of completion of over 70%; and**
- **(iv) The Matter remains unresolved.**

Committee Recommendations

Within six (6) months upon adoption of this report, the Accounting Officer should ensure that the Siaya Lawa Courts are completed, verified and certificate of completion issued and a copy submitted to the National Assembly.

546.3. Nakuru Law courts

Management awarded the contract of Nakuru Law Courts on 3 February 2016 for a sum of Kshs.347, 765,950. Construction was to end on 18 August 2017. However, physical verification of the project indicated that it was 65% complete although Kshs.274, 402,054.48 had been paid being 79% of the cost of the project. It was not clear why payments made exceeded the value of work done, Also, no explanation was provided as to why the project stalled, the contract completion period having expired on 18 August 2017.

Management has not provided for audit review, evidence of the project having been extended. Therefore, the management may have contravened Section 139 (2) of the Public Procurement and

Asset Disposal Act, 2015 by allowing the contractor to remain on site without an approved extension period. Further, delay in completion of the project is costly to tax payers.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Judiciary awarded a contract on 3rd February 2016 to construct a court building at Nakuru Law Court at a contract sum of Ksh.347, 765,950 which was to end on 18 August 2017. As per the certificate of works done by the Project Manager on 25th April 2017, the physical works completed is 80% while amount certified is 79% of the contract sum, thus there is no overpayment.

The project had stalled for some time due to delay caused when changing the foundation design from normal foundation to raft foundation occasioned by soil conditions at the site. The contractor resumed work after the redesign and extension of contract time to 18th April 2018 as per the tender committee meeting minutes dated 7th November 2017. Due to the reduction of judiciary's budget leading to delayed payment to contractors, the contract period was further extended to 8th August 2019 see minutes of tender committee meeting held on 14th November 2018.

The project is progressing well and currently starts at over 86% completed. The contractor has promised to complete the project within the new contract period.

Committee Observations and Findings

- **(i) The Committee observed that as per the certificate of works done by the Project Manager on 25th April 2017, the physical works completed is 80% while amount certified is 79% of the contract sum, and there was no overpayment**
- **(ii) The Committee observed that the project stalled for some time due to delay caused when changing the foundation design from normal foundation to raft foundation occasioned by soil conditions at the site.**
- **(iii) The Committee observed that the contractor resumed work after the redesign and extension of contract time to 18th April 2018.**
- **(iv) The Committee observed that the project should be visited to confirm the status of completion; and**
- **(v) The matter remains unresolved**

Committee Recommendations

The Committee uphold the recommendation made in its Report of the Accounts for the Financial Year 2015/2016.

546.4. Eldama Ravine Law Courts

The contract for construction of Eldama Ravine Law Courts was awarded on 4 February 2015 for a sum of Kshs. 65,505,814.80 and the project completion date of 4 April 2016. The cost of the project was later on varied by 25% to Kshs. 81,882,270. However, physical verification of the project revealed that it was 65% complete but had stalled with no workers on site. Total payments for the project as at 30 June 2017 were Kshs. 68,123,124 being 83.2% of the cost of the project. No plausible explanation has been provided by management why payments to the contractor exceeded the value of work done by 18.3%.

After the end of the contract period, the contractor was granted two extensions that were approved by the evaluation committee and which are due to expire on the 30 June 2018.
Further, examination of the payment vouchers revealed that the district accountant at Eldama Ravine overpaid the constructor by Kshs 4,370,819 of amount that should have been withheld as tax as required under government procedures for processing such payments. Further, the district accountant did not present for audit review Authority to Incur expenditure (AIE), documents used in support of the payment vouchers.

Management has not explained the overpayment of Kshs 4,370,819 or for the failure to avail the Authority to Incur Expenditure (AIE) documents for audit review.
In the circumstances, the propriety and value-for-money for the payments totaling Kshs. 72,493,943 made to the contractor cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Judiciary awarded a contract of Kshs. 65,505,814.80 for construction of the court building at Eldama Ravine. The contract was later varied by 25% to a contract sum of Kshs. 81,882,270 with a completion date being 4th April 2016.The contract period was later extended twice and is to end on 30th June 2018. Following an Inspection and Acceptance, review of certificate No. 11 to the contractor, the inspection report dated 14th February 2018 found that the project was 85% complete while total certified amount was 62,623,649.00 which is 76% of the contract sum thus there is no overpayment to the contract.

The project stalled due to lack of budgetary allocation leading to non-payment to the contractor. The project is being prioritized for completion in the next financial year budget.

Committee Observations and Findings

(i) The Committee observed that the project stalled due to lack of budgetary allocation leading to non-payment to the contractor and that the project is being prioritized for completion in the next financial year budget.
(ii) The Committee observed that the overpayment of Kshs 4,370,819 has not been explained.
(iii) The Committee observed that the project should be visited to confirm the status of completion; and
(iv) The matter remains unresolved.

Committee Recommendations

The Accounting Officer should within three months of the tabling of this report submit the relevant financial records relating the overpayment of Kes. 4,370,819.00 to the Auditor General for further audit verification.

546.5. Eldoret Law courts

The construction contract for Eldoret Law Courts was awarded on 15 January 2015 for a sum of Kshs. 38,095,640 and the works were to end on 10 December 2015. However, after the end of the contract period, the contractor was granted two extensions, the second to expire on 30 June 2017. No further extensions have been approved for the project to date. Hence, management have contravened the Public Procurement and Disposal Act 2015 by keeping the contractor on site without an approved extension.

Physical verification of the project confirmed the project stalled at 80% level of completion and total payments at Kshs. 30,678,895 equivalents to 80% of the cost of the project.
Further, review of the project documents revealed that the performance security for the contract expired on 10 December 2015.No evidence showing its renewal as required under Section 142(1)(2) of the Public Procurement and Disposal Act ,20165 was provided for audit review. Hence, the Judiciary violated the law.

Under the circumstances, delay in project completion indicates the Judiciary may not obtain value for money from the project.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Judiciary awarded a contract of Kshs.38, 096,640 for construction works at Eldoret Law Courts. The contract was to end on 10th December 2015. It was later extended twice to 30th June 2017.The project stalled following the failure by Judiciary to pay the contractor due to lack of budgetary allocation. Therefore, the Judiciary could not eject the contractor from the site as it is the one which was in breach of the contract.

Since the contract period has not been extended, the Judiciary has not asked the contractor to extend the performance bond. The project will be completed in the next financial year budget.

Committee Observations and Findings

(i) **The Committee observed that the project should be visited to confirm the status of completion.**
(ii) **The matter remains unresolved.**

Committee Recommendations

(i) **The Accounting Officer must ensure that the construction of the office complex is undertaken following the right standards and any poor workmanship corrected to avoid possible occupational safety hazards; and**
(ii) **The Ministry of Public Works should inspect the building and table their report to Parliament within a period of six months of the adoption of this report.**

546.6. Narok Law courts

The construction contract for Narok Law Courts was awarded on 7 September 2015 for a sum of Kshs. 65,194,539.39. The project cost was later varied by 13.5% to Kshs. 74,022,709 with the completion date set for 26 July 2016. Total payments for the project were Kshs. 15,111,599 being 20.4% of the cost of the project.

After the end of the contract period, the contractor was given two extensions which had however not been approved by the evaluation committee as required under Section 139 (2) of the Public Procurement and Asset Disposal Act, 2015. Physical verification of the works revealed that the project was 70% complete but stalled after management failed to approve sub-contracting works for mechanical and electrical works. Examination of site meeting minutes revealed that the request for the works was done on 17 December 2015 which was two years before the audit. Management have not explained why approval for the sub-contract was not granted.

In addition, a claim of Kshs. 6,056,511.00 was issued by the contractor for work certified in June 2016. However, the payment voucher for the works done was not made available for audit review and further, the payment was not included among pending bills as at 30 June 2016.
In view of the fore going, the projects may not be completed in time even after extension of the respective contract periods. This could cause project costs to escalate and impede attainment of value-for-money on the investments made.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Judiciary awarded a contract of Kshs.65, 194,539.39 for completion of the court building at Narok Law Courts. The contract has been varied and the additional amount referred to is for two independent contracts one for installation of a generator and the other for sinking of a borehole. The contract was extended to 30^{th} June 2017 by the tender committee meeting held on 28^{th} September 2016**.**

The claim of Kshs.6, 056,511.00 from Narok Law Courts was issued in June 2017 and not in June 2016, and was received in Judiciary headquarters in August 2017. The claim could not be processed at the time as the contract period had expired.

The Judiciary initiated a procurement of subcontractors for the works but the procurement was not successful. The Judiciary then decided to use domestic subcontracting to speed up the works.
At the time of the audit review, the project had stalled due to expiry of the contact period and delayed payment. The contract has now been extended to 30^{th} December 2019 copy of the minutes for tender committee meeting held on 14^{th} November 2018.

Committee Observations and Findings

- **(i) The committee observed udiciary initiated a procurement of subcontractors for the works but the procurement was not successful.**
- **(ii) The committee observed that Judiciary decided to use domestic subcontracting to speed up the works and at the time of the audit review, the project had stalled due to expiry of the contact period and delayed payment. The contract has now been extended to 30^{th} December 2019**
- **(i) The committee observed that the project should be visited to confirm the status of completion.**
- **(ii) The matter remains unresolved.**

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

RECEIVER OF REVENUE - THE JUDICIARY

Basis for Qualified Opinion

547. Accuracy, Completeness and Presentation of the Revenue Statement

547.1. Inaccuracies in the Revenue Statement

The opening balance for fines, penalties and forfeitures was indicated as Kshs. 1,470,152,225 whereas the 2015/2016 audited closing balance was Kshs. 1,470,054,680 resulting in an unexplained difference of Kshs. 97,545. The revenue statements reflect an un analyzed fines, penalty and forfeitures balance of Kshs. 1,083,409,439 as at 30 June 2017. Further, during the year, Judiciary disbursed funds to various Tribunals for the operations. However, no records were provided for audit review to show how much was budgeted for collection and the actual fees collected by the Tribunals.

Consequently, it was not possible to ascertain the accuracy of revenue collected form tribunals.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that there were differences in the opening and closing balances for revenue in the statements which had been caused by errors in summations from the revenue collection summary sheets. The difference has since been analyzed. During the year under review there was no budget estimate for revenue collection by Tribunals as they were transiting from various line ministries to the Judiciary to conform to the Constitution.

Committee Observations and Findings

(i) **The Committee observed that the current position is as per the explanation provided that the difference has since been analyzed.**
(ii) **The Committee marked the matter as resolved.**

547.2. Un-reconciled Variance – Fines, Penalties and Forfeitures

An amount of Kshs. 1,083,409,439 is shown as fines, penalties and forfeitures in the revenue statement; however, an analysis of various revenue accounts from field stations shows the following discrepancies:

Submission by Accounting Officer

The net transfer of Kshs. 1,083,409,439 to the revenue account is less Kshs. 42,019,698 that was transferred to deposit account, following the court's decision to reinstate the earlier forfeited money on appeal. And therefore, it was not an irregular transfer. The authority to transfer funds is sort from Treasury on a need basis and attached is a sample letter of approval by Treasury
The payment vouchers availed to support the refund was of 2014/15 financial year when the fines were paid.

The bank reconciliation was done and attached is a copy of the bank reconciliation statement as at 30th June 2017.

Committee Observations and Findings

- **(i) The Committee observed that the amount of Kshs. 1,083,409,439 was confirmed as transferred with the approval from treasury.**
- **(ii) The Committee observed that the bank certificate was provided for the reconciliation.**
- **(iii)The Committee marked the matter as resolved.**

547.3. Mombasa Law Courts –Revenue from fines

The revenue schedule from Judiciary Headquarters shows an amount of Kshs. 66,205,557 while the analysis of revenue receipts from the station shows an amount of Kshs. 62,669,659 resulting into a variance of Kshs. 3,535,598 which had not been explained or reconciled.

Submission by Accounting Officer

The Accounting Officer submitted that records from Mombasa Court station i.e. copies of CCSs and miscellaneous receipts (MR) issued from Headquarters after the surrender, indicate that the station surrendered a total of Kshs. 66,205,576.00 as analyzed in the table below and therefore there is no variance between the schedules provided by the HQ and those provided at the station.

Month	Ccs No	Amount	Month's Total
July	750795	3,366,051.00	
	748786	450,938.00	
	748785	304,436.00	
	788784	315,114.00	
	0245407	1,335,505.00	
	0245405	2,770,285.00	8,542,329.00
August	0245413	2,382,968.00	
	0245422	2,384,965.00	
	0245412	681,333.00	
	0245411	2,200,784.00	
	0221749	4,725,300.00	12,375,350.00
September	0245433	2,106,605.00	
	0245437	2,746,990.00	
	0245423	1,085,931.00	
	AC748770	236,069.00	6,175,595.00
October	0245446	215,689.00	
	0272001	3,851,372.00	
	0245450	416,075.00	4,483,136.00
November	0272013	3,913,731.00	
	0272015	509,025.00	4,422,756.00
December	0272026	2,352,179.00	
	0272027	3,522,893.00	5,875,072.00
January	0272030	3,596,061.00	

Month	Ccs No	Amount	Month's Total
		280,430.00	3,876,491.00
February	0272049	2,550,077.00	
	0256702	1,114,676.00	3,664,753.00
March	0256714	3,772,871.00	
	0256718	2,407,208.00	6,180,079.00
April	0256720	3,820,850.00	3,820,850.00
May	0256741	1,697,079.00	
	0022561	3,717,752.00	5,414,831.00
June	0256905	1,374,314.00	1,374,314.00
Station Annual Total			66,205,556.00
Hqs Totals			66,205,557.00

Committee Observations and Findings

(i) **The Committee observed that an amount of Kshs. 66,205,576 was confirmed as having being transferred and received; and**

(ii) **The Committee marked the matter as resolved.**

547.4. Erroneously Written off Negative Balance in the Revenue Cash Book – Malindi Law Courts

The cash book at Malindi Law Courts reflects a nil balance as at 30th June 2017. However, no explanation was given as to why an amount (Kes. 531,866) was removed from cash book without any authority or supporting document casting doubt on the nil closing balance in the cash book.

Submission by Accounting Officer

The Accounting Officer submitted that the write-off arose due to an error during closure of the cash book as at 30th June 2017. This has since been corrected.

Committee Observations and Findings

(i) **The Committee observed that the error of amount (Kes. 531,866) was removed from cash book without any authority or supporting document and was not explained. The Journal was also not provided; and**

(ii) **The matter remains unresolved.**

Committee Recommendations

The Accounting Officers must, at all times, ensure that fully reconciled financial statements are submitted to the Auditor General within three months of the close of the financial year pursuant to the provision of section 68(2)(k) of the PFM Act, No. 8 of 2012 and as provided under Article 229(4) of the Constitution of Kenya, 2010.

547.5.Fees on Use of Goods /Services

The statement of receipts and transfers reflects the figure for Fees on use of goods and services amounting to Kshs. 847,031,435 as at 30 June 2017.However, the supporting schedule from the Headquarters shows an amount of Kshs. 846,724,458 resulting into a variance of Kshs. 306,977. No reconciliation or explanation has been given for the variance.

Component	**F/S Figure**	**Figures As Per Judiciary Report**	**Variance**
Court Fees	847,031,435	846,724,458	306,977

Submission by Accounting Officer

The difference of Kshs.306, 977.00 is an amount of collection from Marimanti Law Courts which had been erroneously left out of the Schedule that was presented to the auditors. This has been corrected and surrender receipts for Marimanti Law Courts are available for audit review.

Committee Observations and Findings

(i) **The Committee observed that the amount was confirmed as collection from Marimanti Law Courts after verification of the surrender receipts by the auditors.**

(ii) **The Committee marked the matter as resolved.**

547.6.Unreconciled Balance Shown as Surrender to Exchequer Account

The statement of receipts and transfers reflect an amount of Kshs. 1,677,279,261 as transfer to exchequer account. However, the analysis of Central Bank revenue statement shows an amount of Kshs. 1,268,734,712.

A variance of Kshs. 408,544,712 as shown in the table below has not been reconciled or explained.

Financial Statement	CBK Revenue	Variance
1,677,279,261	1,268,734,712	408,544,712

Further, the audit revealed that there is no bank reconciliation statement prepared for the Judiciary Revenue main account no. 1117161749 and the cash book for revenue account no. 111761811 was not also maintained.

In view of the foregoing, the accuracy, completeness and presentation of the revenue statement balance for the year ended 30 June 2017 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that the bank statements for the period under review show a balance of Kshs. 1,677,279,261.00 million which corresponds to the figure in the Financial statements.

Committee Observations and Findings

- **(i) The Committee observed that the the bank statements show a balance of Kshs. 1,677,279,261.00 million which corresponds to the figure in the Financial statements.**
- **(ii) The Committee marked the matter as resolved.**

548. Revenue Unrecorded and Unaccounted For

548.1.Revenue Warrants Unaccounted For

a) The warrant of commitment for sentence requires that it is prepared in triplicate and sealed. However, in a number case files examined, these warrants were not sealed.

DATE	CASE NO.	FINE
11/1/2017	TR 19/17	KSHS 22,000
3/1/2017	TR 2/17	KSHS 7,000
6/1/2017	TR11/17	KSHS 12,000
19/4/2017	TR 287/17	KSHS 10,000
15/6/2017	TR 346/17	KSHS 4,000
18/11/2016	TR 964/17	KSHS 11,000

Submission by Accounting Officer

The practice is that only original of the committal warrants are sealed, copies are normally just stamped and kept in the files for references only. Payments of fines or refund of deposit is based on a court order and not on committal warrants and therefore internal control on revenue is not weak.

Committee Observations and Findings

(i) **The Committee observed that only original of the committal warrants are sealed, copies are normally just stamped and kept in the files for references only.**
(ii) **The Committee observed that the explanation by the Accounting Officer was satisfactory and therefore marked the matter as resolved.**

548.2.Cash Book not maintained – Milimani Commercial Courts

During the year under review, no cashbook was maintained at Milimani Commercial Courts hence no bank reconciliation statement was done and the accuracy of the bank balance could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that the Milimani Commercial Court maintains a Cashbook for the Revenue Account which is very much up-to-date.

Committee Observations and Findings

(i) **The Committee observed that the cash book has since been updated and availed and the auiditor general review and verification.**
(ii) **The Committee marked the matter as resolved.**

548.3.Long Outstanding, un-surrendered Receipt Books –Mombasa Law Courts

As at the time of audit in February 2018, it was observed that the following receipt books had not been surrendered and had been out for a long period of time.

RECEIPT BOOK NO.	DATE ISSUED
3672301 – 3672300	19/10/2016
3720551 – 3720600	19/10/2016
3720951 – 3721000	19/9/2016
3738451 – 3738500	26/9/2016
3702351 – 3702400	23/9/2016
3655351 – 3655400	19/10/2016
3667551 – 3667600	19/10/2016
3667601 – 3667650	19/10/2016
3667751 – 3667800	19/10/2016
3667801 – 3667850	19/10/2016
3667851- 3667900	19/10/2016
3667901 – 3667950	19/10/2016
3667951 – 3668000	19/10/2016
3632601 – 3632650	19/10/2016
3632701 – 3632750	19/10/2016
3632751 – 3632800	19/10/2016

The revenue collected by use of the above receipts has never been recorded nor accounted for as at 30 June 2017.

Submission by Accounting Officer

The Accounting Officer submitted that the receipt books were issued from the headquarters for use in South West Coast region but erroneously indicated in Headquarters CRB as for in Mombasa Law Courts only.
The schedule below shows how the books were distributed to various Court stations.

Receipt Bk No	Date issued from Hqs	Station issued to	Remarks
3672301-3672350	19.10.2016	Mombasa	Issued to the station on 11.7.2017 and surrendered on 05.01.2018.
3720551-3720600	19.10.2016	Kwale	Issued to the station on 29.06.2017 and surrendered on 16.10.2017.
3720951-3721000	19.09.2016	Kwale	Issued to the station on 20.7.2017 and surrendered on 02.10.2017.
3738451-3738500	26.09.2016	Mombasa	Issued to the station on 28.9.2016 and surrendered 03.3.2017.
3702351-3702400	23.09.2016	Shanzu	Issued to the station on 11.10.2016 and surrendered on 04.06.2018.
3655351-3655400	19.10.2016	Shanzu	Issued to the station on 23.8.2017 and surrendered on 04.06.2018.
3667551-3667600	19.10.2016	Kwale	Issued to the station on 13.09.2017 and surrendered on 06.11.2017.
3667601-3667650	19.10.2016	Kwale	Issued to the station on 13.09.2017 and surrendered on 02.12.2017.
3667751-3667800	19.10.2016	Kwale	Issued to the station on 13.09.2017 and surrendered on 21.12.2017.
3667801-3667850	19.10.2016	Kaloleni	Issued to Kaloleni on 19.12.2017 and still in use.
3667851-3667900	19.10.2016	Kaloleni	Issued to Kaloleni on 19.12.2017 and still in use.
3667901-3667950	19.10.2016	Kaloleni	Issued to Kaloleni on 19.12.2017 and still in use.
3667951-3668000	19.10.2016	Kaloleni	Issued to Kaloleni on 19.12.2017 and still in use.
3632601-3632650	19.10.2016	Shanzu	Issued to the station on 03.11.2017 and surrendered on 15.3.2018.
3632701-3632750	19.10.2016	Shanzu	Issued to the station on 03.11.2017 and surrendered on 11.12.2017.
3632751-3632800	19.10.2016	Shanzu	Issued to the station on 03.11.2017 and surrendered on 02.02.2018.

Committee Observations and Findings

(i) **The Committee observed that the receipt books were issued from the headquarters for use in South West Coast region but erroneously indicated in Headquarters CRB.**

(ii) **The Committee observed that the explanation by the Accounting Officer was satisfactory and therefore marked the matter as resolved.**

548.4.Unaccounted for Deposits converted to Fines

During the year under review, it was noted that deposits were converted into fines as per court orders and an MR receipt issued covering the converted amount and extra cash payable. The receipt is then used to surrender revenue to headquarters however no evidence is attached during surrender to support that the converted amount that was transferred from deposit to revenue account.

Further, no supporting evidence was provided during surrender in respect to deposit which have been forfeited.Under the circumstances, it has not been possible to confirm the accuracy and completeness of the expected revenue collected and accounted for as at 30 June 2017.

Submission by Accounting Officer

A forfeiture is a term used to account for money that has left the deposit account to fine category and is receipted as a fine and therefore all the monies under this account is fine and penalties. All our forfeitures have been fully accounted for as per the procedures. A sample of evidence of surrender from the deposit account is hereby attached with copies of CCS and bank statements showing the movement of money from the deposit to revenue account.

Committee Observations and Findings

- **(i) The Committee observed that the explanation from the Accounting Officer was plausible.**
- **(ii) The Committee marked the matter as resolved.**

549. Prior Year Issues

549.1. Financial anomalies at Kericho Courts

Examination of the financial records maintained at Kericho Law Courts disclosed the following unsatisfactory matters:

549.1.1. Unaccounted for Court Deposits

Examination of the deposit ledger and other courts records indicated that deposit and bonds paid to the court by convicts totaling Kshs. 13,579,539 had not been refunded as at 30 June 2015.However, an examination of the bank statements for deposit account revealed a balance of

Kshs. 5,478,737 as at the same date. The resulting difference of Kshs. 8,100,801.65 represent unaccounted for convicts' deposits and bonds.

Submission by Accounting Officer

We acknowledge the difference of Kshs. 8,100,801.65 between the deposit ledger and bank statement for deposit account. The difference represents an accumulated loss for many years which occurred at the district treasury. The management has now delinked the station from the district treasury.

Further, a taskforce has been formed to address these reconciliation issues and has started with Milimani Law court. The taskforce is expected to address these reconciliation issues in all court stations and provide recommendations to the management.

Committee Observations and Findings

- **(i) The Committee observed that the difference represented an accumulated loss for many years which occurred at the district treasury.**
- **(ii) The Committee observed that the management has now delinked the station from the district treasury.**
- **(iii)The Committee observed that a taskforce has been formed to address these reconciliation issues and has started with Milimani Law court.**
- **(iv)The matter remains unresolved.**

Committee Recommendations

Within six (6) upon adoption of this report, the Accounting Officer should submit to the National Asembly a full report of the Taskforce on Reconcilliation issue affecting the Judiciary.

549.1.2. Irregular Expenditure

The Chief Magistrate Office procured general office supplies worth Kshs. 833,677 during the period under review. However, the following unsatisfactory matters were noted:

- i) There were no requisitions initiated by the user department detailing the quality and quantity of the stationery required.
- ii) No approvals were made of the requisitions made for the stationery purchased
- iii) No procurement plan was produced for audit.

iv) The stores purchased were not entered in record contrary to Section 18.2 of the Government Financial Regulations and Procedures and it was therefore not possible to confirm receipts and subsequent usage.

In the circumstances, it was not possible to confirm the propriety of the expenditure of Kshs. 833,677.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the procurement of general office supplies worth Kshs. 833,677 during the period under review at the station did not follow proper procurement procedures. The officer who caused this anomaly was a procurement officer based at the station who has since been interdicted and later suspended.

Committee Observations and Findings

(i) The Committee observed that the procurement of general office supplies worth Kshs. 833,677 during the period under review at the station did not follow proper procurement procedures.
(ii) The Committee observed that the officer who caused this anomaly has since been interdicted and later suspended.
(iii)The Committee marked the matter as resolved.

549.1.2. Bank Reconciliations

The Kericho Law Courts did not prepare bank reconciliation statements for the deposit and revenue cashbooks as at 30June 2015 contrary to Section 5.9.2 of The Government Financial Regulations and Procedures. Although it was indicated monthly bank reconciliation statements had been prepared, none was provided for audit verification.

In the circumstances, it was not possible to confirm the completeness of the cash balances for the deposit and revenue cashbook.

Submission by Accounting Officer

The Accounting Officer submitted that at the time of audit, the court had not prepared the bank reconciliation statement for the deposit account and revenue account.

Committee Observations and Findings

(i) **The Committee observed that the Court had not prepared the bank resoncilliation statement by the time of the audit and even later.**
(ii) **The matter remains unresolved.**

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

550. Fraud at Baricho Law Courts

An audit inspection done during the year under review revealed that the Judiciary had lost a total of Kshs. 984,080.00 due to falsification of documents and fraud by the staff based at Baricho Law Court and no recoveries had been made at the time of audit. Further, a review of the accountable documents maintained at Baricho Law Courts confirmed that 12 receipt books were missing at the District Treasury at Baricho and in addition 30 traffic case files were missing without trace in addition to the personal file of the accountant involved.

Baricho Law Court did not maintain a deposit cashbook and further, no monthly reconciliation statements were prepared. No explanation was provided as to why the Judiciary did not adhere to the Public Finance Management Act 2015; particularly Section 64 on revenue collection, Management and accountability and further it is not clear why no recoveries had been initiated by the Judiciary contrary to Section D of Judiciary Human Resource Policy and Procedures Manual September 2014.

Submission by Accounting Officer

The Accounting Officer submitted that the Audit and Risk Management Directorate of the Judiciary carried out an audit on Baricho Law Courts following a letter written by the Regional Assistant Director of Finance, Nyeri region, to the Chief Registrar of the Judiciary referenced RADF/NYR/BARICHO/01/2015, dated 17th March, 2015 that raised concerns on perpetration of fraud at the court station through alteration of receipts. The audit confirmed that indeed there were alterations of receipts totaling Kshs. 755,530 that were perpetrated by Mr. Josephat M. Kyanguu (PJ No: 47808), an Accounts Assistant, in respect of revenue totaling Kshs. 744,030.

Mr. Josephat M. Kyanguu was interdicted and the matter was reported to the Directorate of Criminal Investigations for further investigations and prosecution of culprits, and recorded in the OB No.32/30/7/2015 at 1435 hours on 30th July, 2015, at Kerugoya Police Station. However, the DCIO requested for an independent investigation to be conducted. Consequently, the CRJ wrote to the Kenya National Audit Office requesting for a special audit**.** The Kenya National Audit carried out the Special Audit and came up with the findings as reported.

The report by the Auditor General has since been submitted to the Criminal Investigations office for further investigations. The investigations by the DCIO will cover the loss of twelve (12) receipt books, thirty (30) traffic case files and the personal file of the accountant involved in the forgery.

At the time of the audit, Baricho Law Courts did not maintain a deposits cash book and monthly bank reconciliation statements. This is because the court station operates under the sub county treasury which should have prepared the cash book and bank reconciliation statements. However, following the recommendations of the Internal Audit Report, the court station now prepares its own cash book and monthly bank reconciliation statements. Internal controls have further been strengthened by the Judiciary ensuring that there is close supervision by the Regional Assistant Director of Finance.

Committee Observations and Findings

- **(i) The Committee observed that there were alterations of receipts totaling Kshs. 755,530 that were perpetrated by Mr. Josephat M. Kyanguu (PJ No: 47808), an Accounts Assistant, in respect of revenue totaling Kshs. 744,030.**
- **(ii) The Committee observed that Mr. Josephat M. Kyanguu was interdicted and the matter was reported to the Directorate of Criminal Investigations for further investigations and prosecution of culprits.**
- **(iii)The Committee observed that at the time of the audit, Baricho Law Courts did not maintain a deposits cash book and monthly bank reconciliation statements.**
- **(iv)following the recommendations of the Internal Audit Report, the court station now prepares its own cash book and monthly bank reconciliation statements**
- **(v) The committee marked the matter as resolved.**

551. Discrepancies in Revenue Records

551.1. Naivasha Law Courts

Records maintained at the station reflect the amount of surrender to the Headquarters for court fines and court fees as Kshs. 100,923,964 and Kshs. 11,612,408 respectively.

However, records maintained at the headquarters and surrenders amounting to Kshs110,192,341 and Kshs. 10,583,445 for court fines and fees respectively and hence a difference of Kshs. (9,268,377.00) for court fines Kshs. 1,028,963.00 for court fees. The difference between the two sets of records has not been explained of reconciled.

In the circumstances, the accuracy and completeness of the revenue collected and surrendered from Naivasha Law Courts could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the difference between the station and headquarters surrender amount was caused by the problem of cut-off time where surrenders of previous year maybe recorded at headquarters as collection of this year and the station will record collection which it has not surrendered in this year.

This has now been solved by making sure that at end of every month the balances in revenue account automatically swept to the judiciary revenue collection account and the station surrender the required documents.

Committee Observations and Findings

- **(i) The Committee observed that the difference between the station and headquarters surrender amount was caused by the problem of cut-off time where surrenders of previous year maybe recorded at headquarters as collection of this year and the station will record collection which it has not surrendered in this year.**
- **(ii) The Committee observed that Judiciary is making sure that at end of every month the balances in revenue account automatically swept to the judiciary revenue collection account and the station surrender the required documents.**
- **(iii)The Committee marked the matter as resolved.**

551.2. Eldoret Law Courts

An audit inspection at Eldoret Law Court indicated that fines collected in the financial year 2016/2017 were Kshs.51,984,727. However, the amount of fines surrendered at Headquarters totalled Kshs.38,070,330 resulting to an unexplained difference of Kshs.13,914,397. Further, the revenue collection control sheet number 0192365 was used to collect two different amounts of Kshs.522,360 and Kshs.1,537,475. In addition, the amount of fees collected could not be confirmed as revenue collection control sheets and surrenders were not made available for audit.

Consequently, the amount of fines and fees collected and surrendered from Eldoret Law Courts could not be ascertained.

Other Matters

552. Unrealistic budget on fees from use of goods and Services

The current year budget was Kshs. 1,610,597,206 compared to last year's budget of Kshs. 5,466,132,027. During the budgeting process only Kshs. 24,925 was projected as revenue on fees. This is despite the fact that in 2015/2016, the actual revenue on fees was Kshs. 838,002,748. This shows that budgeting process was erroneous leading to a huge underestimation of the revenue projected. The over collection of Kshs. 847,006,509 representations 3million % over collection is misleading.

As a result, the true position of revenue target could not be verified and cut off procedures in relation to revenue collected were not observed as partial income of one year was reported as income in the subsequent year.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the projected amount for fees and fines was Kshs. 24,925.00 and Kshs. 1,610,597,206 respectively. The Judiciary has no control as the estimates are set by the National Treasury.

It was true that revenue collected particularly in the months of June have been partially reported in the subsequent financial years which were caused by late surrender of supporting documents by the court stations. This has since been corrected and cut off procedures are being observed fully.

Committee Observations and Findings

(i) The Committee observed that the revenue collected particularly in the months of June have been partially reported in the subsequent financial years which were caused by late surrender of supporting documents by the court stations.
(ii) The Committee observed that the issue has been corrected and cut off procedures are being observed fully.
(iii) The Committee marked the matter as resolved.

553. Weak Internal Control

It was observed that the court station did not maintain a list of authorized staff to collect accountable documents including case files for the station that there is no segregation of duties.

Budget Analysis

Item	Estimates (Kshs)	Actual (Kshs)	Variance (Kshs)	%
Fees on use of goods and services	3,986,871,177	838,002,748	3,148,869,429	78%
Fine, penalties and forfeitures	1,479,260,850	1,479,260,850	9,260,170	0.6%

It is not clear and the Judiciary has not explained what caused the big discrepancies in the fees on the use of goods/services, revenue collection figures of Kshs. 3,148,868,429.

Submission by Accounting Officer

The Accounting Officer submitted that each court station maintains a list of authorized officers to collect accountable documents and that they are appointed by the Head of Station who is the AIE holder.

Committee Observations and Findings

- **(i) The Committee observed that each court station maintains a list of authorized officers to collect accountable documents.**
- **(ii) The Committee marked the matter as resolved.**

DONOR FUNDED PROJECT

JUDICIAL PERFOMANCE IMPROVEMENT PROJECT (IDA CREDIT No.5181-KE)

Basis for Qualified Opinion

554. Budget analysis

554.1. Receipts

The Project received exchequer receipts totaling Kshs. 1,688,646,238 during the year under review and as a result incurred a shortfall of Kshs. 911,353,762 or 35 % of the budgeted amount.

The shortfall was attributed to lengthy procurement process that led to delayed approval and start of the works mainly occasioned by inadequate staffing at the Directorate of Building services. Also, delays in remittance of exchequer releases by the National Treasury resulted in delayed implementation of activities and delayed payment of contractors.

Submission by Accounting Officer

The Accounting Officer submitted that they concur with the findings.

554.2. Payments

The Project incurred a total expenditure of Kshs. 1,845,086,895 against a total budget amount of Kshs. 2,600,000,000 thus resulting to an under expenditure of Kshs. 750,561,066 or 28%.

Item	Budget Kshs.	Actual Kshs.	Excess/(Shortfall) Kshs.	Excess/ (Shortfall)%
Purchase of goods and services	659,250,529	711,559,314	52,308,785	8%
Acquisition of Non – Financial Assets	1,940,749,471	1,133,527,581	(807,221,890)	(42%)
Total Payments	**2,600,000,000**	**1,845,086,895**	**(754,913,105)**	**(29%)**

The annual work plan provided for audit reflected a total budget of Kshs. 5,841,550,000 that however differed with the approved budget of Kshs 2, 600,000,000. The shortfall was attributed to the timing differences between the date of approval of the work plan by the World Bank before 30 March as is required of Part B (2) of the financial agreement and the date the National Treasury allocated the project the budget of Kshs. 2,600,000,000.

Therefore, adjustment of the work plan and budget by National Treasury was contrary to Part B (2)(d) that states that the recipient shall not make or allow to be made any change to the approved annual work plan and budget without prior approval in writing by the Association.

Further, the under expenditure in acquisition of non-financial assets of Kshs. 754,913,105 or 29% of the budgeted amount of Kshs. 2,600,000,000 was attributed to the lengthy procurement process. However, a total of eight (8) projects with a total contract sum of Kshs. 752,134,528 that were to be completed by 30 June 2017 had not been completed by that date although a total of Kshs. 640,723,074 had been paid for the projects. Had the projects been completed as scheduled, the expenditure shortfall of Kshs. 807,221,890 under acquisition of non-financial assets would have reduced to Kshs. 695,810,436

In addition, the project management did not provide explanations for the differences between actual and budgeted expenditure balances reflected in the financial statements as is required by the IPSAS reporting template and part B (2) of the financing agreement. In consequence, services budgeted for at Kshs. 754,913,105 were not delivered.

Submission by Accounting Officer

The Accounting Officer submitted that the Constitution at Article 225 allocates the control of Public money to the National Treasury and before submitting the budget estimates to the National Assembly the National Treasury prepares and releases a donor commitment list which indicates how much money donors will be disbursing in a given financial year; therefore, the National Treasury has not violated the Financial Agreement.

It was true that the services budgeted for at Kshs. 754,913,105 were not delivered due to a number of challenges that led to the under- utilization of the funds. These included;

1. Lengthy procurement process,
2. Inadequate staffing in the Directorate of Building Services I.e. Clerks of works, structural, electrical and mechanical engineers. This affected timely approval of construction works.
3. Delays in exchequer releases by the National Treasury leading to untimely or late implementation of activities and delayed payments to contractors.

Committee Observations and Findings

(i) **The Committee observed that the Judiciary has not explained why the contract agreement signed between World Bank and National Treasury is in contravention of the Constitution.**
(ii) **The matter remains unresolved.**

Committee Recommendations

The Accounting Officer for the Judiciary should, within three months of the tabling of this report, submit a report on the circumstances under which the World Bank and the National Treasury signed a contract which contained provisions that were in violation of the Constitution.

555. Cash and Cash Equivalents

The statement of assets and liabilities as at 30 June 2017 reflects a bank balance of Kshs. 4,771,341.45 in respect of accounts held at the Central Bank of Kenya. However, the IFMIS cash book that would reconcile transactions with the manual cashbook was not provided for audit review.

No explanation was provided for the failure to provide the IFMIS cash book for audit review.
In the circumstances, the bank balance of Kshs. 4,771,341.45 reflected in the financial statement for the year ended 30 June 2017 could not be confirmed.

Submission by Accounting Officer

The manually prepared bank reconciliation statement differs with IFMIS reconciliation because IFMIS cashbook module has never functioned properly since the start of IFMIS and therefore, they can never tally.

The Judiciary has engaged the National Treasury to try and rectiFinancial Year the anomaly and the discussions are still ongoing.

Committee Observations and Findings

- **(i) The Committee observed that the anomaly was attributed to National Treasury and discussions are ongoing on how to rectiFinancial Year the anomaly.**
- **(ii) The matter remains unresolved.**

Committee Recommendations

The Accounting Officer for the National Treasury and the Accounting Officer for the Judiciary should, within three months of the tabling of this report, submit a joint report on the anomaly occasioned by the irreconcilable differences between the manually prepared bank reconciliation and the IFMIS reconciliation.

556. Delayed projects

During the financial year ending 30 June 2017, the Project had a total of twenty-eight construction projects that had been awarded through the tendering process. Two of the projects had been completed; eighteen were ongoing while eight had not yet started. Review of a sample of these projects revealed that no evaluation minutes as is required of section 139(2) of the Public

Procurement and Asset Disposal Act, 2015 were provided for the extension of construction contracts relating to the following projects:

Project	Construction Company	Completion Period	Extension period	Further Extension period	% completion period
Nakuru law Courts	Diwafa Investments Ltd	18 August 2017			79%
Vihiga law Courts	Lunao Enterprises Limited	14 September 2016	14 January 2017	30 May 2017	90%
Garissa law Courts	Inshallah Limited	22 July 2017			45%
Nyamira Law Courts	JN Investments Ltd	17 June 2015	28 December 2016		67%
Chuka Law Courts	Philmark System Services Ltd	13 june 2016	23 October 2016		78%

Further, the projects were incomplete despite award of extension contracts. Also, construction of Garissa law courts was only 45% complete even though the completion period had expired. Explanation provided that the delays were due to adverse weather conditions during the rainy seasons, unsuitable ground conditions at Nakuru and Garissa, time lost during mobilization period, delays in grant of approvals by the National Environmental Management of Agency (NEMA) and stoppage of works by county officers were not satisfactory.

In the circumstances, the objectives of the project may not have been attained and value-for-money may not be realized due to the implementation delays.

Submission by Accounting Officer

All the projects were awarded following an Evaluation Committee recommendation. The extension of Contract period was also recommended by the Evaluation Committee in accordance with Public Procurement and Asset Disposal Act 2015. The projects contract periods have been extended twice as shown in the table below: -

Project Name	Contractor	1st Contract Extension Date	2nd Contract Extend To	% Of Completion	Variations
NAKURU LAW COURTS	DIWAFA INVESTMENTS LTD	18/8/2018	18/8/2019	86%	NONE
VIHIGA LAW COURTS	LUNAO ENTERPRISES LTD	14/11/2018	14/11/2019	96%	NONE
GARISSA LAW COURTS	INSHALLAH LTD	5/11/2018	5/11/2019	70%	NONE
NYAMIRA LAW COURTS	JN INVESTMENTS LTD	18/9/2018	18/9/2019	90%	NONE
CHUKA LAW COURTS	PHILMARK SYSTEMS SERVICES LTD	23/6/2018	23/6/2019	87%	NONE

While we accept that there have been delays in completion of projects, the same has been occasioned by delayed payments to contractors, owing to delays in release of Exchequer funds from National Treasury. All contractors are on site and the projects objectives will be achieved with value for money being realized as there have been no variations of contract sums.

Committee Observations and Findings

(i) The Committee observed that the delays in completion of projects was due to delayed payments to contractors, owing to delays in release of Exchequer funds from National Treasury;
(ii) The Committee observed that all the contractors are on site; and
(iii) The matter remains unresolved.

Committee Recommendations

The Accounting Officer should ensure that all contractors are paid in time to avoid accumulation of bills which finally attract interests on delayed payments.

557. Irregular Contract Awards

Included in the Statement of Receipt and payments for the year ended 30 June 2017 under purchase of goods and services, is an amount of Kshs. 47,838,619 relating to Consultancy Cost. The

Consultants have been engaged by the Project as is required of Schedule 2 Section 1(4) that allows the recipient to appoint staff (including inter alia, a Project Coordinator, a Court construction/Civil engineer specialist, a communications specialist and an M&E Specialist) all with experience and terms of reference acceptable to the International Development Association.

However, the recruitment of the consultants by JPIP was not in compliance with Section 45(2)(d) and (e) of the Public Service Commission Act, 2017 that states that a person may be engaged on a contract if there is no other public officer performing the function; and that the person does not qualiFinancial Year to be employed under any other terms of service.

A review of the contract documents revealed that five of the contracts that had expired were renewed as follows;

Name	Function	Contract period	Extension Period	Total Period	Contract Amount
JERRY SHILILU	PROGRAM OFFICER CAMPs	1-Aug-16 - 31-Jul-17	1 Aug17 - 30 Jun 18	2 Years	5,280,000.00
EUNICE NDANU MUTIE	PROGRAM OFFICER CAMPs	1-Aug-16 - 31-Jul-17	1Aug 17 - 30 Jun 18	2 Years	6,000,000.00
NANCY KANYAGO	PROJECT COORDINATOR	31-Mar-14 - 31-Mar-15	1-Apr-15 - 30-Apr-15, 1-May-15 - 30-Aug-15, 31-Aug-15 - 30-Sep-15 1-Oct-15 - 31-Dec-15 1-Jan-16 - 31-Dec-18	4 Years 9 Months	21,060,000.00
KENNEDY EDEYO MUGONYI	M&E SPECIALIST	1-Jul-13 - 30-Jun-15	4-Jan-16 - 31-Mar-16 1-Jul-15 - 30-Aug-15 31-Aug-15 - 30-Sep-15 2-Oct-15 - 31-Dec-15 1-Jan-16 - 31-Dec-18	5 Years 6 Months	16,920,000.00
NICHOLAS SIMANI	COMMUNICATION SPECIALIST	1-Aug-13 - 30-Jul-15	1-Aug-15 - 31-Aug-15	5 Years 5 months	16,920,000.00

Name	Function	Contract period	Extension Period	Total Period	Contract Amount
			31-Aug-15 - 30-Sep-15 1-Oct-15 - 31-Dec-15 1-Jan-16 - 31-Dec-18		

Two contracts for Kennedy Edeyo Mugonyi and Nicholas Simani were awarded beyond the five-year period contrary to Section 45 (1) of the Public Service Commission Act, 2017 that requires contracts not to exceed a period of five years.

In addition, the vacancies for Jerry Shililu and Eunice Ndanu Mutie were not advertised before issuance of the contracts as is required of Section 37 (1) of the Public Service Commission Act 2017. Under the circumstances, JPIP was in breach of the Public Service Commission Act, 2017.

Submission by Accounting Officer

The Accounting Officer submitted that the Judicial Performance Improvement Project (JPIP) was to run for 6 years from 2012 – 2018. The Financing Agreement for the Project envisaged that there be a Project Management Unit (PMU) for the Project Duration (Schedule 2. Section 1 (4) ***"...the Recipient shall establish and thereafter maintain at all times during the implementation of the Project, a Project Management Unit."***

The Recipient is the Judiciary and recruitment of a staff or consultant is guided by Article 172 (1) (c) which confers that function to the Judicial Service Commission and not the Public Service Commission. The manner in which the JSC carries out these functions is as prescribed in the Judicial Service Act and not the Public Service Commission Act.
The staff in the Project Management Unit (PMU) were properly recruited in accordance with the Constitution and the Judicial Service Act.

The recruitment of the two program officers was not a new one since they had been engaged by the Judiciary on an earlier contract which was finance by UNDP. On the expiry of UNDP funding, the Judiciary requested the World Bank to fund these contracts since the services of the officers were still required. The World Bank gave a no- objection to the request and requested the Judiciary to initiate negotiations with the individuals in accordance with the financing agreement. The

Accounting Officer appointed a negotiation committee which after negotiation with the two officers came up with applicable Terms of engagement.

Committee Observations and Findings

The Committee observed that the matter was based on the Public Service Act, No. 10 of 2017.

Committee Recommendations

The Accounting Officer must at all times ensure the provisions of the Public Service Act, No. 10 of 2017 are full adhered to and implemented to the latter.

558. Imprest Reimbursement

A review of the imprest records revealed that the Project incurred a total of Kshs. 40,080,170.00 on domestic travel and subsistence allowance and training without the issuance of imprest to the respective staff. The money was reportedly spent by the staff from their own resources with the intention of seeking reimbursement on completion of the assignment. This is against the public financial regulations that require a cash advance to be made to a government officer for payments made in the course of an officer's duty and not for reimbursement.

In the circumstances, it was not possible to confirm the authenticity of the imprest reimbursement claims of Kshs. 40,080,170.00.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Project reimbursed imprest claims totaling Kshs. 40,080,170.00 which was caused by lack of exchequer at the time the activities were being undertaken necessitating the officers to seek reimbursements on return.

Committee Observations and Findings

- **(i) The Committee observed that Judiciary has explained nonadherence to regulation was a result of lack of exchequer.**
- **(ii) The Committee observed that the explanation by the Accounting Officer was satisfactory.**

45.0. ETHICS AND ANTI-CORRUPTION COMMISSION

FINANCIAL STATEMENTS FOR VOTE 1271

Mr. Twalib Mbarak, the Accounting Officer for the Ethics and Anticorruption Commission (Vote 1271) appeared before the committee on 28th May 2019 and 3rd June 2019to adduce evidence on the Audited Financial Statements for the Ethics and Anticorruption Commission (Vote 12781) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr Eliud Wabukala - Chairman**
2. **Ms. Jennifer Kimeri - Director Finance and Planning**
3. **Mr. Stephen Karuga - Legal Officer**

Unqualified opinion

There were no material issues noted during the audit of the financial statements of the Ethics and Anti-Corruption Commission.

Emphasis of Matter

I draw attention to Note 20 to the financial statements which reflect an amount of Kshs.28, 513,500 held in an idle account that is not earning interest.

Other Matter

559. Information Technology Systems

During the year under review, it was noted that the Commission's back-ups were not kept offsite as required. There was also no formally documented and approved user management standards and procedures. Further, there was no formal process to review user access rights.

The Committee observed that the matter was well addressed.

46.0. NATIONAL INTELLIGENCE SERVICE

FINANCIAL STATEMENTS FOR VOTE 1281

Unqualified Opinion

The Committee observed that there were no material issues noted during the audit of the financial statements of the Service.

INTELLIGENCE SERVICE DEVELOPMENT FUND

Unqualified Opinion

The Committee observed that there were no material issues noted during the audit of the financial statements of the Service.

48.0. OFFICE OF DIRECTOR OF PUBLIC PROSECUTIONS

FINANCIAL STATEMENTS FOR VOTE 1291

Mr. Noordin Haji, the Accounting Officer for the Office of Director of Public Prosecution (Vote 1291) appeared before the committee on 1st October 2019 and 3rd June 2019 to adduce evidence on the Audited Financial Statements for the Office of Director of Public Prosecution (Vote 1291) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Ms. Dorcas Odor - Senior Public Prosecutor**
2. **Mr. Jacob Ondari - Deputy Director Public Prosecution**
3. **Mr. Kennedy Ndwiga - Deputy Chief Finance Officer**
4. **Mr. Kennedy Kimayu - Deputy Director (DDCFS)**
5. **Ms. Emily Kamau - Office of Director of Public Prosecution**
6. **Ms. Natasha Ettath - Office of Director of Public Prosecution**
7. **Mr. Ikur Maina - Office of Director of Public Prosecution**
8. **Mr. Liuan Obuo - Office of Director of Public Prosecution**
9. **Mr. Mungai Warui - Office of Director of Public Prosecution**
10. **Mr. Kioko Maudu - Office of Director of Public Prosecution**
11. **Mr. Hesbon Otinga - Office of Director of Public Prosecution**

Unqualified opinion

The Committee observed that there were no material issues noted during the audit of the financial statements of the Office of Director of Public Prosecutions.

The Accounting Officer submitted that the Office was awarded unqualified Opinion for Financial Year 2016/17.

He attributed the opinion on the following factors

a) Working in unison with the National Treasury and the Office of the Auditor Genera
b) Doing daily reconciliations on the IFMIS platform; an
c) The department working in unison as a team

He pointed out that working on the IFMIS platform had been a challenge especially with regard to connectivity with the treasury, however the availability of officers trained on the workings of the system had been a huge advantage.

He also stated that the Office of the Director of Public Prosecutions had two procurement officers and that was a challenge in terms of staffing, however since they did not have major projects it was a manageable challenge.

He further stated that there were other challenges. However, working together with the National Treasury had helped alleviate some of the issues.

Committee Observations and Findings

The Committee observed that the office of the Director of Public Prosecutions had indeed obtained unqualified opinion for Financial Year 2016/17. The Committee congratulated the Director of Public Prosecutions and urged other State Department to emulate the same.

49.0. OFFICE OF THE REGISTRAR OF POLITICAL PARTIES

FINANCIAL STATEMENTS FOR VOTE 1311

Ms. Ann Nderitu, the Accounting Officer for the Office of the Registrar of Political Parties (Vote 1311) appeared before the committee on 1st October 2019 and 3rd June 2019 to adduce evidence on the Audited Financial Statements for the Office of the Registrar of Political Parties (Vote 1311) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). She was accompanied by the following officials:

15. **Mr. Joshua Kimulu - Chief Finance Officer**
16. **Mr. Bon Makulwal - Senior legal officer**
17. **Mr. Mutethia Mberia - Senior Communication Officer**
18. **Ms. Veronicah Muaya - Assistant Director, Internal Audit**
19. **Mr. John Macharia - Assistant accountant General**
20. **Mr. Robert Waithaka - Senior ICT Officer**

Unqualified opinion

There were no material issues noted during the audit of the financial statements of the Office of the Registrar of public Parties.

Other Matter

560. Information Technology Governance

During the year under review, the Office of the Registrar of Political Parties Information Technology conformity and disaster recovery plan and back-ups were not kept off-site as required. Further, there was no IT Strategic or Steering Committee and no formally documented and approved use of management standards and procedures. In addition, no formal process to review user access rights.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that ORPP Information Conformity and Disaster Recovery Plan and Backups were not kept off-site. This issue was deliberated by Audit Committee on 14th December, 2017 who recommended the IT issues to be addressed by the ORPP management. In the management meeting held on 9th February 2018, it was recommended that the activity be factored in the FINANCIAL YEAR 2018/2019 work plan and procurement plan for ORPP.

In the FINANCIAL YEAR2018/19, Government consolidated the Information and Communication Technology (ICT) budget under the Ministry of ICT. In line with the Ministry of ICT Circular Ref.: MICT/CONF/18/30/(A)(23) dated 13th June 2018, ORPP developed and forwarded Terms of Reference for Procurement of off-site backup for data and records.

As at the closure of the FINANCIAL YEAR2018/2019, the Ministry of ICT had not procured the off-site backup for data as requested. The Office wrote a follow-up letter Ref. No. RPP/ADM/7/4 Vol II (50) dated 17th December 2018 on the matter to the Ministry and the equipment are yet to be procured.

IT Strategic or Steering Committee

The Accounting Officer submitted that the time of the audit, ORPP did not have a stand-alone IT Strategic or Steering Committee. The office had a committee named Human Resource, Administration and IT which deliberated on human resource, Administration and ICT matters. Following the audit, the office established an IT steering committee. The committee is operational and has deliberated on ORPP strategic ICT matters.

The IT Steering Committee has formally documented ORPP IT management standards and procedures and the same has been approved. In addition, the office has formalized the process of user access rights which are documented and communicated to staff.

The office has also developed a Disaster Recovery Plan and Information and Communications Technology (ICT) Policy which covers standards, procedures and user controls to be adhered to in performing day to day operations. Attached are the appointment letters, committee minutes, Disaster Recovery Plan and Information and Communications Technology (ICT) Policy.

Committee Observations and Findings

(i) **The Committee observed that Office of the Registrar of Political Parties – ORPP had developed and back-up for the Office and forwarded Terms of Reference for Procurement of off-site backup for data and records;**
(ii) **The Committee also observed that there was a delay by the Ministry of Information Communication Technology - ICT to procured the off-site backup for data as requested. The Office wrote a follow-up letter Ref. No. RPP/ADM/7/4 Vol II (50) dated 17th December 2018 on the matter to the Ministry and the equipment are yet to be procured;**

(iii) In addition, the Committee observed that the Office had established a committee named Human Resource, Administration and IT which deliberated on human resource, Administration and ICT matters. Following the audit, the office established an IT steering committee. The steering committee is operational and has deliberated on ORPP strategic ICT matters;

(iv) Further, the Committee observed that the IT Steering Committee had formally documented ORPP IT management standards and procedures and the same had been approved. In addition, the office had formalized the process of user access rights which are documented and communicated to staff;

(v) Finally, the Committee observed that ORPP had also developed a Disaster Recovery Plan and Information and Communications Technology (ICT) Policy which covers standards, procedures and user controls to be adhered to in performing day to day operations; and

(vi) The Committee marked the matter as resolved.

50.0. WITNESS PROTECTION AGENCY

FINANCIAL STATEMENTS FOR VOTE 1321

Mrs. Alice Ondieki, the Accounting Officer for the Officer and Registrar of Political Parties (Vote 1311) appeared before the committee on 1st October 2019 and 3rd June 2019 to adduce evidence on the Audited Financial Statements for the Officer and Registrar of Political Parties (Vote 1311) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). She was accompanied by the following officials:

1. **Mr. Andrew Tanui - Deputy Director in charge of Corporate Affairs**
2. **Mr. John Mwangi - Head of Finance**
3. **Mr. Tilson M. Njenga - Deputy Director Operations**

Unqualified opinion

The committee observed that there were no material issues noted during the audit of the financial statements of the Witness Protection Agency.
Submission by Accounting Officer

The Accounting Officer submitted that the office was awarded unqualified Opinion for Financial Year 2016/17.

She attributed the unqualified opinion on the following measures:

1. A well laid down corporate governance structure
2. Strategic plans in house, involving everyone in articulating the vision
3. Continuous risk assessment and strategic plan implementation
4. Continual conformity to the Public Finance Management Act
5. Clear communication strategies to the staff and diligence in assigning responsibility.
6. Internal controls both preventive to deter instances of error and fraud and detective controls relying on routine reconciliations to ensure postings are done correctly
7. Automation using an ERP system to handle financial aspects of various transactions and proper documentation
8. Centralization of financial decisions

She also stated that there were a number of challenges that the agency was facing including:

1. Inadequate exchequer

2. An itemized budget which limits the flexibility of the agency to respond to the unique challenges of the witness protection programme. A one-line budget would be preferred.
3. The National Treasury austerity measures adversely affect the operations of the programme; and

Further the Accounting Officer had a few proposals which she felt would enable the agency adequately carry out its mandate including a one-line budget, enhancement of human capital and waiver on motor vehicle purchase moratorium.

Committee Observations and Findings

The Committee observed that the Witness Protection Agency had indeed obtained unqualified opinion for Financial Year 2016/17. The Committee congratulated the Agency and urged other State Department to emulate the same.

51.0. KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

FINANCIAL STATEMENTS FOR VOTE 2011

Dr. Mogesa Bernard, the Accounting Officer for the Kenya National Commission on Human Rights (Vote 2011) appeared before the committee on 13th June 2019 to adduce evidence on the Audited Financial Statements for the Kenya National Commission on Human Rights (Vote 2011) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. John Wamwanja**

Unqualified opinion

There Committee observed that there were no material issues noted during the audit of the financial statements of the Kenya National Commission on Human Rights.

52.0. NATIONAL LAND COMMISSION

FINANCIAL REPORT FOR VOTE 2021

Ms. Kabale Arero Tache, the Accounting Officer for the National Land Commission (Vote 2021) appeared before the committee on 9th May 2019 to adduce evidence on the Audited Financial Statements for the National Land Commission (Vote 2021) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1.	**Mr. Dennis Sankole Keis**	-	**Accountant**
2.	**Mr. Bernard Cherutich**	-	**Ag Director Finance & Accounting**
3.	**Mr. Daniel Mwakio**	-	**Principal Finance Officer**
4.	**Mr. Francis C. Bor**	-	**Deputy Director Administration**
5.	**Mr. Moses Laibuta**	-	**Senior Accountant**
6.	**Mrs K. Judy**	-	**NLC**

Unqualified opinion

There were no material issues noted during the audit of the financial statements of the National Land Commission.

Other Matter

562. Special Audit

The Public Accounts Committee requested the Auditor-General vide letter of ref: NA/DCS/PAC/2018/011 dated 19 March 2018 to carry out a special audit and submit a special report on the affairs of the National Land Commission. As at the time of this report, the special audit was still in progress and the report had, therefore, not been finalized. The special audit report when completed may bring to light issues not captured in the course of this audit report.

Committee Recommendations

Within one upon of this Report, the Committee directs the Office of the Auditor General to forward the Special Audit Report to the National for examination.

53.0. PARLIAMENTARY SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2041

Mr. Jeremiah M. Nyegenye the Accounting Officer for the Parliamentary Service Commission (2041) appeared before the committee on 29th July 2019 to adduce evidence on the Audited Financial Statements for the Parliamentary Service Commission (2041) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Dan Ajele - Chief Finance Officer**
2. **Mr. Anthony Njoroge - Director Legal and Compliance**
3. **Mr. Pius M. Kioko - Chief Engineer**
4. **Mr. Irungu Kigundu - Ag. Director of Finance and Administration**
5. **Mr. Johnson N. Munyera - Ag. Chief Accountant**

Basis for Qualified Opinion

585. Acquisition of Land

Disclosed in Note No. 7 to the financial statements is a comparative figure under 2015/2016 of Kshs.135,000,000 against acquisition of land. The Commission has, however, explained through a letter Ref: PSC/AUDIT/001/2016/2017/1 dated 25 January 2018 that there was no acquisition of land in the financial year 2015/2016. The Commission claimed that the amount had been erroneously debited to the account item instead of refurbishment of buildings. However, no documentary evidence has been provided in support of any subsequent correction made or restatement of the comparative information.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that our financial statements under Note No. 7 disclosed a comparative figure under 2015/2016 of Kshs. 135,000,000 against acquisition of land. I wish to report here that there was no acquisition of land in this financial year as reported in the statements. This amount was for refurbishment of buildings and construction of buildings but was erroneously posted to the account item of acquisition of land. This has since been corrected and the comparative figures restated. Attached herein please find the payment vouchers which made up the acquisition of assets for your review.

Committee Observations and Findings

(i) **The Committee observed that there was no purchase of land in the financial year 2015/2016 that and Kshs.135,000,000 was for refurbishment of buildings and construction of buildings but was erroneously posted to the account item of acquisition of land;**
(ii) **The Committee also observed that Comparative figures in the 2016/17 financial statements were amended accordingly and all documents provided, verified and confirmed;**
(iii) **The Committee marked the matter as resolved.**

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

586. Purchase of Buildings

Disclosed also in Note No.7 to the financial statements is a comparative figure/expenditure under 2015/2016 of Kshs.455,885,904 against purchase of buildings and which relate to County House L.R. No. 209/4311. However, minutes of the 17th Parliamentary Service Commission Tender Committee Meeting held on 22 December, 2014 indicate that the negotiated and approved purchase price was Kshs.325,000,000. This purchase price was supported further by an agreement for sale made and dated 5 May, 2015 between Acco Limited and Parliamentary Service Commission. No satisfactory explanation has been provided for the resulting excess expenditure of Kshs.130,885,904 in respect of the purchase of buildings.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that our financial statements under Note No. 7 disclosed a comparative expenditure under 2015/2016 of Kshs. 455,885,904 against purchase of buildings. I wish to report that an amount of Kshs. 292,500,000 being the balance of the purchase price of Kshs. 325,000,000 was paid to the vendor as per the agreement in this financial year, having paid 10% of the price in the previous financial year. The amount of Kshs. 130,885,904, was for expenditure incurred on refurbishment of the Senate Chambers and Offices and purchase of Security equipment.

Committee Observations and Findings

(i) **The submission and accompanying documents tabled by the Accounting Officer explaining the breakdown of the reported balance of Kshs. 292,500,000 and vouchers in support of Kshs. 130,885,904 for expenditure incurred on refurbishment of the Senate Chambers and Offices and purchase of Security equipment, though persuasive, should have been submitted to the Auditor General during the financial year for audit review.**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

587. Construction of a Multi - Storey Office Block

The Commission awarded a contract No. WP ITEM D29 NB/NBI 901- JOB NO. 7753C to China Jiangxi International Kenya Limited on 23 September 2013 at a tender sum of Kshs.5,893,649,846.67 to construct a multi - storey office block.

The records maintained by the Commission indicate that payments amounting to Kshs.28,169,446.21 have been made to date in respect of interest on delayed payments. Although the Commission has explained that the delayed payments arose due to circumstances beyond the control of the management, poor planning in financial management appear also to have contributed to the situation. The Commission, project management team and the National Treasury should have ensured that the contractor`s certificates were settled promptly to avoid escalation in cost of the project.

Clause 23 of the General Conditions of Contract provides for the mode of payments to the contractor in two components of 80% (US$) and the remaining 20% local currency. The records, however, indicate that fifteen certificates have so far been paid in full in local currencies. In unexplained circumstances, the Commission through a meeting held on 14 July 2017 decided to pay deficits arising from failure to pay 80% in US$ without quantiFinancial Yearing the purported deficit and explaining the reasons for failure to comply with the provision of the contract document. The amount paid to date in respect of the deficits is still undetermined.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the commission paid Kshs. 28,169,446.21 to Ms. China Jiangxi International being interest on delayed payments on certificate 1 to 12. The interest on delayed payments is calculated in accordance with Clause 23.3 of the Contract agreement. A payment attracts interest if it remains unpaid for more than 45 days from the date it is received by the Commission. The delays in payments of Certificates were caused by factors beyond the control of the Commission which include: -

i. Delays in the release of exchequer by the National Treasury to finance the certificates relating to development expenditure.
ii. The contractor has sometimes submitted certificates for payments within the months of May and June of the financial year. Given financial year closure procedures and related issues, we experience delays in processing the certificates. See attached pending bills at the closure of the financial year.
iii. Delay in uploading of the development budget in the IFMIS for expenditure to be charged in the new financial year.

b). Statement of Foreign Currency Requirements

The Accounting Officer submitted that it was true that fifteen certificates have been paid in full in local currency without observing Clause 23 which requires payments be made of 80% in (USD) and 20% in local currency. It is also true that the Commission in a meeting held on 14th July 2017 decided to pay the deficit arising from failure to pay the certificate as per the contract agreement provisions. This decision was made after many meetings in which interpretation of the provisions of the contract were sought and considered. Certificate No. 17 of Kshs. 370,660,632.90 was raised by the project manager taking into account all the certificates paid and was subsequently paid. See payment voucher attached. All the other subsequent certificates have been paid in observance of the contract provisions.

Introduction

The office block comprises of: -

a. Four basement parking floors,
b. One reception floor (ground floor),
c. Four committee room floors (24 committee rooms),
d. One open garden floor,
e. 18 floors Members offices (338 offices),
f. One health club floor,
g. One restaurant floor, and

h. One service floor.

Payment Details

a. Contract sum: KShs 5,893,646,849.67
b. Amount paid (Certificate No. 35): KShs 3,523,330,312.00 (55%)

Challenges Encountered

a. Tendering procedures (one main contract and fourteen sub-contracts) most of the tenders repeated at least twice
b. Proximity to Continental House delayed excavation for foundations and special measures to protection Continental House,
c. Relocation of services within the site – water pipelines, sewers, power and telephone/data
d. Complexity of the project-
e. Delays in obtaining construction permits-
f. Many sub-contractors difficulties in coordination
g. Non-performance of some sub-contractors

Status of the Project

a. Main contract works nearly about 80 percent
b. Two sub-contracts to be tendered (terminated for non-performance)
c. Procurement of interior fit-out works completed, sub-contract agreement not signed
d. Interior fit –out works are on critical path - expected to take about one year
e. Stalemate by main contractor refusing to execute interior fit out sub-contract.
f. Contractor submitted financial claim being adjudicated by Tender Committee

1. **How and why the Parliamentary Service Commission entered into the contract with China Jiangxi International Ltd.**

(a) The tender process

The Parliamentary Service Commission did in 2012 float an open tender for the construction of the proposed multi-storey office block for Members of Parliament. There was however lack of agreement between the Evaluation Committee of the Commission and the Management Tender Committee on which bidder was the lowest evaluated bidder. The Tender Committee therefore on 13th December 2012 decided to terminate the tender process on the grounds that none of the bidders met all the mandatory requirements.

China Jiangxi International Ltd challenged this decision before the Public Procurement Administrative Review Board. On 17th January 2013 the Public Procurement Administrative Review Board directed the Commission to award the tender for the construction of the multi-storey office block to China Jiangxi International Ltd in accordance with recommendations of the Evaluation Committee.

On 31st January 2013 the Parliamentary Service Commission moved to the High Court to challenge the decision of the Public Procurement Administrative Review Board in High Court Judicial Review Application No. 32 of 2013 ***R –v –Public Procurement Administrative Review Board and China Jiangxi International Ltd ex-parte Parliamentary Service Commission.*** On 3rd June 2013 Justice Odunga dismissed the application for judicial review.

Consequently, the Commission had no option but to enter into contract with China Jiangxi International Ltd in accordance with section 100 of the Public Procurement and Disposal Act, 2005 which provided as follows:

100. Right to judicial review to procurement

(1) A decision made by the Review Board shall, be final and binding on the parties unless judicial review thereof commences within fourteen days from the date of the Review Board's decision.

(2) Any party to the review aggrieved by the decision of the Review Board may appeal to the High Court, and the decision of the High Court shall be final.

(3) A party to the review which disobeys the decision of the Review Board or the High Court shall be in breach of this Act and any action by such party contrary to the decision of the Review Board or the High Court shall be null and void.

(4) If judicial review is not declared by the High Court within thirty days from the date of filing, the decision of the Review Board shall take effect.

The Parliamentary Service Commission therefore entered into contract with China Jiangxi International Ltd for construction of the multi-storey office block on 23rd September 2013.

(b) The tender documents and the resultant contract terms

As the tender in question was for the construction of a multi-storey office block and therefore a tender for works, the Parliamentary Service Commission used the standard form tender documents provided by the Public Procurement Oversight Authority. This was pursuant to section 29(4) of the Public Procurement and Disposal Act, 2005 which provided as follows:

29. Choice of procurement procedure

(1) *For each procurement, the procuring entity shall use open tendering under Part V or an alternative procurement procedure under Part VI.*

(2) A procuring entity may use an alternative procurement procedure only if that procedure is allowed under Part VI.

(3) A procuring entity may use restricted tendering or direct procurement as an alternative procurement procedure only if, before using that procedure, the procuring entity—

(a) obtains the written approval of its tender committee; and

(b) records in writing the reasons for using the alternative procurement procedure.

(4) A procuring entity shall use such standard tender documents as may be prescribed.

Regulation 29(2) of the Public Procurement and Disposal Regulations, 2006 prescribed as follows with regards to use of the standard tender documents:

29. **Contract standardization**

(1) **The Steering Committee shall issue standard contracts for public private partnership's and guidelines to standardize practice across the public sector.**

(2) **Standard documents may be prepared for each sector activity such as, but not limited to, building and public works, medical services delivery, education services delivery, telecommunications and energy.**

The Third Schedule of the Regulations then provided for the standard tender documents with item 1 of the Third Schedule being the standard tender documents for procurement of works as follows:

THIRD SCHEDULE
STANDARD TENDER DOCUMENTS
The standard tender documents include the following—

1. ***Standard tender document for procurement of works (buildings and associated civil engineering works).***
2. *Standard tender document for procurement of works (roads, water bridges, etc.).*
3. *Standard tender document for procurement of works (electrical and mechanical).*
4. *Standard tender document for procurement of small works.*

5. *Standard tender document for procurement of goods. 6. Standard tender document request for proposals (selection of consultants).*
7. *Standard tender document for procurement of general services.*
8. *Request for quotation form.*
9. *Procurement requisition form.*
10. *Local procurement order.*
11. *Local service order.*
12. *Order amendment form.*

The Parliamentary Service Commission therefore had no option but to use the standard tender documents for procurement of works (building and associated civil engineering works) which included a form for the bidders to indicate their foreign currency requirements when it came to payment of the contract sums. China Jiangxi International Ltd, when completing its tender document, indicated that it required to be paid 80% of the contract price in US Dollars. Attached hereto are the relevant pages of the tender documents which now forms part of the contract where China Jiangxi International Ltd indicated that they require to be paid 80% of the contract price in dollars.

It is important to emphasize that China Jiangxi International Ltd was not awarded this tender by the Parliamentary Service Commission but by the Public Administrative Review Board and the High Court as aforesaid. It is therefore also important to note that the Parliamentary Service Commission therefore had no say in the foreign currency requirements in the contract as it is not open to a procuring entity to negotiate contract terms with a successful bidder in an open tendering process.

2. What is the legal status of the Project Implementation Management Committee (PIMC).

The original Project Implementation Management Committee was established pursuant to administrative circulars and manuals from the Public Procurement Oversight Authority to provide for prudent management of complex contracts. The same was subsequently anchored in law by the section 151 of the Public Procurement and Asset Disposal Act, 2015 which states as follows:

151. (1) For every complex and specialized procurement contract, the accounting officer of a procuring entity shall appoint a contract implementation team which shall include members from the procurement function, and the requisitioner, the relevant technical department and a consultant where applicable.

(2) For the purpose of managing complex and specialized procurement contracts the contract implementation team shall be responsible for —

(a) monitoring the performance of the contractor, to ensure that all delivery or performance obligations are met or appropriate action taken by the procuring entity in the event of obligations not being met;

(b) ensure that the contractor submits all required documentation as specified in the tendering documents, the contract and as required by law;

(c) ensure that the procuring entity meets all its payment and other obligations on time and in accordance with the contract.

(d) ensure that there is right quality and within the time frame, where required;

(e) review any contract variation requests and make recommendations to the respective tender awarding authority for considerations and such reviews for variation shall be clearly justified by the technical department in writing backed by supporting evidence and submitted to the head of the procurement function for processing;

(f) manage handover or acceptance procedures as prescribed;

(g) make recommendations for contract termination, where appropriate;

(h) ensure that the contract is complete, prior to closing the contract file including all handover procedures, transfers of title if need be and that the final retention payment has been made;

(i) ensure that all contract administration records are complete, up to date, filed and archived as required; and

(j) ensure that the contractor acts in accordance with the provisions of the Contract;

(k) ensure discharge of performance guarantee here required.

(3) An Accounting Officer of a procuring entity may co-opt a member of the contract implementation team from another procuring entity or outsource.

3. Procedure for Payment Certificates

The procedure for payment of certificates is as follows:

a. The contractor applies for valuation of the works completed every Month,
b. The Consultant carries out valuation of the works completed,
c. Consultant submits valuation to the Project Manager,
d. The Project Manager checks then certificates and prepares payment voucher,
e. Project Manager submits certificate to PSC for processing and settlement
f. Contract requires PSC to honor certificates within 45 days after receipt

Certificates No 1 to 15 were prepared in Kenya Shillings only by the Project Manager. This is because there was contention that persisted for a long time on the 80% - 20% currency requirements in accordance with the contract including contention about the method of computation, the possibility of payment only in Kenya Shillings and about whether the requirement should be computed by the Project Manager at the point of preparation of certificates or by the Commission at the point of payment. The difference would have implications on the quantum of monies to be paid owing to currency fluctuations, particularly if there were delays in payment arising from exchequer releases.

After the Project Implementation Management Committee's advice, subsequent certificates have been prepared by the Project Manager are in two parts as follows:

- 80% in US dollars (converted to US dollars at base rate 1 US dollar @ KShs84.0125)
- 20% in Kenya Shillings.

It should be noted that certificate No. 17 which effected payment of the difference between the amounts paid in Kenya Shillings and the amounts which should have been paid in US Dollars was paid without any interest and at the exchange rate prevailing when payment should have been made.

Committee Observations and Findings

(i) The Committee observed that China Jiangxi International Ltd was not awarded this tender by the Parliamentary Service Commission but by the Public Administrative Review Board and the High Court in accordance with recommendations of the Evaluation Committee. This decision by the Public Administrative Review Board and the High Court followed a disagreement between the Evaluation Committee of the Commission and the Management Tender Committee on which bidder was the lowest evaluated bidder which, led to China Jiangxi International Ltd taking the matter to Court;

(ii) The Committee also observed that the Parliamentary Service Commission moved to the High Court to challenge the decision of the Public Procurement Administrative Review Board in High Court Judicial Review Application No. 32 of 2013 *R –v –Public Procurement Administrative Review Board and China Jiangxi International Ltd ex-parte Parliamentary Service Commission.* The case was lost;

(iii) The Committee, in addition, observed that the Parliamentary Service Commission therefore had no say in the foreign currency requirements in the contract as it was not open to a procuring entity to negotiate contract terms with a successful bidder in an open tendering process;

(iv) Further, the Committee observed that there were delayed payments resulting from the contract provisions on payment in foreign currency which, amounted to financial imprudence;

(v) That notwithstanding, the Committee observed that there was no satisfactory justification for payment in foreign currency and that the legal interpretation from the

Attorney General on the contract provisions and validity of the payments was also not provided; and

(vi) The matter remains unresolved.

Committee Recommendations

Within one (1) month upon adoption of this repport, the Accounting Officer should liaise with the Attorney General to iron out outstanding isssues in regard to general conditions on contracts payments in foreign currency to the Contractor doing the construction of a Multi - Storey Office Block.

588. Refurbishment works

Contract records indicates that a contract No. W.P ITEM No. D29 NB/NB 901 – JOB NO.7753C for refurbishment works was awarded to N.K Brothers on 10 October 2014 at a tender sum of Kshs.379,909,101.

The scope of works included refurbishment of 13th floor of Protection House; Ground floor to 4th floor of Red Cross Building; Ground floor to 2nd floor of Juvenile Court Building; and 3rd, 5th, 6th, 8th, 9th and 10th floors of Ukulima House Building.

Although contract records show that the works commenced on 31 March, 2015 for a period of 12 weeks up to 23 June 2015, which was later reviewed to 31 March 2016, examination of site meeting minute No. 28 of 23 March 2017 indicates that the contractor was still on site after the expiry of contract period. No evidence has been provided to show that the Commission has commenced recovery of liquidated damages from the contractor in accordance with Clause 27 of the General Conditions of Contract.

The contractor was paid Kshs.10,579,770 on 18 May 2017, through Payment Certificate No 13 for refurbishment of 11th floor of Ukulima House despite the fact that the works were not listed in the contracted scope. In the circumstances, rates submitted in the additional works were not competitively awarded.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Contract No. W.P ITEM NO. D29 NB/NB 901 – JOB NO. 7753C for refurbishment works was awarded to N.K. Brothers on 10th. October 2014 and work commenced on 31st. March 2015 for a period of 12 weeks up to 23rd June 2015, which was later reviewed to 31st March 2016. No certificate has been processed since expiry of the contract period. The liquidated damages will be recovered from the certificates that will fall due to the contractor. The contractor has since applied for extension which is under consideration.

It was also true that the scope of works tendered for at Ukulima House covered sections of 3rd, 5ft, 6th, 8th, 9th, and 10th floor on small areas. After commencement of works, it became apparent that the building had been vacated and full floors instead of just sections of the floors were now vacant. Considering that managing small sections of floors would present challenges, the landlord was requested to consolidate the small sections into full floors. The leased area was therefore consolidated into 8th, 9th, 10th, and 11th floor which the contractor refurbished. The total floor area was the same as the initial floor area that had been tendered and ear marked for refurbishment. The contractor was paid for refurbishing a total area of 16,426 square feet which was within the total space tendered for of 16,975 square feet. No additional works were awarded.

Committee Observations and Findings

(i) The Committee observed that no evidence of recovery of liquidated damages had been provided for audit review;

(ii) The Committee also observed that the evidence of revision of the contract scope (consolidation of rented space) and that of refurbishment of 11th floor which, resulted to variation of contract had been provided for audit review; and

(iii)The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General with all information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

589. Accounts Payables

The statement of assets and liabilities reflects Kshs.447,619,133 against account payables and which, as disclosed in Note 10 to the financial statements includes deposits of Kshs.408,983,477.75 and Kshs.38,635,655.25 for Centre for Parliamentary Studies and Training (CPST) collection account. However, the Commission has not provided schedules together with other relevant documentary evidence in support of the balances. Consequently, the accuracy and validity of these balances cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the statement of assets and liabilities reflects Kshs. 447,619,133 against account payables which is disclosed in Note 10 to the financial statements to include deposits of Kshs. 408,983,477.75 and Kshs. 38,635,655.25 for Centre for Parliamentary Studies and Training (CPST) collection account. The deposits amount is 10% retention money deducted from various Contractors for construction works contracted by the Commission. See schedule of contractors and the amounts owed to each of them.

Committee Observations

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the validity and accuracy of the balances, though persuasive, should have been submitted to the Auditor General during the financial year for audit review.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

590. Pending Bills

As disclosed in Note 13.1 and detailed in Annex 1 to the financial statements, pending bills amounting to Kshs.409,090,308.56 were outstanding on 30 June 2017. Had these bills been paid and the expenditure charged to the accounts for 2016/2017, the statement of receipts and payments for the year then ended would have reflected a reduced net surplus of Kshs.42,250,526 instead of Kshs.451,340,835 now shown.

Submission by Accounting Officer

The Accounting Officer submitted that under Note 13.1 and as detailed in Annex 1 to the financial statements, Kshs. 409,090,308.50 was reflective as pending bills outstanding as at 30th June 2017. These bills could not be paid and therefore be charged to the accounts for the financial year 2016/2017 because the exchequer was received on the last day of business. The payments could not be processed through IFMIS and the Internet Banking system because the systems were down.

However, the Commission has managed to pay a total of Kshs. 384,593,140 of the bills and there remains Kshs. 24,497,168.00 which we hope to pay as we receive more Exchequer from the National Treasury.

Committee Observations and Findings

(i) The Committee observed that the Issue was resolved except for the bills amounting to Kshs.24,497,168 still outstanding;
(ii) The matter remains unresolved.

Committee Recommendations

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills are available, they should form a first charge in the subsequent year's budget thereby impending smooth implementation of the subsequent budget.

591. Outstanding Imprests

The statement of assets and liabilities reflects outstanding imprests of Kshs.5,576,926 which ought to have been recovered or accounted for on or before 30 June, 2017. No reasons have, however, been provided for failure to surrender or account for the imprests.

Submission by Accounting Officer

The Accounting Officer submitted that the outstanding imprest is made up of Kshs. 1,083,341.40 which is for former Members of Parliament and staff who are either deceased or were dismissed from the service. Efforts have been made to recover the amounts from their estates. The remaining Kshs. 3,993,359.70 has since been accounted for in full.

Committee Observations and Findings

The Committee observed that the issue was resolved apart from the balance of Kshs.1,083,341 owed from deceased and dismissed Members of Parliament and staff.

Committee Recommendations

(i) Within three months of the adoption of this report, the Accounting Officer must take action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.
(ii) Where the Accounting Officer fails to recover outstanding imprest of Kshs.1,083,341.00, the Accounting Officer should be surcharged pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.

592. Un-explained Differences

An analytical review of Notes 4, 6 and 7 to the financial statements and the ledger as at 30 June 2017 revealed some variations in account item balances totalling Kshs.95,223,895 as follows:

Note No.	Item	Financial Statements Balance Kshs.	Ledger Balance Kshs.	Difference Kshs.
4	Foreign Travel & subsistence	843,415,153	880,362,478	36,947,325
4	Hospitality supplies & services	233,954,901	233,974,901	20,000
6	Government Pension & Retirement Benefits	34,357,275	45,204,929	10,847,654
7	Construction of Buildings	1,392,463,425	1,439,872,341	47,408,916
	Totals	**2,504,190,754**	**2,599,414,649**	**95,223,895**

No reconciliation or explanation has been provided for the above difference.

PARLIAMENTARY CAR LOAN SCHEME FUND

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this fund.

PARLIAMENTARY MORTGAGE SCHEME FUND

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this fund.

54.0. NATIONAL ASSEMBLY

FINANCIAL STATEMENTS FOR VOTE 2042

Mr. Michael Sialai, the Accounting Officer for the National Assembly (Vote 2042) appeared before the committee on 29th July 2019 to adduce evidence on the Audited Financial Statements for the National Assembly (Vote 2042) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Irungu Kigunda - Ag. Director of Finance and Administration**
2. **Mr. Kennedy Malinda - Chief Procurement Officer**
3. **Mr. Jeremiah Ndombi - Deputy Clerk**
4. **Mr. Peter A. Meikoki - Chief Accountant**
5. **Mr. Anthony Njoroge - Director Legal Compliance**

Basis for Qualified Opinion

593. Outstanding Imprests

The statement of assets and liabilities reflects account receivable balance of Kshs.34,848,919 that include outstanding imprests totalling Kshs.33,615,058 which ought to have been recovered or accounted for on or before 30 June, 2017. No satisfactory reasons have, however, been provided for failure to surrender or account for the imprests.

Submission by Accounting Officer

The Accounting Officer submitted that that the current status was that all imprests and salary advances that were outstanding as at 30th June 2017 have been fully recovered except an amount of Kshs. 393,295.00 owed by a Member of Parliament which is being recovered from his pensions due under public liability. We expect to receive this amount as the claim has already been lodged with the Director of Pensions, National Treasury to clear the amount outstanding.

Committee Observations

(i) **The Committee observed that all imprests and salary advances that were outstanding as at 30th June 2017 had been fully recovered except an amount of Kshs. 393,295.00 being recovered; and**
(ii) **The matter remains unresolved.**

Committee Recommendations

(i) The Accounting Officer should put in place mechanisms to recevor the outstanding imprest in full amount from the defaulting Member with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.

(ii) Where the Accounting Officer fails to recover outstanding imprest of Kshs. 393,295.00, the Accounting Officer should be surcharged pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.

594. Accounts Payables

As disclosed in Note 13.1 and Annex 1 to the financial statements, the National Assembly had pending bills totalling Kshs.236,728,322 as at 30 June 2017. Had these bills been paid and the expenditure charged to the accounts for 2016/2017, the statement of receipts and payments for the year would have reflected a reduced surplus of Kshs.97,911,915 instead of Kshs.334,640,237 shown.

Submission by Accounting Officer

The amounts were pending bills for goods and services supplied and rendered, allowances to various Members and staff during the year but remained unpaid by closure of financial year.

This was occasioned by: -

(i) Processing challenges caused by IFMIS connectivity towards the end of the financial year such that we could not complete all the payment processes to the end for remittance to Central Bank through Internet Banking.

(ii) The exchequer requisitions were done but received on the last day of June yet there were systems breakdowns.

(iii) The available cash balances at the closure of financial year were surrendered to Treasury which could have been utilized to retire the bills instead.

(iv) Parliament was experiencing some transitional issues during that year after the separation of the Vote into Votes 2041 and 2042 with some being shared services initially procured under the one vote but required to be paid under the separate votes.

(v) Bills for procurements of air tickets and hotel accommodation were submitted when the IFMIS System was already closed and commitments could not be reversed to clear them.

(vi) Late submission and receiving of invoices by Suppliers and Service Providers towards closure of Financial Year.

However, the position has since changed with **Kshs. 214,914,583/=**of the total pending bills having been retired during the 2017/2018 Financial Year with balance of **Kshs. 21,813,741/=**yet to be settled due to lack of enough supporting documents or the amounts are disputed. All efforts are being made to retire any pending bill that meets the threshold of payment.

Committee Observations and Findings

The Committee observed that the matter was resolved except for the bills of Kshs. 21,813,741 still outstanding.

Committee Recommendations

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills are available, they should form a first charge in the subsequent year's budget thereby impending smooth implementation of the subsequent budget.

55. JUDICIAL SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2051

Unqualified opinion

There Committee noted that there were no material issues noted during the audit of the financial statements of this Commission.

56.0. COMMISSION ON REVENUE ALLOCATION

FINANCIAL STATEMENTS FOR VOTE 2061

Ms. Jane Kiringai, the Accounting Officer for the Commission on Revenue Allocation (Vote 2061) appeared before the committee on 29th July 2019 to adduce evidence on the Audited Financial Statements for the National Assembly (Vote 2042 Commission on Revenue Allocation (Vote 2061)) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1.	**Mr. George Ouko**	**-**	**Chief Executive Officer**
2.	**Ms. Irene Asiega**	**-**	**Commissioner**
3.	**Mr. Peter Gachuba**	**-**	**Commissioner**
4.	**Mr. Edward Oyugi**	**-**	**Commissioner**
5.	**Mr. Maureen K. Junge**	**-**	**Manager, Finance**

Unqualified opinion

There Committee noted that there were no material issues noted during the audit of the financial statements of this Commission.

57.0. PUBLIC SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2071

Unqualified opinion

There Committee noted that there were no material issues noted during the audit of the financial statements of this Commission.

58.0. SALARIES AND REMUNERATION COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2081

Unqualified opinion

The Committee obserbved that there were no material issues noted during the audit of the financial statements of the salaries and remuneration Commission.

59.0. THE TEACHERS SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2091

Dr. Nancy Macharia, the Accounting Officer for the Teachers Service Commission (Vote 2091) appeared before the committee on 28th May 2019 to adduce evidence on the Audited Financial Statements for the Teachers Service Commission (Vote 2091) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Ms. Lydia Nzomo - Chairperson TSC**
2. **Ms. Cheptumo Ayabei - Director Finance and Accounts**
3. **Mr. Allan M. Sitima - Legal Officer**
4. **Mr. William Maina - Accountant**
5. **Ms. Jane Kimathi - Administrator**
6. **Mr. Nicholas Mwaniki - Deputy Director Accounts**
7. **Ms. Grace Wanjiku Ngure - Deputy Director Accounts**
8. **Mr. Joseph Mugele - Assistant Deputy Director**
9. **Mr. John Karanja - Assistant Deputy Director**
10. **Mr. Joseph K. Mwangi - Assistant Deputy Director**

Basis for Qualified Opinion

595. Stores and Cash Losses

Note 8 to the financial statements reflects receivables – outstanding imprest and clearance accounts balance of Kshs.2,217,700,000 as at 30 June 2017. The figure of Kshs.2,217,700,000 includes unrecoverable losses of stores and cash losses amounting to Kshs.10,487,516 and Kshs.2,928,398 respectively, which as previously reported occurred between the years 1988 and 2000. The matter was investigated and the Director of Public Prosecutions directed the suspect to be charged with the offence of stealing by person employed in the Public Service contrary to Section 280 of the penal code. A review of the matter during the year under review indicates that the suspect was charged and the case is still pending. Although the case was set for hearing on 19 March 2018, it was adjourned to 25 June 2018.

Submission by Accounting Officer

The Accounting Officer submitted that there were losses occasioned by theft of stores which the Commission followed up and the suspect was charged at the Kibera Law Courts vide O.B.

NO.46/3/6/2013 with the offense of stealing by person employed in public service contrary to section 280 of the penal code. Though the Commission does not have control over the progress of the case, our legal officer is following up on the matter and has been able to ascertain from the court records that;

a) The Court heard all prosecution's witnesses and finalized proceedings on 14/2/2019.
b) The prosecution and defence rendered their respective submissions before Court on 4/3/2019; and
c) The Court's ruling on 12//3/2019 determined the Accused has a case to answer and next defence hearing date set for 12//6/2019.

Losses Ksh. 2,928,398

i) The losses were cash losses which occurred in the period 1988-2000 and the Commission followed up the matter in the Courts over several years culminating with the Investigating Officer's letter Ref: CID/IB/SEC/4/3/1/A/VOL.III/64 dated 5/9/2014 indicating the insurmountable challenges in charging the culprits. The Commission recommended and sought for the National Treasury's approval for write off vide letter Ref: TSC/FIN/32/VOL.IX/34 dated 9/ 6/17, followed with a reminder Ref: TSC/FIN/60/VOL.IV/109 dated 30/ 1/18 before recognizing the write off in our books.
ii) The National Treasury vide their letter Ref: AG/3/149/Vol.1/ (47) dated 6th March, 2018 responded and advised on the procedure to be followed when writing off losses and the Commission vide letter Ref: TSC/FIN/60/VOL.V/5 dated 11th July, 2018 followed the outlined procedure and attached additional evidence as requested. The National Treasury vide letter Ref: AG/3/149/Vol.1/ (54) dated 13th February, 2019 gave further guidelines that the Commission needed to follow in order to conclude the matter and the Commission has followed these new guidelines, re-submitted the request vide letter Ref: TSC/FIN/60/VOL.V/20 dated 5th March, 2019 and is awaiting conclusion of this matter.
iii) The Commission introduced a policy which requires that teachers' monthly salary be paid through bank accounts and currently there are no cash losses since all teachers are paid by Electronic Funds Transfer through their respective bank accounts.

Committee Observations and Findings

(i) The Committee observed that the matters involving stores and cash losses had not been resolved and they still feature in the Auditor-General report of 2017/18; and
(ii) The Committee observed that for the case of PAYE amounts paid to KRA for teachers who deserted their duty, Authority to write off Kshs. 68,802,494 was given on 19th March 2109 vide letter reference AG/3/149/Vol.I (56) addressed to the CEO, Teachers Service Commission; and
(iii)The Committee marked the matter as resolved.

Committee Recommendations

(i) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
(ii) **Accounting Officers must ensure that proper management and control of, and accounting for their finances in order to promote the efficient and effective use of budgetary resources pursuant to the provisions of section 68(2)(m) of the Public Finance Management Act, 2012.**

596. PAYE

Refunds Included in the balance of Kshs.2,217,700,000 under note 8 is a long outstanding Pay As You Earn (PAYE) amount of Kshs.128,392,939 which was paid to Kenya Revenue Authority (KRA) on account of former teachers who deserted their jobs and their salaries were returned to the Commission. Available information indicate that KRA carried out an audit on the PAYE amount and as a result adjusted the figure downwards to Kshs.46,060,915 as at 30 June 2017. A review of the matter in February 2018 revealed that the Commission had received a refund of Kshs.46,057,935 from KRA on 23 February 2018 and that it has sought authority to write-off the un-recoverable balance of Kshs.68,802,494 from the National Treasury. It is not clear if National Treasury will grant the authority. In the circumstances, it has not been possible to confirm the full recoverability of the accounts receivables - outstanding imprest and clearance accounts figure of Kshs.2,217,700,000 for the year ended 30 June 2017.

Submission by Accounting Officer

Refund of PAYE Ksh. 128,392,939

The Accounting Officer submitted that the Commission, as per Regulation 148(6) of the PFM Act Regulations, 2015 for the National Government sought approval for the write off of the un-recoverable balance of Kshs. 68,802,494.55 from the National Treasury vide letter Ref:TSC/FIN/32/VOL.IX/34dated 9/6/17, followed with a reminder Ref: TSC/FIN/60/VOL.IV/109 dated 30/ 1/18.

The National Treasury reviewed documents submitted by the Commission and vide letter Ref: AG/3/149/Vol.1/ (56) dated 19th March, 2019 approved the write off and concluded this matter after concurring that the threshold and procedure required by section 69(2) and Regulation 148(6) of the PFM Act (2012) had been met.

Committee Observations and Findings

(iii) **The Committee observed that pursuant to Regulation 148(6) of the PFM Act Regulations, 2015 for the National Government sought approval for the write off of the un-recoverable balance of Kshs. 68,802,494.55 from the National Treasury;**

(iv) **The Committee also observed that the National Treasury approved the write off and concluded this matter after concurring that the threshold and procedure required by section 69(2) and Regulation 148(6) of the PFM Act (2012) had been met;**

(v) **The Committee marked the matter as resolved.**

597. Property, Plant and Equipment

Schedule As reported in the previous years, the property, plant and equipment schedule balance of Kshs.3,662,965,318 under Annexure XIX as at 30 June 2017 includes Kshs.88,096 being the residual value of one (1) motor vehicle procured in 2004 at a cost of Kshs.2,085,869. A review of the matter in January 2018 revealed that the vehicle had earlier been taken and auctioned after obtaining a duplicate log book No.20063490279 from KRA. Although the commission repossessed the vehicle, a case is pending before a court of law as at the date of this report and the outcome is known.

Committee Observations and Findings

It was noted that the query was handled in the report for Financial Year 2015/2016.

60.0. NATIONAL POLICE SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2101

Mr. Joseph Onyango, the Principal Secretary Accounting Officer for the National Police Service Commission (Vote 2101) appeared before the committee on 2nd July 2019 to adduce evidence on the Audited Financial Statements for the National Police Service Commission (Vote 2101) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Eliud Kimuthia - Chairperson**
2. **Ms. Alice A. Otwala - Vice Chairperson**
3. **Mr. John Ole Moyaki - Commissioner**
4. **Mr. Naphtaly K. Rono - Commissioner**
5. **Mr. Eusebius K. Laibuta - Commissioner**
6. **Ms. Lilian M. Kiamba - Commissioner**
7. **Mr. Longinus Mulondo - Director Strategy Research & Vetting**
8. **Mr. Paul Ojwang - Manager Legal**
9. **Mr. Vincent Kimaru G. - Manager Supply Chain**
10. **Ms. Esther Kitonyi - Manager Accounts**

Basis for Qualified Opinion

601. Failure to Sign Lease Agreement

Disclosed under Note 4 to the financial statements is an expenditure of Kshs.57,001,777 in respect of rentals of produced assets. The amount includes Kshs.55,817,301 paid by the Commission for rent, parking and service charge to Park Plaza Ltd during the year under review. As similarly reported in the previous years, the Commission has failed to sign and register lease agreement for the property since1 December, 2012. In the circumstances, the validity of the payment of Kshs.55,817,301 cannot be confirmed.

Submission by Accounting Officer

The National Police Service Commission is established under Article 246 of the Constitution to manage the human resource of the National Police Service.
During the period under review the Commission had been using a signed Head of Terms between the Commission and the Landlord signed on the 18th December 2012**.**

The landlord subsequently drafted a lease agreement which the Commission shared with the Ministry concerned and was found to be contrary to government leasing practices. Due to the contention on the terms of the lease that was drafted by the Landlord, the Commission requested the Ministry to draft for the parties a standard Lease agreement in consonance with the government leasing practices and rules. The Ministry drafted the lease as requested which the Commission shared with the Landlord for his views**.** The Landlord rejected the draft Lease and this caused the stalemate that led to the failure to execute the lease agreement.

Notably, in view of the above and given that a signed Head of Terms is legally binding, it was the basis upon which the payments were made since the Commission was already in occupation and active use of the premises. The Commission has received a new letter of offer which is currently under consideration.

Committee Observations and Findings

(i) The Committee observed that National Police Service Commission incurred expenditure of Ksh.55,817,301.00 in respect of rent, parking and service charge to park plaza ltd without a varied lease agreement.
(ii) The Committee further observed that the National Police Service Commission made payment based on signed Head of Terms following a lease agreement stalemate between the ministry of Lands and the landlord
(iii) The matter remains unresolved.

Committee Recommendations

The National Police Service Commission must within three (3) months upon adoption of this report secure a valid lease agreement else the Commission should look for alternative office accommodation.

602. Direct Procurement for Maintenance of Motor Vehicles

Disclosed also under Note 4 is an expenditure of Kshs.13,754,540 in respect of routine maintenance – vehicles and other transportation equipment. Although the Commission prequalified twenty-three firms for provision of repairs of motor vehicle services, a firm was awarded contract at Kshs.3,807,201.60 through direct procurement method for the same. No satisfactory explanation has been provided for failure to invite pre-qualified suppliers to submit their bids.

Submission by Accounting Officer

The Accounting Officer submitted that the Commission initially invited prequalification/registration of suppliers for Provision of motor vehicle repair and maintenance out of which we got twenty-three (23) firms. Out of the 23 firms majority had no mechanics with experience and expertise to handle type of vehicles (Land Rover discovery) and the dealer (M/s CMC Motors Ltd) who had qualified staff specializing with this type of vehicles used to have fleet of vehicles to repair.

He noted that as of the close of the year 2012, CMC was the appointed dealer of Land Rover, but the distribution dealership agreement was withdrawn and granted to RMA Group. In 2016 RMA group-initiated exit strategy and the same dealership was to be transferred to Inchcape. The transfer of dealership from RMA to Inchcape was not smooth and it resulted in most of RMA land rover technical staff being absorbed by various garages. Inchcape didn't manage to inherit full technical expertise and therefore they had limited capacity to handle the said vehicle.

As a result, the Commission needed to prequaliFinancial Year/register more garages with specialization of our vehicles especially for Land rover Discovery VDS 6. The Commission endeavoured to update its list immediately after identiFinancial Yearing a potential garage. Upon receiving application from A-one Auto Services Ltd for prequalification/registration and having conducted due diligence and confirmed that they were handling similar vehicles; the list was updated to include M/s A-one Auto Services Ltd as one of our prequalified garage.

The decision to update list of prequalified/registered suppliers for provision of motor vehicle repair and maintenance was supported by the Provision of Section 71 of the PPAD Act, 2015 provides some guidelines for Registration of Suppliers of which includes:

a) The list of registered suppliers can be updated continuously
b) The application to be registered can be made anytime and at no cos
c) The list shall be applied on the alternative procurement methods and the list shall: Be generated through portal, websites and people submitting hard copies of their intention to supply; Allow for continuous applications and hence updating; Be generated through market knowledge and survey; and Be as may be prescribed.

While the Commission had a list of prequalified suppliers at the initial stage with twenty-three firms for provision of repairs of motor vehicles service, it applied the provisions of Section 71 of the Act, 2015 to update its list and that's how M/s A-One Auto Services Ltd together with other suppliers were added to the Commissions' list of prequalified/registered suppliers. M/s A-One Auto Services Ltd had been invited through request for quotation to repair the land rover discovery vehicles and when additional services were needed, they were procured from him to ensure compatibility through direct procurement pursuant to Section 103 (2) (d).

The Commission is committed to ensuring that all contracts entered in to are in compliance with prevailing laws and regulations.

Committee Observations and Findings

(i) The Committee observed that the National Police Commission awarded contract at Ksh.3,8087,201.60 to a firm that was not in the initial list of prequalified suppliers;

(ii) The Committee observed that the Commission used the provision of section 71 of Public Procurement and Disposal Act to update its original list of prequalified suppliers.

(iii) The Committee marked the matter as resolved.

61.0. OFFICE OF THE CONTROLLER OF BUDGET

FINANCIAL STATEMENTS FOR VOTE 2121

Ms. Agnes Odhiambo, the Accounting Officer for the Office of the Controller of budget (Vote 2121) appeared before the committee on 9th May 2019 to adduce evidence on the Audited Financial Statements for the Office of the Controller of budget (Vote 2121) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Stephen Masha - Deputy Controller of Budget**
2. **Pauline Mwagambo - Accountant**
3. **Pamela Okatch - Chief Manager Finance & CMFA Accounts**
4. **Ben Simiyu Makhanu - Internal Auditor**
5. **Joseph M. Tulula - Chief Internal Auditor**
6. **Macklin A. Ogolla - Director CS**

Unqualified opinion

There Committee noted that there were no material issues noted during the audit of the financial statements of this Office.

62.0. THE COMMISSION ON ADMINISTRATIVE JUSTICE

FINANCIAL STATEMENTS FOR VOTE 2131

Mr. L. S. Ngaluma, the Accounting Officer for the Commission on Administrative Justice (Vote 2131) appeared before the committee on 8th August 2019 to adduce evidence on the Audited Financial Statements for the Commission on Administrative Justice (Vote 2131) for the Financial Year 2016/2017. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1.	**Mr. Washington Opiyo Sati**	**-**	**Vice Chairperson**
2.	**Mr. Bernard Nyariki**	**-**	**Finance Manager**
3.	**Ms. Viola Ochola**	**-**	**Legal Manager**
4.	**Mr. D. M. Kesomo**	**-**	**Director Corporate Services**
5.	**Mr. Justus Manyasa**	**-**	**Administrative Assistant**
6.	**Mr. Douglas Okeya**	**-**	**Sign Language Interpreter**

Unqualified opinion

The Committee observed that there were no material issues noted during the audit of the financial statements of the Commission.

63.0. NATIONAL GENDER AND EQUALITY COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2141

Unqualified opinion

There committee observed that there were no material issues noted during the audit of the financial statements of this Commission.

64.0. INDEPENDENT POLICING OVERSIGHT AUTHORITY

FINANCIAL STATEMENTS FOR VOTE 2151

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this Authority.

Sign:………………………………………………. Date: 27th November 2019

HON. JAMES OPIYO WANDAYI, MP

CHAIRPERSON