

Approved for tabling in the House.

~~Bar~~ SNA  
8/6/2022.

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT- SIXTH SESSION

THE PUBLIC ACCOUNTS COMMITTEE

**THE REPORT ON THE EXAMINATION OF THE REPORT  
OF THE AUDITOR-GENERAL ON THE FINANCIAL  
STATEMENTS FOR THE NATIONAL GOVERNMENT  
FOR THE FINANCIAL YEAR 2019/2020**

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

JUNE, 2022

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



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

SAGAs	-	Semi-Autonomous Government Agencies
SCAC	-	State Corporation Advisory Committee
SFAC	-	Special Funds Accounts Committee
SRC	-	Salaries and Remuneration Commission
TMEA	-	Trade Mark East Africa
UNDP	-	United Nations Development Programme
UNHCR	-	United Nations High Commissioner for Refugees
UNICEF	-	United Nations Children's Fund
USAID	-	United States Agency for International Development
VGA	-	Volunteer Graduate Assistants
VAT	-	Value Added Tax
YEDF	-	Youth Enterprise Development Fund

FINAL REPORT 2019/2020

## CHAIRPERSON'S FOREWORD

Honourable Speaker, on behalf of the Public Accounts Committee (PAC), and pursuant to Standing Order 199, I wish to present to the House the report of the Committee on the audited financial statements of Ministries, State Departments, Commissions and Independent Offices for financial year 2019/2020.

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

Honourable Speaker, the tabling of this report, coming just a few days before the House adjourns *sine die*, as the term of the 12<sup>th</sup> Parliament comes to an end, marks the conclusion of the Committee's work which it set out to accomplish when it was inaugurated on 17<sup>th</sup> December 2017. We look back with a great sense of satisfaction with the achievements that we have made over the period. In addition to this report, the Committee has previously tabled five reports on the audited financial statements of the Ministries, State Departments, Commissions and Independent Offices for financial years 2014/2015, 2015/2016, 2016/2017, 2017/2018 and 2018/2019. We are pleased to note that the Public Accounts Committee of the incoming 13<sup>th</sup> Parliament will be starting on a clean slate, with no backlog of unexamined audit reports.

The Committee held a total of 102 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 received unqualified opinion from the Auditor General. The Committee remains forever grateful to them for their diligence. I still encourage all other Accounting Officers to emulate these worthy examples, particularly as the country transits into the next political dispensation.

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

In conclusion, Honourable Speaker, I wish to register my appreciation to fellow Honourable Members of the Committee, the Offices of the Speaker and the Clerk of the National Assembly and the Parliamentary Liaison Offices of the Auditor General and the National Treasury for facilitating the work of the Committee and making the production of this report possible. Special appreciation goes to the Directorate of 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, CBS, MP**

## 1. INTRODUCTION

### 1.1 Establishment of the Public Accounts Committee

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

### 1.2 Mandate of the Committee

- 2) PAC is mandated under Standing Order 205 (2) of the National Assembly Standing Orders to examine the accounts showing the appropriations of the sum voted by the House to meet the public expenditure and of such other accounts laid before the House as the committee may deem fit.
- 3) The Committee oversees the expenditure of public funds by ministries, state departments, commissions and independent offices, to ensure value for money and adherence to government financial regulations and procedures. The Committee executes its mandate on the basis of annual and special audit reports prepared by the Office of the Auditor General.

### 1.3 Guiding Principles

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

#### a) Constitutional Principles on Public Finance

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

**201(a)** there shall be openness and accountability, including public participation in financial matters;

**201(d)** public money shall be used in a prudent and responsible way; and

**201(e)** financial management shall be responsible, and fiscal reporting shall be clear.

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

#### b) Direct Personal Liability

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



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

#### **c) Obligations of Accounting Officers**

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

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

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

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

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

#### **1.4 Committee Membership**

14) The Committee is comprised of the following Members

**Hon. James Opiyo Wandayi, CBS, MP, Chairperson**

Ugunja Constituency

**Orange Democratic Movement Party**

**Hon. Jessica Nduku Kiko Mbalu, CBS, MP, Vice- Chairperson**

Kibwezi East Constituency

**Wiper Democratic Movement Kenya Party**

## **Members**

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

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

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

Hon. Christopher Nakuleu Doye  
TurkanaNorth Constituency  
**Jubilee Party**

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

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

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

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

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

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

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

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

Hon. James Gichuhi Mwangi, MP  
Tetu Constituency  
**Jubilee Party**

Hon. Samuel Kinuthia Gachobe, MP  
Subukia Constituency  
**Jubilee Party**

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

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

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

## 1.5 Committee Secretariat

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

FINAL REPORT 2019/2020

## 2. GENERAL OBSERVATIONS AND RECOMMENDATIONS

### 3.0 Introduction

- 1) The Committee made the following general observations, findings, and recommendations from the proceedings, evidence tendered and selected project visits relating to the report of the Auditor-General on the financial statements for Ministries, State Departments, Commissions and Independent Offices for the financial year ended June 30, 2020.
- 2) Accounting Officers for the various the Ministries, Departments and Agencies (MDAs), Judiciary, Parliament, Constitutional Commissions and Independent Offices are required to monitor, evaluate and oversee the management of public finances in their respective entities. Section 66 of the Public Finance Management (PFM) Act 2012 mandates the Accounting Officers to ensure proper management and control of and accounting for their finances to promote the efficient and effective use of budgetary resources. The Committee made the following general observations on the implementation of the approved budget for the financial year 2019/2020:-

### 4.0 Under Expenditures by the National Government Entities

- 3) A comparison of the gross estimated expenditure of Kshs.2,815,088,705,839 with the actual expenditure of Kshs.2,592,356,535,297 results in a gross under-expenditure of Kshs.222,732,170,541. The under-expenditure of Kshs.222,732,170,541 comprised under-expenditure of Kshs.76,725,234,364 under Recurrent Votes, Kshs.71,191,799,054 under Development Votes and Kshs.74,815,137,123 for Consolidated Fund Services as shown in table 2.1

**Table 2.1: Comparison of the National Government's Gross Estimated Expenditures and Actual Expenditure in the Financial Year 2019/2020 in Kenya Shillings**

Votes	Gross Estimated Expenditure 2019/2020 (Kshs.)	Actual Expenditure 2019/2020 (Kshs.)	Under Expenditure (Kshs.)	Under Expenditure % age
Recurrent	1,261,403,412,492	1,184,678,178,128	76,725,234,364	6%
Development	683,204,267,880	612,012,468,826	71,191,799,054	10%
Consolidated Fund Services	870,481,025,467	795,665,888,344	74,815,137,123	9%
<b>Total</b>	<b>2,815,088,705,839</b>	<b>2,592,356,535,297</b>	<b>222,732,170,541</b>	<b>8%</b>

*Data Source: The Kenya National Audit Office*

- 4) The under-expenditure of Kshs.76,725,234,364 and Kshs.71,191,799,054 under the Recurrent and Development Votes, respectively, was mainly attributed to lack of adequate Exchequer releases to finance all the budget requests by Ministries, Departments and Agencies (MDA's), and delayed disbursement of donor funds. The



under-expenditure by the various entities hampers services delivery and development projects.

5) The Committee recommends that:

- 1) **The Cabinet Secretary for the National Treasury and Planning should ensure that the national budgeting is realistic and based on solid assumptions including realistic revenue projections.**
- 2) **The National Assembly to fast-track the proposal by the Committee to amend Section 44 of the PFM Act 2012 to provide that all supplementary budget estimates are submitted to Parliament not later than two months (60 days) before the close of the financial year.**

## 2.2 Statement on the Revenue Received and Audited for the period ending 30<sup>th</sup> June 2020

- 6) During the 2019/2020 financial year, total revenue recorded under various revenue statements as received by the National Government amounted to Kshs.1,730,992,693,864 representing an increase of Kshs.143,402,733,987 or about 9% when compared to actual collections of Kshs.1,587,589,959,877 realized in the year 2018/2019.

Details	Actual Receipts	Actual Receipts	Change in Revenue	percent Change
	2019/2020	2018/2019		
Recurrent	1,673,714,909,446	1,537,471,281,334	136,243,628,112	9
Development	57,277,784,418	50,118,678,543	7,159,105,875	14
<b>Total</b>	<b>1,730,992,693,864</b>	<b>1,587,589,959,877</b>	<b>143,402,733,987</b>	

**Data Source:** The Kenya National Audit Office

- 7) The total revenue of Ksh. 1,730,992,693,864 comprised of Ksh. 1,673,714,909,446 and Ksh. 57,277,784,418 relating to recurrent (ordinary revenue) and development revenue, respectively, as shown in Table 2.2. Further report by the Auditor-Generals shows that the actual ordinary revenue (tax and non-tax income receipts) of Kshs.1,673,714,909,446 reported in the audited revenue statements during the year differs by Kshs.54,917,131,552 with the ordinary revenue receipts of Kshs.1,618,797,777,894 reflected in the National Exchequer Account. The National Treasury attributes the difference to failure by some Receivers of Revenue to transfer all the collected revenue to the Exchequer by the close of the financial year. There was a shortfall of Development Revenue collected of Kshs. 13,578,220,986 or 19 percent.

8) The Committee recommends that:

- (i) **The total nationally collected revenue amount of Ksh. 1,730,992,693,864 forms the basis of sharing of revenue between the national and county governments as contemplated in Article 203 (3) of the Constitution.**

### 2.3 Inadequate Funding of the Office of the Auditor-General

- 9) Article 229 (7) of the Constitution requires the Auditor-General to audit and submit reports to Parliament or the relevant County Assembly within six (6) months after the end of the financial year. However, Section 81(4) of the Public Finance Management Act, 2012, reduces the timeline to three (3) months by giving entities leeway up to the end of September to prepare and submit financial statements for audit. The shortened duration for the audit cycle, inadequate funding and delays in disbursement of funds by the National Treasury adversely affect the scope of audit in terms of coverage and comprehensiveness.
- 10) The Office of the Auditor-General receives less than 0.20 percent of the total share of the national government budget.

<b>Share of Auditor-General Office budget allocation as share of the National Government Budget from financial year 2016/2017 to financial year 2019/2020</b>			
<b>Financial Year</b>	<b>National Budget Kshs. (Billions)</b>	<b>OAG Budget Allocation Kshs. (Billions)</b>	<b>% of Allocation to National Budget</b>
2016/2017	2,541	4.428	0.17%
2017/2018	2,690	5.296	0.20%
2018/2019	3,106	5.968	0.19%
2019/2020	3,163	5.505	0.17%

*Data Source: Office of the Auditor-General*

- 11) Analysis of the resource requirements Vis-a- Vis the allocation by the National Treasury and approval by the National Assembly shows that on average, the Office of the Auditor-General received less than 0.2 percent of the total national government's annual budget.
- 12) The Committee reiterates its recommendations in the report for FY 2018/2019:
- 1) **The annual budget allocation to the Office of the Auditor-General shall not be less than one half per cent of all the revenue collected by the national government each year calculated based on the most recent audited accounts of revenue received, as approved by the National Assembly.**

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

#### **2.4 Lack of Follow-Up Mechanisms on Implementation of Recommendations**

- 13) The Auditor-General and indeed the Committee has continuously raised concerns on lack of an effective mechanism for follow up on implementation of audit recommendations leading recurrence of most audit queries in subsequent audit reports due to lack of adequate action. Section 204(1) (g) of the Public Finance Management Act, 2012 provides that the Cabinet Secretary for the National Treasury may apply sanctions to a national government entity that fails to address issues raised by the Auditor-General and recommendation by PAC, to the satisfaction of the Auditor-General.
- 14) The Committee notes with lots of concern the lack of requisite sanctions by the Cabinet Secretary for the National Treasury that has led to perennial failure by some Accounting Officers to account adequately for the management and use of public resources. This inaction by the Cabinet Secretary has also led to fiscal indiscipline including misallocations, wastage of resources and lack of value for money in implementation of projects, thereby affecting development programmes in various entities and threatening quality and sustainability of service delivery to citizens.
- 15) The Committee reiterates its recommendations that:
- (i) **The Committee reiterates its recommendation that the Parliamentary Service Commission establishes a specialized audit oversight Department at the Parliamentary Budget Office (PBO) to provide technical backstopping on all audit matters to the watchdog Committees of Parliament and collaborate with the Auditor-General in following up on implementation of audit recommendations and Parliament resolutions on all audit matters.**

#### **2.5 Breach of Fiscal Responsibility Principle on Development Spending**

- 16) The National Treasury is the custodian of the principles of public finance as espoused in Article 201 of the Constitution and mandated to enforce the fiscal responsibility principles in Section 15 of the Public Finance Management Act, 2012. The National Treasury has failed to ensure adherence to Section 15(2) (a) of the Public Finance Management Act, 2012 that requires that, over the medium term a minimum of thirty percent of the national and county government budget shall be allocated to the development expenditure.
- 17) During the financial year 2019/2020, development expenditure accounted for 24 percent of the total expenditure contrary to Section 15(2)(a) of the Public Finance Management

Act, 2012 which requires that, over the medium term a minimum of thirty percent of the national and county governments budget shall be allocated to the development expenditure.

<b>Table 2.5: Summary of Actual Expenditures for the Financial Year 2019/2022 in Kenya Shillings</b>		
<b>Votes</b>	<b>Actual Expenditure</b>	<b>Percentage of Actual Expenditure to Total Expenditure</b>
Recurrent Votes	1,184,678,178,128	46%
Development Votes	612,012,468,826	24%
Consolidated Fund Services	795,665,888,344	31%
<b>Total</b>	<b>2,592,356,535,297</b>	<b>100%</b>

*Data Source: The Kenya National Audit Office*

- 18) In the financial year 2019/2020, the national government actual expenditure was Kshs. 2,592,356,535,297 comprising of Kshs. 1,184,678,178,128 or 46 percent for Recurrent Votes, Kshs. 612,012,468,826 or 24 percent for Development Votes and Kshs. 795,665,888,344 or 31 percent for Consolidated Fund Services (mainly repayment of principal debts and servicing interest). The Cabinet Secretary for the National Treasury charged with the mandate of overseeing budget implementation at the national level as per Section 36 (1) of the Public Finance Management Act, 2012 has consistently failed to ensure that development budget implementation meets the required minimum of thirty percent.
- 19) The Committee repeats its recommendations that:
- (i) **The Committee reprimands the Cabinet Secretary for the National Treasury for failure to enforce the fiscal responsibility principles in Section 15 (2) that requires the development budget meets the required minimum of thirty percent (30 percent).**

## **2.6 The Equalization Fund**

- 20) Article 204(1) of the Constitution of Kenya, 2010 requires that one-half percent (0.5%) of all the revenue collected by the National Government each year, calculated based on the most recent audited accounts of revenue received as approved by the National Assembly, be paid into the Equalization Fund. The total accumulated entitlement to the



Fund for the financial years 2011/2012 to 2018/2019 is Kshs.26.92 billion as at 30 June 2020.

- 21) A review of the financial statements for the Equalization Fund for the year ended 30 June, 2020 revealed that only an amount of Kshs.12,400,000,000 out of the expected Kshs.26,920,978,551 of the total entitlement had been transferred to the Equalization Fund Account. The National Treasury had not remitted the remaining balance of Kshs. 14,520,978,551 to the Fund as at 30 June 2020 in breach of the Constitution. Further analysis indicates that:
- (a) The amount transferred of Kshs.12,400,000,000 was done in two tranches of Kshs.6,400,000,000 during 2015/2016 financial year, and a further Kshs.6,000,000,000 in the 2016/2017 financial year. This is only 46% of the total entitlements of Kshs. 26,920,978,551 for the financial years 2011/2012 to 2018/2019. The National Treasury did not transfer any allocation to the Fund during the financial years 2019/2020.
  - (b) The National Treasury attributed this to a High Court of Kenya ruling dated 05 November 2019 that declared the Guidelines on the Administration of the Equalization Fund published on 13 March 2015 null and void.
  - (c) In addition, out of the Kshs.12,400,000,000 so far transferred to the Fund Account, only Kshs.10,116,573,051 or 82% had been disbursed for the approved projects, through the parent Ministries to the identified Counties, leaving a balance of Kshs.2,283,426,949 still held in the Fund Account as at 30 June, 2020.
  - (d) Further, out of the disbursed amount of Kshs.10,116,573,051, only Kshs.8,836,046,718 or 87% had been spent as at 30 June, 2020, leaving a balance of Kshs.1,280,526,333 still held by the parent Ministries in their respective bank accounts.
- 22) The Committee noted with grave concern that the Fund, which is bound to lapse in twenty (20) years since inception as per Article 204 (6) of the Constitution, may not achieve the desired Constitutional objective. Comparison between the total entitlement of Kshs. 26,920,978,551 and the disbursed amount of Kshs. 10,116,573,051 represents a dismal overall performance of 38% for the eight (8) years, since the inception of the Fund. The Fund administration has attributed the low level of disbursement to delayed formulation of policies, delayed project identification and legislative hurdles.
- 23) The Committee restates its previous recommendations that:
- 1) **The National Treasury should fast track the full implementation of the Public Finance Management (Equalization Fund Administration) Regulations, 2021; and**
  - 2) **Within three (3) months of adoption of this report, the Cabinet Secretary for the National Treasury submits to Parliament, an Equalization Fund financing**

**plan with a road map of transferring the total constitutional entitlement to the Fund for project implementation.**

## **2.7 Delayed Completion and Stalled/Incomplete Projects**

- 24) The national government continues to incur huge expenditure on projects that either had stalled or had remained incomplete long after their completion dates had elapsed. Delays in project completion has led to penalties due to delays in payment of completion certificates, projects costs escalations to amounts higher than the original contract sum, and in some instances, government paying for projects that are completely stalled thus casting doubt on value for money.
- 25) The government incurred a total of Kshs. 3.87 billion on stalled and incomplete projects during FY 2019/2020. The entities that continued to commit public funds on stalled and incomplete projects included the State Department for Regional and Northern Corridor Development which paid Kshs. 3.49 billion as an advance payment for Kimwarer Multipurpose Dam Development Project and Sigor Wei Wei Project. The State Department of Public Works paid Kshs. 101million for Proposed Headquarters of Nyandarua County at Ol-Kalaou and the Judiciary paid Kshs. 101.2 million for the stalled construction of Turkana High Court.
- 26) The Committee recommends that:
- 1) **Reiterates that the Cabinet Secretary for the National Treasury and Planning should ensure that MDAs with stalled/incomplete projects do not initiate any new project until the completion of the on-going projects. Further, the respective Departmental Committees of the National Assembly should ensure that stalled/incomplete projects with no legal objections are given priority during budget appropriation; and**
  - 2) **The relevant government entity liaise with the investigatory body and the Judiciary for timely conclusion of any investigation and/or case to allow any public project stalled due to an on-going investigation or a court case to continue as planned.**

### 3. THE NATIONAL TREASURY

#### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1071

**Dr. Julius Muia, PhD, CBS, the Principal Secretary and Accounting Officer for the National Treasury (Vote 1071), appeared before the Committee on 8<sup>th</sup> March, 2022 to adduce evidence on the audited financial statement for the National Treasury (Vote 1071) for the Financial Year 2019/2020. The following officers accompanied the Accounting Officer:**

1. Mr. Benard Ndungu - Director General Accounting Services & Quality Assurance
2. Mr. Michael Kagika - Secretary Directorate of Pensions
3. Mr. Nemwel Mutanya - Head Accounting Unit
4. Mr. Wambaya Kituyi - Head Supply Chain Management Services
5. Mr. Francis L. Amuyunju - Deputy Accountant General
6. Ms. Onsomu Damaris - Senior Principal Finance Officer

The Accounting Officer submitted as follows:

#### **Basis for Qualified Opinion**

##### **1. Accuracy of the Financial Statements**

27) The financial statements of The National Treasury for the year ended 30 June 2020 reflect various differences between the financial statements/general ledger presented for audit review and the Integrated Financial Management Information System (IFMIS) generated financial statements as follows:

Description	Amount as per Financial Statements/ General Ledger/ Other Supporting Documents (Kshs.)	Amount as per IFMIS Generated Financial Statements (Kshs.)	Variance (Kshs.)
Proceeds from Domestic Borrowings	-	(558,870,164,000)	558,870,164,000
Bank Balances	670,932,773	(207,268,684,434)	207,939,617,210
Cash Balances	390,518	45,618,690,325	(45,618,299,807)
Accounts Receivable	889,462,799	600,355,853	289,106,946
Accounts Payable	86,848,069	394,355,514,906	(394,268,666,837)
Fund Balance b/fwd	2,071,634,749	3,069,187,148	(997,552,399)
Surplus/Deficit for the Year	358,500,354	412,394,681,889	(412,036,181,535)
Prior Year Adjustments	(956,197,623)	-	(956,197,623)
Net Financial Assets	1,473,937,480	(555,405,153,165)	556,879,090,645

Net Financial Position	1,473,937,480	415,463,869,038	(413,989,931,558)
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28) No explanation or reconciliations provided for the above variances.

#### Submission by the Accounting Officer

29) The Accounting Officer submitted that the audit revealed differences between the Financial Statements/General Ledger presented and the IFMIS generated financial statements notes as at 30<sup>th</sup> June 2020. These balances originate back from F/Y 2013/2014. The reconciliation has been done and the items tabulated here below indicate that the Financial Statements/General ledger balances as at 30 June 2020 agree with the IFMIS Generated Financial Statement notes.

Description	Amounts as per Financial Statements/ General Ledger/Other Supporting documents (Kshs.)	Amount as per IFMIS Generated Financial Statements (Kshs.)	Variance (Kshs.)
Proceeds from Domestic Borrowings	-	-	-
Bank Balances	670,932,773	670,932,773	-
Cash Balances	390,518	390,518	-
Accounts Receivable	889,462,799	889,462,799	.-
Accounts Payable	86,848,069	86,848,069	-
Fund Balances b/fwd	2,071,634,749	2,071,634,749	-
Surplus/Deficit for the Year	358,500,354	358,500,354	-
Prior Year Adjustments	(956,197,623)	(956,197,623)	-
Net Financial Assets	1,473,937,480	1,473,937,480	-
Net Financial Position	1,473,937,480	1,473,937,480,	-

30) IFMIS generated financial statements notes as at 30<sup>th</sup> June 2020 confirming reconciled figures are as per.

#### 31) Committee Observation

The audit revealed differences between the Financial Statements/General Ledger presented and the IFMIS generated financial statements notes as at 30 June 2020. These balances dates back from F/Y 2013/2014.

#### 32) Committee Recommendation

The Accounting Officer has ensured reconciliation and the Financial Statements/ General ledger balances as at 30 June 2020 agree with the IFMIS Generated Financial Statement notes. The explanation by the Accounting Officer was satisfactory and the Committee therefore resolved the matter.



## **2. Long Outstanding Reconciling items**

33) The statement of asset and liabilities reflects a cash and cash equivalents balance of Kshs.671,322,790 as at 30 June 2020, which includes an amount of Kshs.15,747,925 held in the recurrent bank account. However, the bank reconciliation statement for the recurrent bank account reflected an amount of Kshs.5,632,659 payments in the bank statement not in the cashbook as at 30 June, 2020, out of which an amount of Kshs.2,192,655 related to 2018/2019 and earlier years. No explanation has been provided on why the payments were not recorded in the Cashbook and why the long outstanding amount of Kshs.2,192,655.35 remained uncleared as at 30 June, 2020. Under the circumstances, the accuracy of the cash and cash equivalents balance of Kshs.671,322,790 as at 30 June, 2020 could not be confirmed.

### **Submission by the Accounting Officer**

34) The Accounting Officer submitted that it was true that an amount of Kshs.2,192,655.35/- being payment in bank not in cashbook relating to 2018/2019 and earlier years was outstanding in the bank reconciliation. The amounts have since been posted in the cashbook and cleared from the bank reconciliation. Cashbook excerpts and payment voucher are attached showing the entries of the various figures.

### **35) Committee Observation**

**The bank reconciliation statement for the recurrent bank account reflected an amount of Kshs.5,632,659 payments in the bank statement not in the cashbook as at 30 June 2020, out of which an amount of Kshs.2,192,655 related to 2018/2019 and earlier years.**

### **36) Committee Recommendation**

**The Accounting Officer agreed with the audit findings. However, the amount has now been posted in the cashbook cleared from the bank reconciliation. The explanation by the Accounting Officer was satisfactory and the Committee therefore resolved the matter.**

### **Other Matter**

## **3. Pending Bills**

37) As disclosed in Note 19.1 to the financial statements, The National Treasury had pending bills of Kshs.111,788,207 as at 30 June 2020. The bills comprised of Kshs.2,241,906 under construction of buildings, Kshs.35,533,799 under civil works and Kshs.74,012,502 under supply of goods that were not settled in the year under review but were carried forward to 2020/2021 financial year. Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

### **Submission by the Accounting Officer**

38) The Accounting Officer submitted that the Financial Statements on pending accounts payable reflects pending bills for supply of services amounting to Kshs.111,788,207 as at 30th June 2020.

39) The figure refers to the payments relating to renovation of buildings Ksh.2,241,906, civil works Ksh.35,533,799 and supply of goods Ksh.74,012,502 being invoices from suppliers that were received late but did not have supporting documents such as demands notes (invoices), requisitions and approvals for services, delivery notes, LSO's, LPOs, S11 and S13 among others.

40) A team of Internal Auditors verified and recommended them for payments and all were paid as they formed first charge of FY 2020/21 budget. The auditor confirmed the payment

#### 41) **Committee Observation**

**The National Treasury had pending bills of Kshs.111,788,207 as at 30 June 2020. The bills comprised of Kshs.2,241,906 under construction of buildings, Kshs.35,533,799 under civil works and Kshs.74,012,502 under supply of goods.**

#### 42) **Committee Recommendation**

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

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

#### **Basis for Conclusion**

#### **4. Refurbishment of The National Treasury Building**

##### **4.1 Refurbishment of Budget Offices**

43) The proposed refurbishment works of the 13th Floor was awarded to a local firm at a total cost of Kshs.28,942,000. The contract between The National Treasury and the firm was signed on 19 June, 2020 with an expected contract period of twelve (12) weeks. Included in the contract sum of Kshs.28,942,000 is an amount of Kshs.700,000 described as provisional sum. However, no information was provided on how the provisional sum was determined and utilized.

##### **Submission by the Accounting Officer**

44) The Accounting Officer submitted that the contractors were given site instructions on 22nd June, 2020 by the project manager where they were instructed to omit certain items from the bills of quantities and include other items which amounted to Kshs.700,000.00

i. The Committee marked the matter as resolved.

##### **4.2 Refurbishment Works of 6th and 7th Floor, Treasury Building**

45) Tender No.TNT/041/2019-2020 was awarded to a local construction firm at a total cost of Kshs.37,109,374. The contract was signed between The National Treasury and the contractor on 19 June, 2020 with an expected contract duration of twelve (12) weeks. Included in the contract sum of Ksh.37,109,374 is an amount of Kshs.800,000 described as provisional sum. However, no information was provided on how the provisional sum was determined and utilized.

#### **Submission by the Accounting Officer**

46) The Accounting Officer submitted that the contractors were given site instructions on 17th June, 2020 by the project manager where they were instructed to include other items which amounted to Kshs.800,000.00.

#### **47) Committee Observation**

**The National Treasury awarded to a local construction firm a tender totaling cost of Kshs.37,109,374 including an amount of Kshs.800,000 described as provisional sum. However, there was no information on how the provisional sum was determined and utilized**

#### **48) Committee Recommendation**

**Accounting officers submission that the contractor was issued with instructions on 17 June 2020 by the project manager to include other items totaling to Kshs.800,000.00 was satisfactory and therefore the Committee therefore resolved the matter.**

### **4.3 Pending Bills Payment on Contract for the Supply, Installation, Testing and Commissioning of Baggage Scanners, walk through Scanners, Hand-Held Metal Detectors and Associated Works**

49) The reported pending bills of Kshs.111,788,207 as at 30 June, 2020 includes amounts of Kshs.5,186,800 and Kshs.3,488,680 payable to a local firm. The pending payments were in relation to the contract for the supply, installation, testing and commissioning of baggage scanners, walk through scanners, hand-held metal detectors and associated works at both the Treasury Building and Bima House. The pending bills owed to the firm were subsequently paid on 26 November, 2020 and 27 November, 2020 respectively being the 2nd Payment Certificate and the 10% Retention monies respectively.

50) A physical verification carried out at the baggage scanners and walk through scanners at the Treasury Building and Bima House revealed that the scanners had not been in operation since June, 2020 and it was not possible to confirm if they were in good working condition. Under the circumstances, The National Treasury may not have received value for money for the expenditure of Kshs.8,675,480.

#### **Submission by the Accounting Officer**

51) The Accounting Officer submitted as follows:

- 1) That the Proposed Supply, Installation, Testing and Commissioning of Baggage Scanner, Walk Through Scanner and Hand Held Metal Detectors and Associated Works in Treasury Building and Bima House was awarded to M/s Blackwood Limited of P.O. Box 899 00200 Nairobi at a total contract amount of Kenya Shillings Thirty-Four Million Eight Hundred and Ninety-Four Thousand (Kshs.34,894,000.00) for a period of Fourteen (14) weeks from 18<sup>th</sup> June 2014 to 24<sup>th</sup> September 2014.
- 2) That the contract was signed by the Accounting Officer on 21st June, 2014
- 3) That there was an extension of the contract completion period to 19th December 2014 to enable the contractor complete the works.
- 4) That the Contractor had delivered on the Contract Terms of Reference according project hand over minutes dated 19th December 2014 and Equipment Final Inspection for defects of 24th February 2017.
- 5) That the Certificate of Practical Completion was issued on 19th December, 2014.
- 6) That 1st payment certificate of Ksh.29,700,000.00 for Supply and Installation of Baggage Scanners, Walk Through Scanners and Hand Held Metal Detectors was paid.
- 7) That the State Department of Public Works) submitted the 2nd payment certificate amounting to Kshs.5,186,800.00 vide letter Ref: NBI/D07/80/2012-2013 dated 3rd March, 2015.
- 8) That the State Department of Public Works submitted the 3rd Payment Certificate (Retention Monies) amounting to Kshs.3,488,680.00 vide letter Ref: NBI-D017/80/2012-2013 dated 9th May, 2017.
- 9) That the Administration Department vide letter Ref: MOF/TE 87/021/01 "C" (5) dated 19th March, 2019 wrote to the Regional Works Officer, Ministry of Transport, Infrastructure, Public Works, Housing and Urban Development, State Department of Public Works requesting for 3rd payment certificate and voucher of Kshs.3,488,680.00 being the release of 1st and final money of retention in favour of M/s Blackwood Limited, since the voucher had been misplaced.
- 10) That the Contractor, M/s Blackwood Limited fulfilled all its obligations in accordance with the contract.
- 11) That the payment vouchers were submitted to the National Treasury but were misplaced.
- 12) That M/s Blackwood Limited vide letter dated 17th February, 2020 requested for payment of Kshs.5,186,800.00 and attached an affidavit as prove of non-payment
- 13) That the Accounting Officer vide memo Ref: MOF/TE 87/021 (8) dated 19th March, 2020 granted approval to appoint a Contract Implementation Team (C.I.T).
- 14) That the Accounting Officer vide memo Ref: MOF/TE 252/01 (11) dated 24th March, 2020 appointed a Contract Implementation Team with clear terms of Reference to address the emerging issues.
- 15) That the Contract Implementation Team recommended that M/s Blackwood Limited be paid the following payment certificates;
  - i. 2<sup>nd</sup> Payment Certificate amounting to Kshs.5,186,800.00; and
  - ii. 3<sup>rd</sup> Payment Certificate (Retention) amounting to Kshs.3,488,680.00
- 16) That the Accounting Officer vide memo Ref: MOF/TE 87/021/ (9) dated 23<sup>rd</sup> July, 2020 granted the following approvals;
  - a. To request the State Department for Public Works to issue certified copies of the 2<sup>nd</sup> Payment Certificates of Ksh.5,186,800.00 for Installation Commissioning and Testing and 3<sup>rd</sup> Payment Certificate of Kshs.3,488,680.00 for retention.

- b. Payments of the 2<sup>nd</sup> Payment Certificate of Ksh.5,186,800.00 and 3<sup>rd</sup> payment certificate of Ksh.3,488,680.00 in favour of M/s Blackwood Limited.

52) It can be noted that the above payment had not been effected since 2017 yet the machine was delivered in good working condition and was being used by the National Treasury from 19th December 2014 hence the National Treasury got value for money. The status of the Baggage Scanner, Walk through Scanner and Hand Held Metal Detectors is due to lack of maintenance contract, which the National Treasury is in the process of sourcing for a contractor.

**53) Committee Observations**

- (i) **The baggage scanner machine was delivered in good working condition and was being used by the National Treasury from 19 December 2014.**
- (ii) **The status of the Baggage Scanner, Walk through Scanner and Hand Held Metal Detectors is due to lack of maintenance contract, which the National Treasury is in the process of sourcing for a contractor.**

**54) Committee Recommendation**

**The Accounting Officer ensure that a maintenance contract for the baggage scanner put in place and the machine serves its intended purpose. The Auditor-General to review the working status of the machine and report in the subsequent audit cycle.**

**4.4 Inventory and Stock Taking Report**

55) Section 162(2) of the Public Procurement and Asset Disposal Act, 2015 requires the Head of Procurement Function to arrange for occasional visits of inspection to the stores, at least quarterly in each calendar year, and conduct quarterly and annual inventory and stock taking in order to ensure compliance with all respective governing laws and submit the report to the Accounting Officer. Contrary to the requirement, the Inventory and Stock Taking Report for the year under review was not availed for audit review. The National Treasury is in breach of the law to this extent.

**Submission by the Accounting Officer**

56) The Accounting Officer submitted that the National Treasury conducted a Stock Taking exercise of its stores for the Financial Year ending 30th June 2020 and the resultant report availed for Audit Review.

**57) Committee Observation**

**The National Treasury conducted a Stock Taking exercise of its stores for the Financial Year ending 30<sup>th</sup> June 2020. The matter is resolved**

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



## **Basis for Conclusion**

### **5. Failure to Provide Assets Register for Audit**

58) Annex 4 to the financial statements - summary of fixed assets register reflects assets with a cumulative historical cost of Kshs.48,006,657,017 as at 30 June 2020. The balance includes assets worth Kshs.41,264,665,564 brought forward from 2018/2019 financial year and additional assets acquired in 2019/2020 at a cost of Kshs.6,741,991,453. The National Treasury did not avail for audit review an assets' register supporting the reported value of assets of Kshs.48,006,657,017.

59) In the absence of an assets register, the accuracy and existence of the assets of Kshs.48,006,657,017 as at 30 June 2020 could not be confirmed.

### **Submission by the Accounting Officer**

60) The Accounting Officer submitted that it was true that The National Treasury did not avail an Assets Register supporting the value of Assets reported of Kshs.48,006,657,017. The financial statements for the year ended 30th June 2020 were prepared in accordance with cash basis of Accounting as prescribed by International Public Sector Accounting standards (IPSAS) and templates as issued by the public Sector Accounting Standards Board (PSASB), which provides a disclosure format of the Summary of the Fixed Asset Register.

61) The National Treasury has records in the form of S3 Cards, LPO's as well as information on all procurement of assets in the IFMIS System. The records have not been translated into a solid asset register in the prescribed format which is to be provided by the Department of National Assets and Liabilities Management (NALM). NALM is expected to issue specific guidelines with the aim of coming up with an updated fixed asset register for the National Treasury.

62) As a result, the process of coming up with an updated Register has commenced and the same will be availed for Audit Review.

### **63) Committee Observation**

The National Treasury did not avail an Assets Register supporting the value of Assets reported of Kshs.48,006,657,017.

### **64) Committee Recommendation**

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

# NATIONAL EXCHEQUER ACCOUNT

## REPORT ON THE FINANCIAL STATEMENTS

### Unqualified Opinion

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

### Other Matter

#### 7. Budgetary Control and Performance

65) The statement of comparison of budget and actual performance reflects revised revenue estimates of Kshs.2,734,317,604,515 and total revenue collections of Kshs.2,577,956,860,980 resulting to an under collection of Kshs.156,360,743,535 or 5.7% of the budget. The statement also reflects budget realization on Exchequer transfers to National Government; Recurrent and Development Votes, County Governments and Consolidated Fund Services of 96%, 88%, 90% and 92% of the budgets respectively. However, as reflected in the detailed analysis of transfers-National Government Development Budget under Annex I to the financial statements, twenty-five (25) Ministries, Departments and Agencies (MDAs) received transfers that were significantly lower than the average disbursement of 87.7% ranging between 0% and 86.88% of the budgeted amounts. Consequently, service delivery to the citizens by the affected entities could have been

#### Submission by the Accounting Officer

66) The Accounting Officer submitted that the State Department notes the 25 Ministries, Departments and Agencies (MDAs) with low budget utilization on Development Vote among them being: Ministries have to process their payments and make exchequer request when ready to make payments and therefore in the absence of exchequer request from the MDA, release of funds may not be possible thus resulting to low budget utilization for example, Ethics and Anti-Corruption Commission and Independent Electoral and Boundaries Commission who did not utilize all the funds allocated for development by the end of the year under review.

67) It was also important to note that Donor funds are part of voted provision for development and therefore low disbursement of donor funds from development partners affects the utilization budget by the respective MDAs. For example, National Gender and Equality Commission budget for development is donor funds, of which utilization is dependent on the disbursement by the donor.

#### 68) Committee Observations and Findings

- (i) **The Committee observed that response given by the Accounting Officer was not was not satisfactory; and**
- (ii) **The matter remained unresolved.**

**69) Committee Recommendations**

- i) **The National Treasury should ensure that the revenue target for KRA and the AIA factored by the Accounting Officers in annual budgets are realistic and achievable.**
- ii) **The Accounting Officers must at all times adhere to their annual work plans, procurement plans and cash disbursement schedule to increase their level of exchequer requests from the National Treasury.**
- iii) **The Cabinet Secretary, National Treasury should ensure that the budget prepared by the National Assembly Departmental Committees and the National Treasury are realistic and adheres to credible budgeting to ensure that the revenue raised are adequate to cover the expenditures.**

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

**Basis for Conclusion**

**8. Failure to disburse County Governments Equitable share**

70) The 2019 Appropriation Act provided for disbursements of Kshs.347,887,806,302 to the forty-seven (47) County Governments inclusive of IDA (WB) -KDSP Level 2 Grant of Kshs.4,890,000,000. However, the total disbursements to the County Governments during the year amounted to Kshs.315,970,821,168 with a nil disbursement on the IDA (WB) - KDSP Level 2 Grant. The undisbursed balance of Kshs.31,916,985,134 negatively impacted on the service delivery in the Counties.

71) Further, disbursements to the County Governments were inconsistent and did not follow the provisions of Section 17(6) of the Public Finance Management Act, 2012 which states that The National Treasury shall, at the beginning of every quarter, and in any event not later than the fifteenth day from the commencement of the quarter, disburse monies to County Governments.

72) The National Treasury was therefore in breach of the law.

**Submission by the Accounting Officer**

73) The Accounting Officer submitted that county government did not receive their equitable share for financial item 2019/20 to the tune of Kshs.29,716,406,550.00. This was due to shortfall in revenue collection as a result of Covid-19 Pandemic.

74) Conditional grants to county Governments are disbursed based on conditions made by the respective counties and the availability of funds from the development partners. Therefore, Kshs.2,200,578,583.65 relates to total of conditional grants not disbursed.

75) Further, disbursement to County Governments from National treasury is based on the revenue collections in the course of the financial year. These results to inconsistency between funding to counties based on the revenue availability and the provisions of Section 17(6) of the Public Finance Management Act, 2012.

**76) Committee Observations and Findings**

- (i) **The Committee observed the under disbursement greatly affects operation of the County Government;**
- (ii) **The Committee further observed that the under disbursement was specific to the Financial Year 2019/ 2020 alone;**
- (iii) **The Committee similarly observed that the areas were disbursed in the subsequent financial year; and**
- (iv) **The Committee marked the matter as resolved.**

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

**77) Conclusion**

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

**CONSOLIDATED FUND SERVICES - PUBLIC DEBT**

**REPORT ON THE FINANCIAL STATEMENTS**

**Basis for Adverse Opinion**

**10. Unexplained Variance in Bank Balance**

78) As disclosed in Note 5 to the financial statements, the statement of assets and liabilities reflects a bank balance of Kshs.4,537,769,205 in respect of the recurrent bank account held at the Central Bank of Kenya. However, the trial balance reflected a bank balance of Kshs.6,352,687,882 resulting into an unexplained difference of Kshs.1,814,918,677.

79) Consequently, the accuracy of the reported bank balance of Kshs.4,537,769,205 as at 30 June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

80) The Accounting Officer submitted that it was true that the bank account balance as at 30th June, 2020 was of Kshs.4,537,769,205 reflected in the Statement of Assets and Liabilities. The amounts shown in the Trial balance of Kshs.6,352,687,882 includes accumulated

brought forward balances that had not been analyzed and cleared in the system. The two sets have been reconciled.

#### 81) Committee Observation

The statement of assets and liabilities reflects a bank balance of Kshs.4,537,769,205 in respect of the recurrent bank account held at the Central Bank of Kenya. However, the trial balance reflected a bank balance of Kshs.6,352,687,882 resulting into an unexplained difference of Kshs.1,814,918,677.

#### 82) Committee Recommendation

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

### 11 Unexplained Variance of Short-Term Borrowings Balances

83) The summary statement of public debt reflects internal loans - short-term borrowing balance of Kshs.887,141,500,000 as at 30 June, 2020. However, a re-computation of the expected closing balances based on the opening balance of Kshs.952,250,000,000 adjusted for proceeds from issues and redemptions during the year of Kshs.1,125,311,850,000 and Kshs.1,192,420,350,000 respectively, yielded a balance of Kshs.885,141,500,000 resulting into an unexplained variance of Kshs.2 Billion. The over-redemption of Kshs.2 Billion was not acknowledged by the Central Bank of Kenya and may therefore not be recoverable.

84) Consequently, the accuracy of the reported short-term borrowing balance of Kshs.887,141,500,000 as at 30 June, 2020 could not be confirmed.

#### Submission by the Accounting Officer

85) The Accounting Officer submitted that The sale proceeds for 364 days Treasury Bill No. 2225/ 364 dated 28th March, 2019 reflected face value of Ksh.27,105,800,000 which was understated due to system error at Central Bank of Kenya. CBK acknowledged the error and made correction vide C.B.K. letter dated 15th May, 2019 indicating the face as Kshs.29,105,800,000.

Details	Kshs.
Amount Outstanding at the Beginning	952,250,000,000
Add: Proceeds During the Year – Face Value	1,125,311,850,000
Less: Redeemed Amounts During the Year	-1,192,420,350,000
<b>Amounts Outstanding at year end</b>	<b>885,141,5000</b>
CBK letter dated 15 <sup>th</sup> May, 2019 – correction of understatement on sale proceeds dated 28 <sup>th</sup> March, 2019	2,000,000,000
<b>Reported Amount</b>	<b>887,141,500,000.00</b>

i. The Committee marked the matter as resolved.

### 12 Inaccurate Treasury Bonds Balances

86) The summary statement of public debt reflects treasury bonds balance of Kshs.2,220,339,804,765 as at 30 June, 2020. However, a re-computation of the expected closing balance based on the opening balance of Kshs.1,724,207,207,062 adjusted for proceeds from issues and redemptions during the year of Kshs.580,894,063,036 and Kshs.110,977,783,887 respectively yielded a balance of Kshs.2,194,123,486,211 resulting into an unexplained variance of Kshs.26,216,318,554.

87) Consequently, the accuracy of the reported Treasury Bonds balances of Kshs.2,220,339,804,765 as at 30 June, 2020 could not be confirmed.

#### Submission by the Accounting Officer

88) The Accounting Officer submitted that the outstanding Treasury Bonds as at 30<sup>th</sup> June, 2020 amounted to Kshs.2,220,339,804,765 as reflected in the summary statement of Public Debt. The analysis of the outstanding Treasury Bonds debt was submitted for audit.

89) The stock of Treasury Bonds reported in the movement schedule was erroneously overstated by Kshs.26,216,318,318,55. The treasury bonds movement schedule has since been revised as indicated below.

Amount outstanding as at 30/6/2019.....	Kshs.1,724,207,207,062
Additions during the year.....	Kshs.580,894,063,036
Amount repaid in the year.....	Kshs.(110,977,783,887)
Amount outstanding as at 30/6/2020.....	Kshs.2,220,339,804,765

i. The Committee marked the matter as resolved.

### 13 Non-Disclosure of Public Debt Procured.

90) The summary statement of public debt reflects total External and Internal loans balance of Kshs.6,368,793,827,633 as at 30 June, 2020. This is an increase of Kshs.917,640,023,917 or 16.8% from the prior year's closing balance of Kshs.5,451,153,803,416. The statement also reflects loan repayments of Kshs.1,482,249,906,300 but does not reflect the new loans procured during the year.

91) Consequently, the accuracy of total loan balance (External and Internal) of Kshs.6,368,793,827,633 as at 30 June, 2020 could not be confirmed.

#### Submission by the Accounting Officer

92) The Accounting Officer submitted that the increase of outstanding Public Debt is due to additional disbursements on the existing loans, new loans contracted during the year and



fluctuations in exchange rates. The outstanding loan balance of Ksh.6,342,577,509,079.00 is the outstanding government contractual obligations as at 30<sup>th</sup> June,2020.The movement of outstanding public debt from Ksh.5,451.153,803,416.00 at the beginning of the year to Ksh.6,342,577,509,079.00.00 is as shown in the movement schedule attached.

- i. The Committee marked the matter as resolved.

## Other Matter

### 14 Unresolved Prior Year Matters

93) In the previous year’s audit report, several issues were raised under the Report on Financial Statements. The issues raised as disclosed in Note 13 to the financial statements on progress on follow up of prior years’ auditor’s recommendations, remained unresolved as at 30 June, 2020.

#### Submission by the Accounting Officer

The Accounting Officer submitted as follows:

#### Accuracy of the Financial Statements

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

95) The amount of Kshs.368,113,860 relates to Ksh.196,472,098 being the transfer to exchequer and an amount of Ksh.171,641,763 being principal charged on interest on the ledgers as summarized below:

Description	Amount Kshs.
Principal charged on Interest in the Ledger	171,641,763
Transfer to Exchequer	196,472,098
<b>Total</b>	<b>368,113,860</b>

#### Variance on Exchequer releases of Kshs.517,161,876,534.00

96) Exchequer releases for financial year 2017-2018 are captured in the ledger under Exchequer Releases/provisioning account 9910201, which has an accumulated balance of Kshs.952,682,358,260.00 as analyzed below.

DESCRIPTION	AMOUNT (KSH)
EXCHEQUER ISSUES F/Y 2016-2017	435,716,953,824.00

EXCHEQUER ISSUES F/Y 2017-2018	517,161,876,534.00
TRANSFER BACK TO EXCHEQUER F/Y 2017-2018	(196,472,098.00)

### Unsupported Balances

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

HEAD	DESCRIPTION	LEDGER PAGE	AMOUNT - KSHS.
2000533	ISRAEL	125	185,325,047.00
2000534	EXIM BANK OF CHINA	125	30,431,456,302.95
2000536	AFRI-EXIM BANK	125	22,011,434,615.90
2000537	PTA BANK	127	7,266,097,426.85
<b>Totals In Kshs.</b>			<b>59,894,313,392.70</b>

### Public Debt -Outstanding Balance

- 100) The increase in outstanding public debt is due to additional disbursements on the existing loans, new loans contracted during the year and fluctuations in exchange rates. The outstanding loan balance of Ksh.5,451,153,803,416.00 is the outstanding government contractual obligation as at 30th June, 2019. The movement of outstanding public debt from Ksh.4,801,416,851,482.00 at the beginning of the year to Ksh.5,451,153,803,416.00 as at the end of June, 2019 is shown in the movement schedule.
- 101) Out of 24 loans sampled in the debt database, 11 loans had variances amounting Ksh.95,241,461,497. The seven loans were understated in the computation. Out of the seven loans, three loans are multi-currency, three loans had variances attributable to

rounding up of applicable exchange rates and one loan was erroneously overstated. Analysis of the loans is attached.

**Failure to Prepare Monthly bank reconciliation Statements**

102) Matter Resolved in F/Y 2017-2018 PAC Report under Para. 334.

- i. The Committee marked the matter as resolved.

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

103) **Conclusion**

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

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

104) **Conclusion**

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

**REVENUE STATEMENTS (RECURRENT)**

**REPORT ON THE REVENUE STATEMENTS**

**Basis for Qualified Opinion**

**17 Variances between Revenue Statements and IFMIS Balances**

105) The balances reflected in the revenue statements differed with those in the Integrated Financial Management Information Systems (IFMIS) trial balance presented in support of the revenue statements as detailed below:

<b>Revenue Stream</b>	<b>Revenue Statements Balances (Kshs.)</b>	<b>IFMIS Balances (Kshs.)</b>	<b>Variance (Kshs.)</b>
Corporate Income Tax	334,858,363,317	335,454,369,727	(596,006,410)
Custom Duties – 1150101	97,629,669,017	97,109,094,059	520,574,958
Excise Taxes 1140301	198,064,266,866	351,593,841,997	(153,529,575,131)

Import Declaration Inspection Fee	30,020,864,091	867,857,703	29,153,006,388
Income Tax – PAYE	399,993,010,934	387,153,646,498	12,839,364,436
Loan Interest	1,794,949,798	1,854,835,850	(59,886,052)
NAT/DGIPE - Loans repayment by Non Financial Public Enterprises	3,221,416,321	3,159,525,176	61,891,145
NAT/DGIPE - Other Profits and Dividends	90,663,124,335	90,660,883,189	2,241,146
Receipts from VAT on Domestic	213,815,135,569	760,010,461	213,055,125,108
Receipts from VAT on Imports	170,003,509,503	1,850,971,157	168,152,538,346
Rent of Land	471,591,701	6,142,336	465,449,365
Stamp Duty	9,086,236,458	58,312,086	9,027,924,373
Sundry Revenue	230,176,894	375,211	229,801,683

- 106) No explanation or reconciliation was provided for the variances.
- 107) Consequently, the accuracy and completeness of the above balances included in the revenue statements and consequently the total reported revenue could not be confirmed.

#### **Submission by the Accounting Officer**

- 108) The Accounting Officer submitted that an analyses and comparison of balances reflected in the statement of Revenue and figures extracted from the Integrated Financial Management Information System (IFMIS) revealed discrepancies. Reconciled revenue financial statement and IFMIS statement figures agree with the financial statements and ledgers.
- i. The Committee marked the matter as resolved.

#### **18. Unresolved Prior Year Audit Matters**

- 109) Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues. Further, the unresolved prior year issues are not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

#### **Submission by the Accounting Officer**

110) The Accounting Officer submitted that it was true that prior year audit issues were not disclosed in the financial statement for the year ended 30th June 2020. This was an oversight but all the outstanding issues were resolved and the same communicated to the Auditor General in the response to the report dated 20<sup>th</sup> April 2021.

i. The Committee marked the matter as resolved.

## Other Matter

### 19. Budgetary Control and Performance

111) As disclosed under Notes 4, 5, 6 and 8 to the revenue statements, there was significant under-collection of the following revenues:

Revenue	Budgeted Revenue (Kshs.)	Actual Revenue Collected (Kshs.)	Under – Collection (Kshs.)	% of Under-Collection
Taxes on Property	856,956,010	Nil	856,956,010	100
Other Taxes	11,376,532,880	9,086,236,458	2,290,296,422	20
Fees on Use of Goods and on Permission to Use Goods or Perform Services	8,214,035,811	5,556,413,179	2,657,622,633	32
Property Income	128,582,051,829	92,929,617,079	35,652,434,750	28

112) The under-collection may have impacted negatively on funding the budgets of the various public activities and therefore service delivery to the public.

#### Submission by the Accounting Officer

113) The Accounting Officer admitted that the revenue statements were 100% under collection on Taxes on property. This consist of immovable property and second hand motor vehicle purchase tax. Taxes collected under second hand motor vehicle was consolidated by Kenya Revenue Authority with fees on use of Goods/ services (Traffic). The National Treasury is in consultation with KRA to report separately in line with the budgetary items. The immovable asset rent of land had no collection due to identifiable collection source by KRA.

114) There was an under collection of 20% which relates to collection of stamp duty and was attributed to reduced transactions due to subdued economic activities during the financial year. On the use of goods and on permission to use to goods or perform there was

an under collection of 32%. This was attributed to fees under traffic act and was occasioned by reduced uptake of new licences and reduced activities due to prevailing economic environment. Property income also had an under collection of 28% caused by the depressed economic environment due to the Covid-19 pandemic.

**115) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Budget Control and Performance was satisfactory; and
- (ii) The matter was resolved.

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

**116) Conclusion**

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

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

**117) Conclusion**

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

**REVENUE STATEMENTS (DEVELOPMENT)**

**REPORT ON THE FINANCIAL STATEMENTS**

**118) Unqualified Opinion**

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

**Other Matter**

**23 Budgetary Controls and Performance**

**119)** The statement of comparative budget and actual amounts reflects final revenue budget and actual on comparable basis of Kshs.70,856,005,404 and Kshs.57,277,784,419 respectively resulting to under performance of Kshs.13,578,220,985 or 19% of the budget. Management has attributed the under collection to the requirement by The National Treasury that implementing units should exhaust funds released to them in the prior periods before accessing new disbursements, delays in releasing no objection letters and stringent conditions from the Development Partners. The underfunding of the planned development activities may have impacted negatively on service delivery to the public.



### **Submission by the Accounting Officer**

120) The Accounting Officer submitted that the Statement of comparable budget and actual amounts reflect final revenue budget and actual comparable basis of ksh70,856,005,404 and 57, 277,784,419 respectively resulting to under performance of Ksh.13,578,220,985 or 19%. The reasons for the underperformance are:

- i. The delays in getting no objections from development partners.
- ii. The budget for Equalization Fund amounting Ksh.4.7billion was not utilized due to litigations and lack of implementation policy.
- iii. Lack of exchequer
- iv. Additional funds that were factored in Supplementary Estimates II that was approved by Parliament in late June 2019 and which could not be utilized by 30th June 2019, the closure of financial year under review.
- v. The under absorption of Ksh.1,004,780,998 was due to delays in procurement by KEMSA.
- vi. On the other hand, the under absorption was due to late disbursements of funds by development partners.

The Committee marked the matter as resolved.

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

#### **121) Conclusion**

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

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

#### **122) Conclusion**

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

### **REVENUE STATEMENTS - GOVERNMENT INVESTMENT AND PUBLIC ENTERPRISES**

#### **Basis for Adverse Opinion**

#### **26. Accuracy of Schedule of Outstanding Loans**

123) The summary schedule of outstanding loans reflects an outstanding loans balance of Kshs.867,005,661,272 as at 30 June, 2020. However, circularization of a sample of debtors

for the loan balances revealed significant discrepancies between the reported book balances and the amounts confirmed as owing by the respective institutions as detailed below:

No	Entity	Balance as per Financial Statement (Kshs.)	Confirmed Balance (Kshs.) Variance (Kshs.)	Variance (Kshs.)
1.	South Nyanza Sugar Company Limited	199,027,420	818,968,527	(619,941,107)
2.	Agro Chemical and Food Company Limited	2,846,884,000	9,636,239,308	(6,789,355,308)
3.	IDB Capital Limited	1,555,675,500	347,150,310	1,208,525,190
4.	Cooperative Bank	287,416,720	60,951,469	226,465,251
5.	Industrial and Commercial Development Corporation (ICDC)	1,171,848,560	906,348,560	265,500,000
6.	Kenya Electricity Generating Company	115,611,418,276.52	88,353,548,285	27,257,869,992

124) The discrepancies between the two sets of records was not explained or reconciled.

125) Under the circumstances, the accuracy of the reported outstanding loans balance of Kshs.867,005,661,272 as at 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

126) The Accounting Officer admitted that debtors were circularized and requested to confirm directly to the Auditor General, GoK loan balances as recorded in their books as at 30th June 2020. Some of those loan balances confirmed did not agree with the balances in the National Treasury records. The National Treasury is in the process of designing, developing and rolling out Government Investment Management Information System (GIMIS) module on Government investment and loans management. It is envisaged that State Corporations will capture and submit collect data/information with respect to loan amount, drawdowns and date of drawdown. This will enable The National Treasury to calculate the correct interest payable and due for the National Treasury to reconcile the loan records.

127) The differences/variances reflected on various loans as reported by the audit have been analyzed and explained.

128) **Committee Observations and Findings**

- i. The Committee observed that the State Department has initiated an automation system (GIMIS) that will improve on management of loans; and
- ii. The matter remained unresolved.

**27 Dormant Loans**

129) Included in the total loan portfolio of Kshs.867,005,661,272 as at 30 June, 2020 were seventeen (17) loans amounting to Kshs.28,266,447,102 representing 3.3% of the total loan portfolio. As previously reported, the loans had no movements during the year and have remained unpaid over a significant period of time casting doubt on their recoverability. The loan details are as tabulated below:

No.	Institution	Balance (Kshs.)
1	Coast Water Service Board	6,756,217,290
2	East African Sugar Industries Limited, Muhoroni	177,123,100
3	Halal Meat Products	27,701,420
4	Kenya Meat Commission	940,241,100
5	Kenya Urban Transport Various Towns	40,706,140
6	Lake Victoria North Water Services Board	2,677,512,856
7	Lake Victoria South Water Services Board	2,025,051,606
8	Miwani Outgrowers Mills Limited	6,600,000
9	Miwani Sugar Company (1989) Limited	16,000,020
10	Miwani Sugar Mills Limited	78,088,180
11	Mumias Sugar Company Limited	3,000,000,000
12	National Irrigation Board	2,262,036,544
13	National Water Conservation and Pipeline Corporation	2,460,874,897
14	Tana Water Services Board	1,854,116,143
15	Tanathi Water Services Board	4,381,565,506
16	Uchumi Supermarkets Limited	1,200,000,000
17	Water Resource Management	362,612,300
<b>Total</b>		<b>28,266,447,102</b>

130) No evidence of the measures taken by Management to recover the outstanding amounts was provided, casting doubts on recoverability of the loans.

### **Submission by the Accounting Officer**

- 131) uThe Accounting Officer submitted that it was true that there are dormant loans. The dormant loans are mainly attributed to:
- i. Reforms and changes in law governing the Water Sector. These loans are concessional loans procured by the National Government and on-lent to Water Works Development Agencies (formally Water Services Boards)
  - ii. Since water is a devolved function, water service providers are currently responsible for the management and operations of the water and sewerage infrastructure. Water Service Providers are under the County Governments. The Water Service Providers are currently not willing to honor the on-lent loan obligations and yet in the water tariff approved Water Services Regulatory Board (WASREB) has a component earmarked for loan repayment.
  - iii. There is a Government Inter-Ministerial Committee working on transfer and vesting of water and sewerage assets and the associated liabilities. The Committee has not finalized the modalities for the transfer and vesting of water and sewerage assets and the associated liabilities to county entities, Water Service Providers.
  - iv. There are dormant loans relating to Government owned Sugar Companies. Due to serious financial challenges facing the Sugar Sector, the Government owned sugar companies are not able to honour their loan obligations. The cabinet had approved Government loans owed by Government sugar companies together with privatization of those entities. Government efforts to finalize the privatization/leasing of the Government owned sugar companies and the outstanding loans will be addressed during the privatization/leasing process.
  - v. Further, there are dormant loans relating to other entities and this is attributed to the financial difficulties and distress they are experiencing. The Loans amounting to Kshs.28,266,447,102 referred to as dormant and the associated issues are outlined and explained.
  - vi. From time to time the Government through The National Treasury grants GoK Direct or On-Lent Loans to various entities through GOK Loan Agreement or Subsidiary Loan Agreements signed between the respective entities, the line ministry and The National Treasury. Each Agreement spells out clearly the terms of each loan which include beneficiaries, repayment period, amount and the rate of interest. There are records of all Government Direct and On-lent loans to various entities at The National Treasury including relevant documentation like Agreements.
- 132) The Agreements also specifies the reports that must be submitted to the line Ministry and The National Treasury during the drawdown and project implementation period. This is the basis for drawdown/disbursement of the loans.
- 133) In addition, during State Corporations budget review, analysis and approval, GIPE brings out key challenges facing respective entities for policy intervention. Further, The

National Treasury is developing Government Information Management System (GIMIS) which will enhance the management of loan portfolio and loaning process.

134) The National Treasury prepares GoK revenue estimates from loan redemption and interest payment for purposes of being included in the GoK revenue projections reflected in the fiscal framework. The GoK revenue estimates from loan redemption and interest payment is based on the financial performance of respective entities with mature and due loans for repayment. Loan redemption and interest payment from entities facing financial challenges are not reflected in the fiscal framework. In this regard therefore, it is on the basis of monitoring and evaluation of respective entities that informs GoK revenue estimates from loan redemption and interest payment for purposes of being included in the GoK revenue projections reflected in the fiscal framework.

135) Further, The National Treasury is in the process of establishing Fiscal Risk Committee that will among other assess, quantify and report Government fiscal risks including those emanating from Government Direct or On-Lent Loans and recommendation mitigating measures.

136) **Committee Observations and Findings**

- i. The Committee observed that the State Department has initiated an automation system (GIMIS) that will improve on management of loans;
- ii. The Committee observed that Management has not been able to confirm its active role in the management of existing loan portfolio and issuance of new loans through annual work plans and periodic monitoring and evaluation reports.

137) **Committee Recommendation**

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

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

**Basis for Conclusion**

**28 Management of Loan Portfolio and Loaning**

138) As previously reported, the GIPE Management has not been able to confirm its active role in the management of existing loan portfolio and issuance of new loans through the annual work plans and periodic monitoring and evaluation reports. In the absence of budgets, annual work plans, assessment or evaluation and performance reports of the loan portfolios, propriety on utilization of public funds could not be ascertained. There is also

risk of non-servicing of the loans leading to continued write-offs as bad debts which is a cost to the public.

### **Submission by the Accounting Officer**

- 139) The Accounting Officer submitted that from time to time the Government through The National Treasury grants GoK Direct or On-Lent Loans to various entities through GOK Loan Agreement or Subsidiary Loan Agreements signed between the respective entities, the line ministry and The National Treasury. Each Agreement spells out clearly the terms of each loan which include beneficiaries, repayment period, amount and the rate of interest. There are records of all Government Direct and On-lent loans to various entities at The National Treasury including relevant documentation like Agreements.
- 140) The Agreements also specifies the reports that must be submitted to the line Ministry and The National Treasury during the drawdown and project implementation period. This is the basis for drawdown/disbursement of the loans.
- 141) In addition, during State Corporations budget review, analysis and approval, GIPE brings out key challenges facing respective entities for policy intervention. Further, The National Treasury is developing Government Information Management System (GIMIS) which will enhance the management of loan portfolio and loaning process. The National Treasury prepares GoK revenue estimates from loan redemption and interest payment for purposes of being included in the GoK revenue projections reflected in the fiscal framework. The GoK revenue estimates from loan redemption and interest payment is based on the financial performance of respective entities with mature and due loans for repayment. Loan redemption and interest payment from entities facing financial challenges are not reflected in the fiscal framework. In this regard therefore, it is on the basis of monitoring and evaluation of respective entities that informs GoK revenue estimates from loan redemption and interest payment for purposes of being included in the GoK revenue projections reflected in the fiscal framework.
- 142) Further, The National Treasury is in the process of establishing Fiscal Risk Committee that will among other assess, quantify and report Government fiscal risks including those emanating from Government Direct or On-Lent Loans and recommendation mitigating measures.
- i. The Committee marked the matter as resolved.

### **29. Increased Arrears of Receipts**

- 143) The statement of arrears reflects total amount in arrears of Kshs.54,100,388,350 (2018/2019-Kshs.39,165,038,029) representing an increment of Kshs.14,935,350,321 during the year under review. Although Management attributed the situation to financial difficulties experienced by most of the entities, proof by way of reports to the Cabinet Secretary explaining specific difficulties experienced in collecting the debts



as spelt out under Regulation 64(2) of Public Finance Management (National Government) Regulations, 2015 was not provided. Consequently, the Management is in breach of the Regulations.

#### **Submission by the Accounting Officer**

144) The Accounting Officer admitted that the loan redemption and interest arrears stood at Kshs.54,100,388,350 as at 30th June 2020 compared to Kshs.39,165,038,029 as at 30th June 2019 representing an increase of Kshs.14,935,350,321 during financial year under review. As has been observed, most of the entities in arrears are still experiencing financial difficulties.

145) Further, as reported in Para 3, (28) above, The GoK revenue estimates from loan redemption and interest payment is based on the financial performance of respective entities with mature and due loans for repayment. Loan redemption and interest payment from entities facing financial challenges are not reflected in the fiscal framework.

146) The GoK revenue estimates from loan redemption and interest payment is based on the financial performance of respective entities with mature and due loans for repayment. Loan redemption and interest payment from entities facing financial challenges are not reflected in the fiscal framework. In this regard therefore, it is on the basis of monitoring and evaluation of respective entities that informs GoK revenue estimates from loan redemption and interest payment for purposes of being included in the GoK revenue projections reflected in the fiscal framework.

#### **147) Committee observations and findings**

- (i) The Committee took note of the submission by the Accounting Officer and will make its determination of the matter in its report to plenary; and
- (ii) The matter remained unresolved.

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

#### **148) Conclusion**

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

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

#### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Disclaimer of Opinion**

### 31. Presentation and Disclosure

149) The statement of outstanding obligations guaranteed by the Government of Kenya reflects an outstanding balance of Kshs.152,317,825; (2019-Kshs.152,317,825) being capital and interest owed by the Cereals and Sugar Finance Company. However, the Consolidated National Government Investment Report for the year 2019/2020, prepared by The National Treasury in accordance with Section 89 of the Public Finance Management Act, 2012, indicates that the total outstanding Government guaranteed debt stood at Kshs.159,405,000,000 as detailed out below:

Agency	Outstanding Government Guaranteed Debt as at 30 <sup>th</sup> June, 2020.
Kenya Broadcasting Corporation (KBC)	357,000,000
Tana and Athi River Development Authority	279,000,000
East African Portland Cement PLC	346,000,000
Kenya Electricity Generating Company PLC	43,035,000,000
Kenya Ports Authority	34,061,000,000
Kenya Railways Corporation	4,603,000,000
Kenya Airways	76,724,000,000
<b>Total</b>	<b>159,405,000,000</b>

150) The total outstanding Government guaranteed debt of Kshs.159,405,000,000 however, does not include the balance of Kshs.152,317,825 reflected in the statement of outstanding obligations guaranteed by the Government of Kenya prepared and submitted for audit by The National Treasury, which is indicated as relating to Capital and Interest owed by Cereals and Sugar Finance Corporation. Further, the parent Ministries for the respective Agencies mentioned above did not prepare and submit for audit their respective statements of outstanding obligations guaranteed by the Government of Kenya as at 30 June, 2020. No explanations have been provided for the omissions.

151) Under the circumstances, the completeness and accuracy of the outstanding balance of Kshs.152,317,825 reflected in the statement of outstanding obligations guaranteed by the Government of Kenya as at 30 June, 2020 could not be ascertained.

#### Submission by the Accounting Officer

152) The outstanding external Government guaranteed debt amounting to Kshs.159,405,000,000 as at 30 June, 2020 relates to borrowing by Kenya Broadcasting Corporation, Tana and Athi River Development Authority, East African Portland Cement, Kenya Electricity Generating Company, Kenya Ports Authority, Kenya Railways

Corporation and Kenya Airways. The balances are included in the Annual Public Debt Report and also in the financial statements for the respective institutions.

- 153) The outstanding obligations guaranteed by the Government of Kshs.152,317,825; (2018-Kshs. 164,132,745) being Capital and Interest owed by Cereals and Sugar Finance Corporation.

#### **Cereals and Sugar Finance Corporation**

154) The obligation guaranteed by the Government in respect of borrowing by Cereals and Sugar Finance Corporation amounting to Kshs.152,317,825 has remained outstanding pending conclusion of the winding up of the corporation. The National Treasury established a Taskforce on winding up of Dormant Funds. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019. A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation order 2020 was done and submitted to the cabinet for consideration and approval.

155) The Head of Public Service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/ (18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General's Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly. With the conclusion of the winding up, the issues raised by the Auditor will be fully addressed.

#### **156) Committee observations and findings**

- i. The Committee observed that National Treasury is in process of winding up the dormant funds; and
- ii. The matter remained unresolved.

### **32. Unsupported Decrease in Guaranteed Obligations**

157) As previously reported, the statement of outstanding obligations guaranteed by the Government of Kenya as at 30 June, 2020 reflects an outstanding balance of Kshs.152,317,825 which decreased by Kshs.11,814,920 from the reported balance of Kshs.164,132,745 as at 30 June, 2018. Management did not avail documentary evidence to support the decrease of Kshs.11,814,920 in the 2018/2019 financial year.

158) Consequently, the accuracy of the outstanding balance of Kshs.152,317,825 could not be confirmed.

### **Submission by the Accounting Officer**

159) The statement of Obligations Guaranteed by Government of Kenya reflected contingent liabilities amounting to Kshs.152,317,825 as at 30th June, 2020 being a decrease by Ksh.11,814,920.00 guaranteed to Bond Holders relating to Kenya Railways Corporation from Ksh.164,132,745 as at 30 June, 2018. The amount of Ksh.152,317,825 relates to borrowing by Cereals and Sugar Finance Corporation as at 30th June, 2018.

160) Kenya Railways Corporations informed The National Treasury vide their letter referenced KRC/FIN/22 dated 9th April, 2018 that there are no documents to support the two Bonds. Therefore, the corporation is unable to provide information and maturity dates and details of bond holders. The Corporation has further confirmed that no claim or communication on the said bonds has been received in the last ten years.

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

### **162) Committee Observations and Findings**

- i. The Committee observed that the explanation given by the Accounting Officer with regards to Unsupported Decrease in Guaranteed Obligations was satisfactory; and
- ii. The Committee marked the matter as resolved.

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

### **163) Conclusion**

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

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

### **164) Conclusion**

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

## **CONSOLIDATED FUND SERVICES - SUBSCRIPTIONS TO INTERNATIONAL ORGANIZATIONS**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **165) Unqualified Opinion**

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

#### **Other Matter**

#### **36 Unresolved Prior year audit Matters**

166) The following prior year audit matters remained unresolved as at 30 June, 2020.

#### **36.1 Dormancy of Consolidated Fund Services - Subscriptions to International Organizations**

167) As reported previously, the financial statements of the Consolidated Fund Services - Subscriptions to International Organizations has not reflected any activity over the last four (4) years. Although an annual budget of Kshs.500,000 had been allocated every year under Consolidated Fund Services - Subscriptions to International Organizations, no activities have been reported during the four (4) year period. The relevance of the Consolidated Fund Services - Subscriptions to International Organizations is, therefore not clear especially in view of the Public Finance Management Regulations (African Union (AU) and Other International Organizations Subscription Fund) Regulations, 2017 which established the AU and Other International Organizations Subscription Fund from which Kenya's contributions to AU and Other International Organizations should be paid from.

#### **Submission by the Accounting Officer**

168) The Accounting Officer admitted that it was true that there were no payments made during the financial years 2016/17, 2017/18 and 2018/19 as reflected in the respective reports under vote 0006 CFS Subscriptions to International Organizations because since there were no demand notes from the respective organisations.

#### **169) Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2018/19 and a recommendation was issued therein:

- i. The Committee marked the matter as resolved.

#### **36.2 Comparison of Expenditure with the Appropriation Account**

170) As was reported in 2018/2019 financial year, The National Treasury financial statements reflected payments as grants and transfers amounting to Kshs.1,069,476,595. Included in the amount were membership dues and subscriptions to unspecified

international organizations totalling Kshs.48,779,790. The balance of Kshs.1,020,696,805 was indicated to have been paid to four (4) organizations as detailed below: -

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

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

172) The matter was resolved by the Committee

### **36.3 Unsupported Balances**

173) In the audit report of 2015/2016, the detailed statement of Kenya Government share subscriptions and capital contribution to international organizations under Note 5 of the financial statements had reflected local value of subscriptions totalling Kshs.51,403,651,783 against various amounts in foreign currencies as at 30 June, 2016. However, an independent circularization to twelve (12) reported recipient organizations yielded only four (4) confirmations. Further, amounts confirmed by two (2) of the four (4) organizations differed significantly with the reported amounts as per the National Treasury records.

174) Further, subscriptions for 2014/15 amounting to Kshs.116,813,106,919 in respect of ten (10) organizations were restated to Kshs.49,750,957,607 and attributed to foreign exchange rate fluctuations. However, the huge discrepancies attributed to foreign exchange losses have not been explained or justified.

### **Submission by the Accounting Officer**

175) The Accounting Officer admitted that during the financial year 2017/2018, the Government made payments as grants and transfers amounting to Kshs.1,069,476,595. Included in the expenditure of Kshs.1,069,476,595 are membership dues and subscriptions



totalling Kshs.48,779,790 that was paid to various International Organizations under voted provision vote 1071.

176) During the financial year 2016/2017 all subscriptions both local and international organisations were consolidated and budgeted under Vote 1071 – The national Treasury Head 0092 indicating the allocation for each institution. Since then, there was no budget allocation for these institutions under vote CFS R053 - CFS Subscriptions to International Organizations.

i. The Committee marked the matter as resolved.

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

##### 177) **Conclusion**

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

#### REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE.

##### 178) **Conclusion**

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

#### EAST AFRICA TOURIST VISA FEE COLLECTION ACCOUNT

#### REPORT ON THE FINANCIAL STATEMENTS

##### 179) **Unqualified Opinion**

**39** There were no material issues noted during the audit of the financial statements of the East Africa Tourist Visa Fee Collection Account

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

##### 180) **Conclusion**

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

181) **Conclusion**

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

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

REPORT ON THE FINANCIAL STATEMENTS

182) **Unqualified Opinion**

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

183) **Conclusion**

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

184) **Conclusion**

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

**CONSOLIDATED FUND SERVICES – PENSION AND GRATUITIES**

**Basis for Adverse Opinion**

REPORT ON THE FINANCIAL STATEMENTS

**45. Unsupported Accounts Payables**

185) As disclosed in Note 13.6 to the financial statements, the statement of assets and liabilities reflects accounts payables balance of Kshs.5,358,204,131 as at 30 June, 2020. However, the balances were not supported by detailed schedules indicating names, dates and amounts owed to each respective creditor and the corresponding source documents. Further, aging analysis for the balances to establish how long the payables had been outstanding were not provided.

186) Consequently, the accuracy and fair statement of the reported accounts payables balance of Kshs.5,358,204,131 as at 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

187) The Accounting Officer submitted that the figure of Ksh.5,358,204,131 is the net off returned and re-payment of pension beneficiaries since the inception of Pension Management Information System (PMIS) in the financial year 2008/2009 to the current financial year under review 2011/2020. The schedules generated by the system gives details of beneficiary's name, amount and time when the deposits or payment were made by or to beneficiaries. Therefore, the figure of Ksh.5,358,204,131 is accumulated net off re-credited cheques from 2008/2009 to 2019/2020 financial year.

#### **188) Committee observations and findings**

- i. The Committee observed that the that the above was a system issue that report accumulated report rather than Yearly Report;
- ii. The Committee further observed that the department is in the process of improving the system to avoid cumulative; and
- iii. The matter remained unresolved

#### **46. Long Outstanding Reconciliation Items in Cash and Cash Equivalents**

189) The statement of assets and liabilities reflects a bank balance of Kshs.516,659,258 which, as disclosed in Note 13.5 to the financial statements, relates to the recurrent bank account of the Fund at the Central Bank of Kenya. However, a review of the bank reconciliation statement for the month of June, 2020 revealed long outstanding payments totalling to Kshs.16,437,581 in the bank statement not in cashbook. Some of the payments dated as far back as 2008. Further, receipts relating to the periods between 2007 and 2018 amounting to Kshs.58,918,772 were recorded in the cashbook but not banked. No satisfactory explanation was provided for failure to resolve the long outstanding reconciling items.

190) In the circumstances, the accuracy and existence of the reported bank balance of Kshs.516,659,258 as at 30 June, 2020 could not be ascertained.

#### **Submission by the Accounting Officer**

- 191) The Accounting Officer submitted that the department adheres to Financial Regulations in regards to bank reconciliation requirement whereby reconciliation is done on monthly basis. The long outstanding reconciliation items in cash and cash equivalents relates to erroneous payments while others had missing documents to support due to manual filling.
- 192) The figure 16,437,580.65 comprise of 14,891,204.85 which relates to erroneous payment, Kshs.4,533.8 has since been cleared, leaving a balance of 1,545,375.80 which we have sought authority from old balance committee for guidance, since they go (relate to as far) back as early as 2008. For the erroneous payment of Kshs.14,891,204.85 the department has sought approval to write off for loss as required by financial regulations.
- 193) Further, by the time of audit the Department had a figure of Kshs.58,918,772.20, which has since identified and reconciled a figure of Kshs.30,373,972.40 leaving a balance of Kshs.28,544,799.80 to be cleared. The department has set up an ad-hoc team to work and on the outstanding issues on bank reconciliation.
- 194) **Committee observations and findings**
- i. The Committee observed that an ad-hoc Committee has been established to work on the above outstanding reconciliation item;
  - ii. The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
  - iii. The Committee similarly observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012; and
  - iv. The matter remained unresolved.

#### **47. Unbalanced Trial Balance**

- 195) The trial balance presented in support of the financial statements balances reflected total debit and credit balances of Kshs.78,968,668,938 and Kshs.83,576,796,858 respectively, resulting in a difference of Kshs.4,608,127,920. The differences have not been reconciled.
- 196) Consequently, the accuracy of the balances reflected in the financial statements could not be confirmed.

#### **Submission by the Accounting Officer**

- 197) The Accounting Officer submitted that the difference in the net balance of provision for Encumbrance and Consolidated fund is due to passing of journal vouchers posted in the ledger at different financial years. The journal vouchers are prepared to capture or correct errors which happens within items of accounts and therefore they are posted in the consolidated fund account (Payment Management General – PMG) in the ledger. Therefore, the different of Kshs.4,608,127,870 relates to journal vouchers actioned from

financial year 2008/2009 financial year under review as in the schedule provided for audit verification between trial balance from an opening net credit of Kshs.1,494,238,860 and journals of Kshs.2,928,534,175 and Ksh.185,354,840 passed during the year under review. A reconciliation for the difference is provided for audit verification.

**198) Committee observations and findings**

- i. The Committee took note of the submission by the Accounting Officer and will make its determination of the matter in its report to plenary; and
- ii. The matter remained unresolved.

**48 Undisclosed Restatement of Comparative Balances**

199) The statement of assets and liabilities reflects accounts payables and prior year adjustments comparative balances of Kshs.4,451,999,882 and Kshs.268,957,903 respectively. However, the balances differed with the audited balances of Kshs.4,183,043,979 and Nil resulting in unexplained variances of Kshs.268,955,903 and Kshs.268,957,903 respectively.

200) Consequently, the accuracy of the reported accounts payables balance of Kshs.5,358,204,131 and the fund balance brought forward of Kshs.4,391,374,099 could not be confirmed.

**Submission by the Accounting Officer**

201) The Accounting Officer submitted that by the time of audit analysis of prior year adjustment of Kshs.268,957,903 was incomplete, however the same has been provided for audit review.

- i. The Committee marked the matter as resolved.

**Other Matter**

**49 Unresolved Prior Year Matter.**

202) As disclosed under the progress on follow up of prior years' audit recommendations section of the financial statements, matters raised in the previous financial years, remained unresolved as at 30 June, 2020.

**Submission by the Accounting Officer**

203) The Accounting Officer submitted that it was true a number of prior year audit recommendation have not been effected of which most will be resolved by procurement of New Pension Management Information System, which will include biometric pensioner's life certification and linked to other Government agency systems.

**204) Committee Observations and Findings**

205) The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2018/19 and a recommendation was issued therein:

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

### **Basis for Conclusion**

#### **50. Failure to Adhere to Regulations and Service Level Agreement on Processing Pension and Gratuity Payments**

206) The Pensions Act, Regulations and Service Charter provisions for effective and efficient service delivery requires that the processing and payment of pension and gratuities shall be within ninety (90) days upon enrollment. However, review of 18,618 pension cases during the year under review revealed that only 289 cases or 1.6% were processed within the stipulated timeline resulting in the remainder of 18,329 or 98.4% being late. Of the late processed cases, 15,338 were completed in periods spanning between 91 and 580 days. As at 30 June, 2020, 3073 cases were still underway. In addition, there were notable disparities in the duration taken to process the cases with some being processed within a day while others took longer than 580 days.

207) Further, Section 16A of the Pensions Act Cap 189 requires that a person to whom a pension or other allowance is payable under this Act shall be entitled to be retained in the service until the payment in full of the gratuity payable to him. However, this is not the case as the retirees are terminated from their respective payrolls as soon as they attain the retirement age before their pensions and gratuities are processed. Failure to ensure equity in service delivery and adherence to the Regulations would occasion inequality and suffering by the pensioners who have to wait for long periods with some passing on before receiving their pension.

208) To the extent, the Department was in breach of the Law.

#### **Submission by the Accounting Officer**

209) The Accounting Officer submitted that the Service Charter for the National Treasury (copy appended) stipulates that the timelines for processing and paying retirement and death benefit claims that are fully supported is 90 days from the date of receipt of the claim from the Ministry/Department/Agency (MDA) where the retired officer last served. As at the time of audit reporting, the department was at 75% level of compliance owing to the large volume of claims received from MDAs at any given time against a limited number of staff and system capacity. With the recent recruitment of additional staff and the proposed implementation of a new robust pension system, we expect to drastically improve the level of compliance. It may be noted that it's the responsibility of the MDA to prepare and submit



the pension/death claims in a timely manner to the Pensions Department for verification and processing.

- 210) The pension payment process entails a tripartite relationship between the retiree, the MDA and the Pensions Department with each party required to play their respective role effectively and in a timely manner without which the whole pension processing chain would be adversely affected
- 211) The Treasury has from time to time reminded MDAs of the requirement to prepare and submit pension claim documents to the department nine (9) months prior to the retirement of officers to facilitate verification of the claims while they are still in service in order to address any queries that may arise before their retirement date. This would ensure that there is a seamless transition from monthly salary to monthly pension. This is a cross cutting pension matter that is being addressed in collaboration with the Public Service Commission, the Teachers Service Commission, the National Police Service Commission, The Kenya Defence Forces and other MDAs.
- 212) Other significant measures that have since been taken to mitigate the period it takes to process claims include:
- (i) The National Treasury removed the requirement for Tax Clearance Certificates as a mandatory requirement for processing retirement
  - (ii) Families that do not have disputes are now paid dependents benefits directly to the account of the deceased officer's personal legal representative/next of kin instead of payment through the Public Trustee which is subject to another long process of succession.
  - (iii) The National Treasury in liaison with Teachers Service Commission and the National Police Service has set up pension office and deployed staff and the Pensions Management Information System (PMIS) to the two institutions for verification of the pension claim and enrollment of the claims into the PMIS in order to effectively and efficiently deal with the large number of claims emanating from the two services.
- 213) **Committee observations and findings**
- i. The Committee took note of the submission by the Accounting Officer and will make its determination of the matter in its report to plenary; and
  - ii. The matter remained unresolved.

## **51. Failure to Provide Internal Audit Reports**

- 214) Section 33(1) of Public Audit Act, 2015 provides that the final report by the Internal Auditor which has been deliberated on and adopted by an Audit Committee of a state organ or public entity may be copied to the Auditor-General. Further, Section 33(2) provides that

the Auditor-General has unhindered access to all internal audit reports of a state organ or public entity, which is subject to audit by the Auditor-General as provided for under Article 229(4) of the Constitution. Management did not provide the internal audit reports for review as requested for.

215) In addition, it could not be confirmed that internal audits in respect of the entity were conducted in accordance with international best practices as required under Section 73(4) of the Public Finance Management Act, 2012 and whether the main functions of the audit committee to support the Accounting Officers with regard to their responsibilities for issues of risk, control and governance and associated assurance; and follow up on the implementation of the recommendations of internal and external auditors as provided for under Regulation 175(a) and (b) of Public Finance Management Regulations, 2015 were effectively executed.

#### **Submission by the Accounting Officer**

216) The Accounting Officer submitted that the department has an Internal Audit unit headed by an Assistant Internal Auditor General. A report for the period ending 30th June 2020 was availed for audit review.

#### **217) Committee observations and findings**

- i. The Committee took note of the submission by the Accounting Officer and will make its determination of the matter in its report to plenary; and
- ii. The matter remained unresolved.

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

#### **218) Conclusion**

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

### **REVENUE STATEMENTS OF THE PENSIONS DEPARTMENT**

#### **REPORT ON THE REVENUE STATEMENTS**

#### **Basis for Qualified Opinion**

#### **53 Unsupported Revenue Balances**

219) The statement of revenue and transfers reflects total receipts of Kshs.314,802,204 which, as disclosed under Note 10.1 to the revenue statements, comprised of contributions

from employees at the rates of 2% and 31% of basic salaries, abatement (liabilities owed by retirees recovered from their pension dues) and cap deductions (overpayments made to pensioners recovered from subsequent payments) of Kshs.117,114,819, Kshs.151,722,946, Kshs.38,303,025 and Kshs.7,661,414, respectively. However, the amounts have not been adequately supported by detailed analyses and it was therefore not possible to authenticate the contributor's identity and the period to which the contributions related.

220) Consequently, the accuracy and completeness of the revenue receipts of Kshs.314,802,204 for the year ended 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

221) The Accounting Officer submitted that the statement of revenue and transfers reflects total receipts of Kshs.314,802,204 which, as disclosed under Note 10.1 to the revenue statement, comprised of contributions from employees at the rate of 2% and 31% of basic salaries, abatement (liabilities owed by retirees recovered from pensions dues) and cap deductions (overpayment made to pensioners recovered from subsequent payments) of Kshs.117,114,819, Kshs.151 722 946 Kshs.38,303,025 and Kshs.7,661,414 respectively. By the time of audit, the amount under different classes had not been adequately supported by detailed analysis. However, this has been done.

i. The Committee marked the matter as resolved.

#### **Other Matter**

##### **54 Prior Years Matters**

222) The following prior year matters remained unresolved as at 30 June, 2020.

##### **54.1 Discrepancies between Budget Statement and Printed Estimates**

223) The prior year statement of comparison of budget and actual amounts reflected total non-tax receipts budget of Kshs.309,398,233 being contribution by government employees to social welfare which differed from the 2018/2019 printed revenue estimates of Kshs.894,349,041, resulting to an unexplained and unreconciled variance of Kshs.584,950,808.

#### **Submission by the Accounting Officer**

224) The Accounting Officer submitted that the budget of Kshs.894,349,041 was revenue estimate for the entire National Treasury for the year under review. The department had no line item for revenue collection since the budget was done under the parent Ministry during the year of review.

- 225) The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2018/19 and a recommendation was issued therein:
- i. The Committee marked the matter as resolved.

#### **54.2 Variance between the Revenue Statement and Trial Balance Figures**

- 226) The statement of revenues and transfers for the year ended 30 June, 2019 reflected total non-tax receipts of Kshs.262,230,402; (2018 – Kshs.308,019,086) comprising of receipts from MDAs and other receipts of Kshs.262,091,309 and Kshs.211,093 respectively. However, the trial balance and revenue analysis availed for audit reflected a total of non-tax receipts balance of Kshs.270,789,739 resulting to an unexplained variance of Kshs.8,559,337.

#### **Submission by the Accounting Officer**

- 227) The Accounting Officer submitted that the trial balance generated by the PMIS ledger accumulates figures from previous period and the figures for the current financial year are arrived at by deducting the opening balances from the closing balances. The difference in trial balance has since been corrected and analysis attached for audit review.

- 228) The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2018/19 and a recommendation was issued therein:
- i. The Committee marked the matter as resolved.

#### **54.3 Incomplete Progress Report on Follow-up of Auditor's Recommendations**

- 229) As reported in the 2017/18 audit report, a difference of Kshs.1,379,147 between the total revenue collected and transferred to the Exchequer and transfers of receipts reflected in the bank statement was not explained. Further, the receiver of revenue failed to provide a budget of the estimated revenue collections. These issues were not captured under progress on follow up of auditor's recommendation section of the financial statements for the year ended 30 June, 2019.

#### **Submission by the Accounting Officer**

- 230) The Accounting Officer submitted that it was true that the Progress Report on Follow up of Auditors Recommendation was not complete however they were captured in subsequent Financial Statements.

- 231) The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2018/19 and a recommendation was issued therein:

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

232) **Conclusion**

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

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

233) **Conclusion**

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

**DONOR FUNDED PROJECTS**

**FINANCIAL SECTOR SUPPORT PROJECT IDA CREDIT NO. 5627-KE**

REPORT ON THE FINANCIAL STATEMENTS

234) **Unqualified Opinion**

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

**Other Matter**

58 **Pending Bills**

235) Note 9 to the financial statements reflects pending bills amounting to Kshs.3,689,780 as at 30 June, 2020. Management has explained that the bills represented invoices locked out of the procurement system before being paid. Although Management has committed to adhere to the Public Procurement and Asset Disposal Act, 2015, the Project is at risk of incurring additional costs in case of legal disputes due to non-payment for services rendered.

**Submission by the Accounting Officer**

236) The Accounting Officer submitted that it was the pending bills amounting Ksh.3,689,780 were due to late submission of invoices by service providers and therefore, they were not processed. However, they were all paid as they formed first charge to the FY 2020/2021 budget as per bank statements extracts provided to the Committee for perusal. The matter was resolved by the Committee

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

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

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

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

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

### REPORT ON THE FINANCIAL STATEMENTS

#### **Basis for Qualified Opinion**

##### **61 Non-disclosure of Counterpart Contribution**

237) The Grant Agreement provides for counterpart contribution from the Government of Kenya equivalent to 15% of the Project Grant. However, the financial statements have not disclosed counterpart funds received by the Programme from the National Treasury in the year under review, and in previous years. As a result, the audit has not established the value of the Government's contribution to the Programme since its inception.

##### **Submission by the Accounting Officer**

238) The Accounting Officer submitted that during the financial year 2019/2020 the budget for the Government of Kenya counterpart funding for both old and new TB Grants was budgeted under the new grant. Grant number: KEN-M-TNT, GA 1546, item: 1078 -01-2640503.

The matter was resolved by the Committee

##### **62 Delay in Completion of KEMSA Warehouse and Office Construction Project**

239) The contract for construction of the Kenya Medical Supplies Authority (KEMSA) modern warehouse and office block is jointly funded by the Global Fund and the Government of Kenya at a contract sum of Kshs.3,079,998,860. The works commenced on 28 March, 2018 and were due for completion on 12 March, 2019. However, site inspection in November, 2020 indicated that construction was still ongoing, 20 months after the project's scheduled completion date. Management reported that the works on the warehouse were 95% complete. The contract has since been extended several times with



the latest completion date having been set for December 23, 2020. No plausible explanation has been provided by Management for the delay in completing the buildings.

240) In view of the delay, no value has been obtained on the expenditure incurred on the project and in addition, the objects for which it was started have not been met.

#### **Submission by the Accounting Officer**

241) The Accounting Officer submitted that it was true there was a delay in KEMSA Warehouse construction. The delay was caused by land ownership dispute between Kenya Medical Supplies Authority (KEMSA) and Mavji Kanji Hirani & Others (Annex 2). The matter was taken to court and as at the end of year 2017, it had not been resolved as per attached extension letter from Cabinet Secretary, National Treasury and Planning to Global Fund. KEMSA had to look for an alternative land for the Project.

242) The warehouse is now complete as per the attached Practical Completion Certificate

243) The matter was resolved by the Committee

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

#### **Basis for Conclusion**

##### **63 Lack of a Professional Procurement Unit**

244) Contrary to the provisions of Section 47(1) of the Public Procurement and Asset Disposal Act, 2015 that require procurement activities in public entities to be managed by procurement professionals with qualifications recognized in Kenya, the Programme's Procurement Unit does not fulfil this legal requirement. To that extent, the Programme is operating in breach of the Law.

245) Management has explained that the omission is caused by lack of a budgetary provision for the purpose.

#### **Submission by the Accounting Officer**

246) The Accounting Officer submitted that it was true the Unit does not have a professional procurement unit officer. The services for the programme are provided for by staff from The National Treasury procurement unit since the process of recruiting one is ongoing.

247) The matter was resolved by the Committee

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

## REPORT ON THE FINANCIAL STATEMENTS

### 248) **Unqualified Opinion**

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

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

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

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

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

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

## REPORT ON THE FINANCIAL STATEMENTS

### 67 **Bank Balances**

- 249) As disclosed in Note 9.13A to the financial statements, the statement of financial assets and liabilities reflects bank balances of Kshs.1,436,982,430 as at 30 June, 2020. However, this balance does not include a sum of Kshs.21,151,077 relating to proceeds from encashment of a performance bond that was yet to be transferred into the Project bank account.

- 250) Consequently, the accuracy and fair statement of the reported bank balances of Kshs.1,436,982,430 as at 30 June, 2020 could not be confirmed.

### **Submission by the Accounting Officer**

- 251) The Accounting Officer submitted that it was true that performance bond issued by VERVE K.O. to KRA through GT bank was cashed by KRA to recover the advance issued to the vendor after the vendor declined to renew a guarantee bond for advance payment that had expired. Up to the time of the audit KRA was and is still in the process of remitting the funds to Public Financial Management Reforms Program (PFMR) project account. PFMR has since written a formal letter to the Commissioner-General, KRA urgently requesting for the funds to be remitted to PFMR project account. The matter was resolved by the Committee

## **68 Budgetary Control and Performance**

252) The statement of comparative budget and actual amounts reflects actual receipts of Kshs.1,195,985,108 against budgeted receipts of Kshs.1,285,075,789 resulting in a shortfall of Kshs.89,090,681 or 9% of the total budget. The shortfall was mainly recorded under proceeds from domestic and foreign grants where actual receipts amounted to Kshs.1,140,000,000 against the budgeted receipts of Kshs.1,233,000,000 resulting in a shortfall of Kshs.93,000,000 or 8% of the budgeted receipts. Further, actual expenditure for the year amounted to Kshs.502,322,315 against the actual receipts of Kshs.1,195,985,108 resulting to under expenditure of Kshs.693,662,793, for which Management attributed to slow down in implementation of work plans due to the COVID 19 pandemic.

### **Submission by the Accounting Officer**

253) The Accounting Officer submitted that T- The shortfall was mainly recorded under proceeds from domestic and foreign grants where actual receipts amounted to Ksh.1,140,000,000 against the budgeted receipts of Ksh.1,233,000,000 resulting in a shortfall of Ksh.93,000,000 or 8% of the budgeted receipts. Further, actual expenditure for the year amounted to Ksh.502,322,315 against the actual receipts of Ksh.1,195,985,108 resulting to under expenditure of Ksh.693,662,793.

254) The low absorption of funds was mainly due to the COVID 19 pandemic that hit the country in the 3rd quarter of the year in which most of the activities were scheduled to take place.

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

### **Basis for Conclusion**

## **69 Contract for Supply, Delivery, Installation and Commissioning of Enterprise Data Ware House and Business Intelligent Solution**

255) The Kenya Revenue Authority (KRA), one of the implementing agencies, contracted for the supply, delivery, installation and commissioning of an enterprise data warehouse and business intelligence solution. The contract was for a period of 18 months commencing 27 November, 2015 and ending 26 May, 2017. Review of the contract performance during the period revealed the following unsatisfactory issues: -

### **69.1 Failure to Charge and Recover Liquidated Damages**

256) The contract was terminated on 24 January, 2020 for delays in delivery. However, contrary to the provisions of section (140) of the Public Procurement and Asset Disposal

Act, 2015 and clause 3.17 of the general conditions of the contract which required the Program to charge default liquidated damages of 10% of the delayed goods and services accumulated to Kshs.59,385,238 (USD544,818.70) as at the date of termination, this had not been effected. The liquidated damages ought to have been charged on each certificate of performance and subsequently recovered from the contractor's payment certificates. No explanations were rendered for failure to recover.

257) The Program is in breach of the law to this extent.

#### **Submission by the Accounting Officer**

258) The Accounting Officer submitted that as per contract, the liquidated damages clause reads as follows: -

259) "If the delivery date is extended (except by mutual consent), a penalty amounting to 0.5% of the total cost will be charged per day up to a maximum of one hundred and eighty (180) days. No deliveries shall be accepted after the agreed date in which case the Local Service Order (LSO) and contract will automatically lapse and be deemed to have been cancelled at the close of business on the one eightieth day. The Authority shall then be at liberty to realize the performance bond. In this clause "days" means working days."

260) KRA reached a mutual agreement (Mutual Consent) with the vendor to extend the delivery date of the project (please find attached contract addendum with the new work plan that extended delivery date). It is important to note that KRA Management at that time was keen on completion of the Project in order for the Authority to realize benefits from implementing the Project and be within donor timelines for funding. KRA Management deemed that it was not in the best interest of the Authority to terminate the Project's contract then, as this would have risked further delay in completing Phase 1 of the Project. Phase 1 of the Project was completed by the Vendor based on the new agreement, revised work plan and the products are currently in use by KRA.

261) The matter was resolved by the Committee

#### **69.2 Advance Payment**

262) The contractor was paid an advance payment of Kshs.93,204,451 equivalent to USD904,898 on 18 December, 2015. However, after termination of contract on 24 January, 2020, only Kshs.21,151,077 had been recovered as at 30 June, 2020. The balance of Kshs.72,053,374 was still outstanding.

263) Consequently, the likelihood of loss of public resources due to non-recovery of the advance payment in contravention of Regulation 8(3)(t) and 8(3)(u) of the Public Procurement and Disposal Regulations, 2006 is high.

### **Submission by the Accounting Officer**

264) The Accounting Officer submitted that the project recovered the advance on all payments made to the vendor and attached is the advance payment schedule as a supporting document on all vouchers paid. PFMR Programme Financials Statements are currently reported on cash IPSAS, hence all payments are expensed

265) KRA has constituted court proceedings to recover the advance balance of USD 45,191.75. Below is the summary of amounts recovered from the vendor:

Advance Amount	USD. 904,898.00
12% deducted from PVs	USD. 649,042.00
Performance Bond Cashed	USD. 209,936.25
Advance Balance Due	USD. 45,919.75

266) The matter was resolved by the Committee

### **70 Staff Establishment**

267) As previously reported, a number of program positions continue to remain vacant or not substantively filled as per the approved establishment. The positions of Programme Officer I and II (M&E) were however, overstaffed.

268) Consequently, Management is in breach of the approved establishment. This may impact on Program efficiency and effectiveness in use of public resources.

### **Submission by the Accounting Officer**

269) The Accounting Officer submitted that the it was true that there is a gap in human resource personnel, this has led to under staffing in key sections of the Secretariat. However, management has initiated the recruitment process and is awaiting the approval of the Cabinet Secretary/National Treasury and Planning to fill the vacant positions and to meet the required establishment.

270) The matter was resolved by the Committee

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROL, RISK MANAGEMENT AND GOVERNANCE**

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

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

### **REPORT ON THE FINANCIAL STATEMENTS**

## 271) **Unqualified Opinion**

72 There were no material issues noted during the audit of Financial Statements of the Project.

### **Other Matter**

#### **73 Budgetary control and performance**

272) The statement of comparative budget and actual amounts reflects approved receipts budget and actual on comparable basis amount of Kshs.5,475,000 and Kshs.2,025,000, respectively, resulting to shortfall in receipts of Kshs.3,450,000 or 63%. Further, the Project's approved expenditure budget was Kshs.5,475,000 while the actual expenditure was Kshs.2,025,000, resulting to under-expenditure of Kshs.3,450,000 or 63% of the budget. Consequently, planned activities of the Project may possibly not have been implemented, thus affecting achievement of the intended goals of the Project.

#### **Submission by the Accounting Officer**

273) The Accounting Officer submitted that the project had scheduled training programmes in the 3<sup>rd</sup> and the 4<sup>th</sup> quarter which were the main activities of the project in the year. However, training was not feasible due to restriction imposed as result of Covid-19 Pandemic. As a result, the project training budget was not utilized resulting in an under expenditure of Kshs.3,450,000.00 or 63%.

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

#### **74 Irregular Termination of Technical Assistance Contract**

274) Contrary to the provisions of Section 153(1) of the Public Procurement and Asset Disposal Act, 2015, the contract for a technical assistant (consultant) was terminated without the approval of the Accounting Officer. Further, no prior written notice was served to the consultant contrary to clause 13 of the signed contract.

275) The Project is in breach of the law to the extent.

#### **Submission by the Accounting Officer**

276) The Accounting Officer submitted that the technical assistant (consultant) contract was single sources based on his previous assignments and experience under Aid Effectiveness Program that was under AFD. This Contract was subsequently cancelled in January, 2020 as recommended in the Audit Report of FY2018/2019 and re-advertised according to the Development Partners procurement guidelines.

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROL, RISK MANAGEMENT AND GOVERNANCE**

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

**TECHNICAL SUPPORT PROGRAMME: FINANCING AGREEMENT NO. KE/FED/2009/021421: NO. KE/FED/023-733 & NO. KE/FED/037-941**

**277) Unqualified Opinion**

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

**77 Non-Receipts of Budget**

278) The statement of comparative budget and actual amounts reflects budgeted receipts from proceeds of domestic and foreign grants and actual on comparable basis of Kshs.5,300,000 and Kshs.242,208 respectively resulting into under-funding of Kshs.5,057,792 or 95%. This is indicative of a project whose future is uncertain. Management has however, indicated intention to close the project immediately the prior year audit issues are resolved.

**Submission by the Accounting Officer**

279) The Accounting Officer submitted that the budget for this Project is informed by work plans for the year. In F/Y 2019/2020 planned activities were to cost Kshs.20,000,000.00. However, the budget was later revised downwards to Kshs.5,300,000.00. Despite the revision, the implementation of the activities was affected by Covid 19 pandemic with the project only incurring Kshs.242,800.00 that year.

280) The matter was resolved by the Committee

**78 Unresolved Prior Year Matters**

281) The following prior year audit matters remained unresolved as at 30 June, 2020.

**78.1 Co-operative Bank Dormant Accounts**

282) The Project continues to maintain two local currency Accounts No. 01141419783101 and No. 01141419783100 with Co-operative Bank of Kenya with bank balances of Kshs.1,136,902 and Kshs.359 respectively as at 30 June, 2020. No deposits or withdrawals have been made for the last four (4) financial years. The explanation that the balance of Kshs.1,136,902 in account No. 01141419783101 was insufficient to be paid back to the European Commission owing to ineligible expenditures, was not supported by way of documentary evidence. No cash books are maintained for these accounts hence the accuracy of the cash and cash equivalents balance of Kshs.24,202,681 reflected in the



financial statements could not be ascertained. The continued maintenance of the dormant account may expose the Programme Account to risk of loss of funds.

#### **Submission by the Accounting Officer**

283) The Accounting Officer submitted that the EU is seeking to be refunded an amount of Kshs.2,408,000.70 (Kshs.2,386,522.00 plus interest of Kshs.21,478.70 as at 27.03.2017) as unspent balance and Ineligible Expenditure. The alleged ineligible expenditure refers to an amount of Kshs.1,078,0800.00 that was used on expenses regarding production of the Blue Book and Video Documentary whose expenditure was incurred and supervised by the EU delegation. National Treasury (NT) however in various communications to EU as attached refuted the declaration of the expenditure as ineligible. Thus, since the demand note for the refund is Kshs.2,408,000.70, National Treasury is unable to finalize the transfer until this matter is settled between the two parties. In light of the above, the account will remain in operation and closed once the issues are resolved and the final agreed upon amount refunded. The correspondence between the EU and the National Treasury on the issue.

284) The matter was resolved by the Committee

#### **78.2 Non-disclosure of Pending Bills (2017-2018)**

285) As reported previously, the statement of receipts and payments as at 30 June, 2018 reflected an expenditure of Kshs.48,832,274 under use of goods and services. Examination of records maintained by the Management revealed the expenditure related to a single payment to a vendor, which appeared to have been processed in June, 2017 during the 2016/2017 financial year, but the same had not been disclosed as a pending bill as at 30 June, 2017. Failure to disclose the expenditure as pending bills contravenes the Public Finance Management Regulations, 2015 and may expose the Programme to the risk of incurring ineligible expenditure.

#### **Submission by the Accounting Officer**

286) The Accounting Officer submitted that the payment to M/S Proman, whose Service Contract was for the period 1st March 2012 to 6th September, 2016, that was to be processed during the 2016/17 Financial Year was delayed and processed in July 2017. The omission to declare it as a pending bill in FY 2016-2017 was noted. This bill was settled in the following FY 2017-2018, in the month of July 2017.

287) The matter was resolved by the Committee

#### **78.3 Unsupported Transfer to the Donor**

288) During the prior year, the Programme transferred an amount of Kshs.13,257,502 to European Commission without details. Further, no transmittal documentation or acknowledgement from the European Commission were availed for verification in support

of the transaction. In absence of sufficient and relevant supporting documents, it has not been possible to determine whether or not the amount in question was received.

#### **Submission by the Accounting Officer**

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

290) The matter was resolved by the Committee

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

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

#### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROL, RISK MANAGEMENT AND GOVERNANCE**

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

#### **MICRO FINANCE SECTOR SUPPORT CREDIT PROJECT (CREDIT NO CKE3004 01E AND CKE 6010 01E)**

#### **REPORT ON THE FINANCIAL STATEMENTS**

291) Unqualified Opinion

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

#### **Emphasis of Matter**

#### **82. Amount Withdrawn but Unclaimed**

292) Part B of the statement of special (designated) account reconciliation for the Project reflects Euro1,152,653.73 (Kshs.139,516,976.95), at the then exchange rate of 1 Euro at Kshs.121.04, as withdrawn but unclaimed as at 30 June, 2020. This represents cumulative funds transfers to the local Project bank account but whose expenditure returns have not been submitted to The National Treasury by the close of the financial year.

293) Further, an additional Euro 30,000 (Ksh3,631,194.00) cash advance to the Project reflected in the list of advances is yet to be justified under the Grant Facility CKE 6010.

294) My opinion in respect of this matter is not qualified.

**Submission by the Accounting Officer**

295) The Accounting Officer admitted that by the time of audit Part b of the statement of special account reconciliation for the Project reflects Ksh.139,516,976.95 as withdrawn but unclaimed as at 30th June,2020. These represents cumulative transfers to the local Project Bank account. The expenditure returns were not availed at the time of audits were later availed for audit review.

**296) Committee observations and findings**

- i. The Committee took note of the submission by the Accounting Officer and will make its determination of the matter in its report to plenary; and
- ii. The matter remained unresolved.

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

**83. Failure to Close Project**

297) As per Clause 10 of the financing agreement, the Project was to close on 31 October, 2010 but the closing date was later extended to 31 December, 2014. However, the Project Management is yet to formally prepare and submit the Project closure report. Consequently, the Project is in breach of the agreement with Agence Francaise Development (AFD) with its continued operation without a formal extension. Further, no explanation has been provided for failure to surrender to the Exchequer the balance of Kshs.90,491,999 which has been lying idle in the Project account at the Central Bank of Kenya.

**Submission by the Accounting Officer**

298) The Accounting Officer submitted that as per the clause 10 of the financing agreement, the project was to close on 31st October, 2010 but it was extended to 31st December, 2014. It has taken sometime to close the project but a consultant was hired to facilitate the preparation of final audit report and which he has completed and presented his opinion. The National Treasury is in the process of engaging the Donor with the aim of closing the project.

**299) Committee observations and findings**

- i. The Committee observed that final audit report was submitted pending closure of the project with concurrence from Donor; and
- ii. The matter remained unresolved.

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

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

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

**REPORT ON THE FINANCIAL STATEMENTS**

**300) Unqualified Opinion**

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

**86 Low Absorption of Project Funds**

301) Note 1.7 on funding summary indicates that the Donor had made commitments amounting to Kshs.3,033,000,000 (USD30,330,000) for both the grant and loan. The actual amount received during the Programme's period totalled to Kshs.2,860,600,000 (USD28,606,000) leaving a balance of Kshs.170,600,000 (USD1706,000) undrawn. With the Project closing date of 30 June, 2019, the credit has since lapsed without being fully utilized and the Programme's planned deliverables earmarked for completion using the funding may not have been realized. Further, Management has not initiated the Project's closure process or sought for an extension of the Programme from the Donor.

302) My opinion in respect of this matter is not modified.

**Submission by the Accounting Officer**

303) The Accounting Officer submitted that it was true that a balance of Kshs.170,600,000 relating to Kshs.900,000 grant and Kshs.169,700,000 loan was undrawn as at the closing date. Using percentage absorption as at the same date, this translates to 96% grant absorption and 95% loan absorption.

304) The programme main implementation components of Risk Sharing Facility, Credit Facility and Financial Graduation were fully disbursed during the grant and loan tenure. Accordingly, the undrawn facility of 4% and 5% on grant and loan amounting to Kshs.170,600,000 relate to implementation savings during the programme life.

305) As of the grant and loan facility closure period, the Government had begun discussions with IFAD to upscale the pilot programme for the main components of Risk Sharing and Credit Facilities. Consequently, IFAD and the Government have concluded a joint Programme Design Report. The report is scheduled for the December 2021 Executive Board of IFAD approval. The joint consensus between IFAD and the Government is that the up scaled programme will commence implementation immediately following the December 2021 Executive Board approval i.e. in the 3rd quarter of the FY 2021/22.

306) The matter was resolved by the Committee

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

##### 307) **Conclusion**

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

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

##### 308) **Conclusion**

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

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

#### REPORT ON THE FINANCIAL STATEMENTS

##### **Basis of qualified Opinion**

##### **89 Inaccuracies in the Financial Statements**

309) The statement of receipts and payments reflects cumulative receipts from proceeds from domestic and foreign grants of Kshs.379,198,112. However, the amount differs from the report on funding summary cumulative amount received to date of Kshs.2,957,238,212 as detailed under paragraph 1.7 resulting to an un-explained variance of Kshs.2,578,040,100.

310) Consequently, the accuracy and completeness of the reported receipts from proceeds from domestic and foreign grants of Kshs.379,198,112 for the year ended 30 June, 2020 could not be confirmed.

##### **Submission by the Accounting Officer**

311) The Accounting Officer submitted that the amount of Kshs.2,957,238,212 is the total disbursements to date made by Global Fund for payments to suppliers and PMU operations from 1st January, 2018. This amount is represented by the direct payments and the balances in the dollar account. The figure of Kshs.379,198,112 is the cumulative amount of direct payments that have been made to the suppliers and the Exchequer disbursements to the

Kenya Shillings operations account for programmatic activities. However, the issue was resolved in FY 2020/2021.

312) The matter was resolved by the Committee

#### **90. Non-Disclosure of Counterpart Contribution**

313) The statement of receipts and payments did not disclose the counterpart funding from the National Treasury. Further the Government of Kenya's contribution for the financial year and cumulatively cannot be established. Consequently, the accuracy and completeness of the reported receipts balance of Kshs.345,113,745 cannot be ascertained.

#### **Submission by the Accounting Officer**

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

#### **315) Committee observations and findings**

- i. The Committee took note of the submission by the Accounting Officer and will make its determination of the matter in its report to plenary; and
- ii. The matter remained unresolved

#### **Other Matter**

#### **91 Budgetary Control and Performance**

316) The statement of comparative budget and actual amounts for the year ended 30 June, 2020 reflects actual receipts of Kshs.345,113,745 against final budget receipts of Kshs.666,102,955 resulting in a shortfall of Kshs.320,989,210 or 48% of the total budget. Further, actual expenditure for the year amounted to Kshs.322,760,765 against the final budget expenditure of Kshs.666,102,955 resulting to an under absorption of Kshs.343,342,190 being 52% of the expenditure budget. Management attributed the slowdown in implementation of work plans to the COVID-19 pandemic and delays in procurement arising from late receipt of the tax exemption certificate.

#### **Submission by the Accounting Officer**

317) The Accounting Officer submitted that the under absorption 52% was as a result of delayed disbursement from global fund due to Covid-19 outbreak. The funds were to procure and distribute nets whereby deliveries were expected to be done in March and May 2020. This did not happen thus leading to the under expenditure.

#### **92 Pending Bills**

318) According to Note 10.1 to the financial statements, the Project had pending accounts payables totalling Kshs.379,687 (2019: Kshs.861,090) as at 30 June, 2020. During the year under review, the Project Management made payments totalling Kshs.861,090 while accumulating bills totalling Kshs.379,687. Management has not explained why the bills were not settled during the year they occurred. The Project is at risk of incurring significant interest costs and penalties with their continued delay in payment.

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

**Submission by the Accounting Officer**

320) The Accounting Officer submitted that Kshs.861,090 and Kshs.379,687 has been disclosed as pending accounts payables as at 30th June, 2020. These payments were processed in FYs 2018/2019 and 2019/2020 respectively but erroneously the cheques were not presented to bank for payment.

321) They were unrepresented cheques in our bank reconciliation.

DATE	DESCRIPTION	CHEQUE No.	AMOUNT
24.06.20	PAYE	000135	364,887.00
26.05.20	NSSF	000136	3,000.00
26.05.20	NHIF	000138	11,800.00
	<b>TOTAL</b>		<b>379,687.00</b>

322) The matter was resolved by the Committee

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

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

**Emphasis of Matter**

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

**323) Conclusion**

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



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

**REPORT ON THE FINANCIAL STATEMENTS**

**Basis of Qualified Opinion**

**95 Non —disclosure of Counterpart Funding**

324) The statement of receipts and payments did not disclose the counterpart funding from The National Treasury. Thus, the Government of Kenya contribution for the financial year and cumulatively cannot be established. In addition, the Project Management is in breach of paragraph 5.1 of the Grant Agreement which provides for a 15% counterpart contribution. Further, the Project Management is also in breach of Section 72(6) of the Public Finance Management Act, 2012, which requires the National Government to factor grants in the budgets with counterpart funds being appropriated in accordance with the signed agreement.

325) Consequently, the accuracy and completeness of the reported receipts balance of Kshs.2,799,519,735 cannot be ascertained.

**Submission by the Accounting Officer**

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

327) The Committee Observed that the above relates to Paragraph 90 and remained unresolved.

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

**328) Conclusion**

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

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

**329) Conclusion**

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

## **ADDITIONAL FINANCING FOR THE INFRASTRUCTURE FINANCE AND PUBLIC PRIVATE PARTNERSHIP PROJECT – IDA CREDIT NO 6121 – KE**

### **REPORT OF THE FINANCIAL STATEMENTS**

#### **330) Unqualified Opinion**

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

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

#### **Other Matter**

#### **99 Budgetary Control and Performance**

331) The statement of comparative budget and actual amounts reflects budgeted and actual receipts on comparable basis of Kshs.200,000,000 and Kshs.111,967,300 respectively resulting into underfunding of Kshs.88,043,700 or 44%. Similarly, the statement reflects approved budget and actual expenditure of Kshs.200,000,000 and Kshs.82,749,638 respectively resulting in an under-expenditure of Kshs.117,250,362 or 59%. Management has attributed the under-absorption of funds to delayed implementation of the planned activities.

#### **Submission by the Accounting Officer**

332) The Accounting Officer submitted that there was an improvement in project's performance from 3% in the previous FY to 41% in the year under review and under expenditure of 97% to 59% respectively. However, this absorption is still low for project during the financial year and mainly contributed by the nature of the project design and disbursement structure that is based on Disbursement Linked Indicators (DLIs) since a number of activities were done and accomplished during the Financial Year that did not actually translate directly into financial commitments. In addition, the COVID-19 Pandemic slowed down the procurement process for the big value consultancy items which were at advanced stages of the procurement process and thus resulted to a low disbursement.

333) Despite the slowdown of activities due to the pandemic, the procurement processes have now gained momentum and substantial activities in the work plan are actively being implemented that would improve the expenditure during the subsequent year.

334) Relates to Paragraph 19 and the matter was resolved by the Committee

#### **335) Conclusion**

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

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

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

**FINANCING LOCAL-LED CLIMATE ACTION PROGRAMME (PREPATION ADVANCE NO.IDA - V319KE)**

**REPORT ON THE FINANCIAL STATEMENTS**

**336) Unqualified Opinion**

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

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

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

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

**337) Conclusion**

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

**OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AGENCIES UNDER THE NATIONAL TREASURY**

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

**REPORT ON THE FINANCIAL STATEMENTS**

**338) Unqualified Opinion**

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

## **Other Matter**

### **106 Pending Bills**

339) Note 10.1 to the financial statements reflects pending bills totaling Kshs.3,991,800 as at 30 June, 2019 that has been outstanding since the beginning of the financial year. Management has not provided reasons for non-payment of the bills even though the Project is at risk of incurring interest costs and penalties with the continued delay in making payments.

#### **Submission by the Accounting Officer**

340) The Accounting Officer submitted that the pending bills totaling Kshs.3,999,800/- were Accounts payables relating to Training tuition fees, Air tickets and travel imprests outstanding as at 30<sup>th</sup> June 2021 made up of:

- ESAMI Course Tuition fees invoices totaling to USD 8,800 Kshs.937,000/- and
- Air tickets and per diem allowances totaling 3,054,600/-

341) The supplier (ESAMI) delayed to send the fees invoices for payment and 30th June 2020 we had not received the invoices. These pending bills have since been paid on 02/02/2021 via the EARTTDFP Project account.

342) The amount of Kshs.3,054,600 that includes per diems and air ticket, were paid from KRA Main Imprest Account and had not been reimbursed from the project account as at 30th June 2020. These have since been reimbursed from the project account on 9/12/2020

343) The matter was resolved by the Committee

### **107. Budgetary Control and Performance**

344) The statement of comparative budget and actual amounts reflects final expenditure budget and actual expenditure on comparable basis of Kshs.204,733,000 and Kshs.18,490,000 respectively resulting in an under expenditure of Kshs.186,243,000 (91%). The under expenditure of the approved budget indicates that some Project activities in the annual work-plan were not implemented which is likely to have impacted negatively on service delivery to the public.

#### **Submission by the Accounting Officer**

345) The Accounting Officer submitted that the project activities implementation was suspended on the outbreak of Covid 19 Pandemic. The project implementation resumed in June 2020 after Covid 19 compliance measures were put in place. This necessitated delay from the initial expected completion time as per initial work plan.

346) The following steps have since been taken in order to expedite the delivery of the pending activities in the current financial year FY 2021/22: KRA has appointed a Project Implementation Team (PIT) with dedicated Customs resources to implement the activities in the work plan.

347) As at 31st June 2021 one activity out of nine activities was 100% complete. The Implementing agencies (KRA included) requested for an extension of the project end time to Dec 2023 through the PMO office in Ministry of transport.

348) In view of this KRA Team revised the completion dates for the remaining activities documented awaiting approval from World Bank.

349) The Matter relates to paragraph 19 and was therefore resolved by the Committee

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

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

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

350) **Conclusion**

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

#### EQUALISATION FUND

#### REPORT ON THE FINANCIAL STATEMENTS

351) **Unqualified Opinion**

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

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

## **Basis for Conclusion**

### **111. Non-Compliance with the Constitution and the Law**

352) The statement of receipts and payments for the financial year 2019/2020 reflects nil receipts as there was no budget provision to the Fund. Further, the Equalisation Fund's Information and Management Report indicates Fund accumulated entitlement of Kshs.45,044,075,763 over the last eight (8) years (2011/2012 – 2018/2019) based on 0.5% of the most recent audited and approved revenues. However, only Kshs.12,400,000,000 or 27.5% of the entitlement had been appropriated and transferred to the Fund account contrary to the provisions of Article 204(1) of the Constitution which requires that one half per cent of all the revenue collected by the National Government each year calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly shall be paid into the Equalisation Fund.

353) Further, out of the appropriated and available funds of Kshs.12,400,000,000, only an amount of Kshs.10,116,573,051 or 82% has been disbursed to the implementing Ministries, Departments and Agencies (MDAs) to fund projects in the beneficiary Counties while the remaining balance of Kshs.2,283,426,949 is held in the Fund bank accounts. Management has attributed lack of disbursements to a court ruling on Petition No. 272 of 2016 dated 12 November, 2019 that declared the Equalisation Fund Guidelines, 2015 null and void. However, in the absence of disbursements, the Fund may not realise its intended objectives of providing basic services to the marginalised areas to achieve equality and equity in the provision of basic services with other regions.

#### **Submission by the Accounting Officer**

354) The Accounting Officer submitted that the Equalization Fund which was established under article 204 of the Constitution is allocated one half percent of all revenue collected by the national government each year on the basis of most recently audited accounts. The fund was operationalized using guidelines on administration of equalization fund published in gazette notice No. 1711 of 13th March 2015.

355) Up to November 2019 the Equalization Fund was administered through the defunct Equalization Fund Advisory Board (EFAB) as provided for in section 4.1 of Gazette Notice No 1711 dated 13th March 2015. The implementing agencies have since shared their reports with the National Treasury on status of projects' completion and pending certificates. However, on 5th November 2019, the High Court made a ruling on Petition No. 292 of 2016 and declared the Equalization Fund guidelines as unconstitutional, null and void. This in effect disbanded the Equalization Fund Advisory Board (EFAB) and stopped any further expenditure from Equalization Fund.

356) The National Treasury was directed to develop a statutory instrument on the administration of the Equalization Fund and it is on this basis that a multi-agency committee comprising of representatives from National Treasury, National Assembly,

Senate, Council of Governors, Commission of Revenue Allocation and Controller of Budget was put in place to develop new Equalization Fund statutory instrument. This team developed the PFM (Equalization Fund Administration) Regulations 2021 which have been published and approved by the Parliament.

357) The purpose of these Regulations includes;

- (i) to provide guidance on the administration and management of the Equalization Fund;
- (ii) facilitation of the completion of ongoing projects under the first policy through payment of pending certificates and;
- (iii) provide for identification and implementation of new projects under the second policy and subsequent policies to be financed under the Equalization Fund.

358) The National Treasury is in the process of constituting the Equalization Fund Advisory Board. Accordingly, the National Treasury has requested for nominations for appointment to the Board from the Council of Governors, the Senate and the National Assembly, in accordance with Regulations 4 and 5 of the PFM (Equalization Fund Administration) Regulations 2021. Further, the National Treasury is in consultation with the State Department for Public service on development of a Human Resource Instrument that will form the basis for terms of service for the Board and the Secretariat of the Fund.

359) The appointment of the Board and Secretariat will operationalize the Fund and ensure the completion of projects as identified by the first policy on marginalization in fourteen counties and the implementation of programmes in the second policy. The Board will oversee the preparation of operational guidelines, strengthening of public participation, deliberately targeting minorities within marginalized areas and efficient utilization of funds.

360) **Committee observations and findings**

- i. The Committee observed that PFM Equalization Regulation has been approved by Parliament and the process of establishing the Board and Secretariat to the Fund is ongoing;
- ii. The Committee Further observed that the Accounting Officer is in breach of Article 204(1) of the Constitution by failing to remit one half per cent of all the revenue collected by the National Government each year calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly to the Equalization Fund; And
- iii. The matter remained unresolved.

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

361) **Basis for Conclusion**



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

## **CONTINGENCIES FUND**

### **REPORT ON THE FINANCIAL STATEMENTS**

**362) Unqualified Opinion**

- 113** There were no material issues noted during the audit of the financial statements of the Fund.

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

**363) Conclusion**

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

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

**364) Conclusion**

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

## **PETROLEUM DEVELOPMENT LEVY FUND HOLDING ACCOUNT**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

- 116** **Variance Between Receipt in The Financial Statements and Actual Collection by Kenya Revenue Authority**

**365)** The statement of receipts and payments for the year ended 30 June, 2020 reflects petroleum development levy receipts from the Kenya Revenue Authority (KRA) of Kshs.1,986,101,670. However, the petroleum development levy receipts reflected in KRA Revenue Accountability Statement and transferred to the Fund is Kshs.2,016,099,111 leading to an unexplained difference of Kshs.29,997,441. Further, the Fund Management

did not provide the general ledger and the trial balance to support the balances reflected in the financial statements.

366) Under the circumstances, the accuracy of the balances reflected in the financial statements could not be confirmed.

#### **Submission by the Accounting Officer**

367) The Accounting Officer submitted that the statement of receipt and payments for the year ended 30 June 2020 reflects PDL receipts from KRA of KShs.1,986,101,670.40 while KRA revenue accountability reflects Kshs.2,019,099,111 giving a variance of KShs.29,997,440.60. The variance of Kshs.29,997,440.60 was as a result of the difference between the backdated PDL collection received in CBK in July 2020 and backdated by National Treasury to F/Y 2019/2020 and PDL collections received in CBK in July 2019 and backdated by National Treasury to F/Y 2018/2019 as analyzed here below:

	Collections received in July 2020 backdated to F/Y 2019/2020 -	36,977,738.60
Less	Collections received in July 2019 backdated to F/Y 2018/2019 -	<u>6,980,298.00</u>
	<b>Variance</b>	<b><u>29,997,440.60</u></b>

368) Reconciliation analysis and PDL statement in support of the variance were availed to the Auditors for verification and to the Committee for perusal.

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

##### **369) Conclusion**

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

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

##### **370) Conclusion**

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

#### **RURAL ENTERPRISE FUND**

##### **Basis for Adverse Opinion**

##### **119 Unbanked Cash**

371) As disclosed in Note 1 to the financial statements, the statement of assets and liabilities reflects bank balances totaling Kshs.3,348,895 which relates to balances brought forward from 2012/2013 and prior years. The balances comprise cash with District Commissioners on account of loans repaid, interest on loans and balances held in miscellaneous deposit accounts amounting to Kshs.1,951,921, Kshs.108,840 and Kshs.1,288,135 respectively. However, evidence to confirm actual existence of the balance of Kshs.3,348,895 was not provided. Further, the balance of Kshs.1,951,921 relating to District Commissioners (Loans Repaid) included advances amounting to Kshs.207,344 in form of IOUs issued from the Fund to five (5) officers working at the District Commissioner's Office, Kisumu in 1997/1998. The IOUs had not been surrendered as at 30 June, 2020.

372) In the circumstances, the accuracy and validity of the reported bank balances of Kshs.3,348,895 could not be confirmed.

#### **Submission by the Accounting Officer**

373) The Accounting Officer submitted that the Funds Statements reflects unbanked cash balance totaling Kshs.3,348,895/- brought forward from F/Y 2012/2013 and earlier years which is made up of balances of Kshs.1,951,920.60, Kshs.108,839.70, and Kshs.1,288,134.70 against Account Receivables-Loanee's, Cash with D.C. (Loans Repaid), Cash with D.C. (Interest on Loans) and Cash in the DC'S Miscellaneous Deposit Account respectively.

374) A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation order 2020 was done and submitted to the cabinet for consideration and approval.

375) The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/ (18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General's Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly.

#### **120 Unreconciled balances**

376) As was reported in the previous year, the statement of assets and liabilities for deposits as at 30 June, 2013 reflected a debit balance of Kshs.1,828,388 in respect of the Fund while the Fund account for the same year reflected a balance of Kshs.397,908,774. The significant difference of Kshs.396,080,387 between the two sets of records had not been reconciled or explained as at 30 June, 2020.

#### **Submission by the Accounting Officer**

- 377) The Accounting Officer submitted that also included was an amount of Kshs,207,304/- in form of IOU's issued to five officers working at the District Commissioners office Kisumu in F/Y 1997/1998 and which had not been surrendered as at 30th June 2014. Also the Fund's financial statement as at 30 June 2019 presented for audit continue to reflect a total amount of Kshs.397,908,774.30 under financial assets made up of balances of Kshs.394,559,879.30, Kshs.1,951,920.60, Kshs.108,839.70, and Kshs.1,288,134.70 respectively.
- 378) This is a dormant fund and it is in the process of being wound up. The National Treasury established a Taskforce on winding up of Dormant Funds including Rural Enterprise Fund. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019.
- 379) A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation order 2020 was done and submitted to the cabinet for consideration and approval.
- 380) The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/ (18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General's Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly.
- 381) With the conclusion of the winding up, the issues raised by the Auditor under Para 157 to Para 142 will be fully addressed.

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

### **Basis for Conclusion**

#### **121 Winding Up of the Fund**

- 382) As reported previously, the Fund was recommended for winding up through Legal Notice No. 97 dated 29 June, 2012 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. As at the time of finalizing this audit, the winding up process of the Fund was yet to be completed despite the legal notice.

#### **Submission by the Accounting Officer**

- 383) The Accounting Officer submitted that the National Treasury has not yet closed Funds Books of Account despite the winding up of the Fund vide Legal Notice No.97 dated 14th

September 2012 and has continued to prepare and submit the Funds Financial Statements for audit.

384) This is a dormant fund and it is in the process of being wound up. The National Treasury established a Taskforce on winding up of Dormant Funds including Rural Enterprise Fund. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019.

385) A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation order 2020 was done and submitted to the cabinet for consideration and approval.

386) The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/ (18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General's Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly.

387) With the conclusion of the winding up, the issues raised by the Auditor under Para 157 to Para 143 will be fully addressed.

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

##### 388) **Conclusion**

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

#### COVID 19 EMERGENCE RESPONSE FUND

#### REPORT ON THE FINANCIAL STATEMENTS

##### 389) **Unqualified Opinion**

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

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

## **Basis for Conclusion**

### **124 Fund Board**

390) Regulation 7(1) of the Public Finance Management (COVID-19 Emergency Response Fund) Regulations, 2020 provides for establishment of the Fund Board comprised of a Chairperson appointed by the President, the Cabinet Secretary responsible for matters relating to Interior and Co-ordination of National Government, the Chairperson of the Council of County Governors and eight (8) other members who shall not be public officers appointed by the President. Regulation 7(2) also provides for the appointment of a Secretary to the Board appointed by the President. Contrary to these Regulations, the Fund operated without a Board during the year under review.

391) The Fund was therefore in breach of the Regulations.

### **Submission by the Accounting Officer**

392) The Accounting Officer submitted that it was true Regulation 7(1) of the Public Finance Management (COVID -19 Emergency Response Fund) Regulations, 2020 provides for establishment of the Fund Board comprising of a Chairperson appointed by the President, The Cabinet Secretary responsible for matters relating to Interior and coordination of National Government, The Chairperson of council of Governors and eight (8) other members who shall not be public officers appointed by the president. Regulation 7(2) also provides for the appointment of a Secretary to the Board appointed by the President. It is important to clarify that the Fund Board indicated above is operational and operates separate accounts that should be audited separately from the National Treasury. As evident from the Financial Statements, there has been no transaction within the accounts held in the National Treasury as we sort direction whether the funds should be managed centrally or separately.

393) The Principal Secretary of the National Treasury is recognized in the Public Finance Management (Covid-19 Emergency Response Fund) Regulation 2020 as the Administrator of the Fund. The Funds under the National Treasury have been accounted for and it is the responsibility of the Board to prepare financial statements of the Funds spent outside the purview of the National Treasury and submit them to the Auditor General for audit in accordance with the provision of Article 229 (6) of the Constitution and regulation 9 (g) and (h) of the Public Finance Management (Covid-19 Emergency Response Fund) Regulations, 2020.

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

### **394) Conclusion**

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

## **STATE OFFICERS AND PUBLIC OFFICERS MOTOR CAR LOAN SCHEME FUND**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **395) Unqualified Opinion**

126 There were no material issues noted during the audit of the financial statements of the Fund. Other Matter

#### **127 Low Fund Performance**

396) 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 Officers in December, 2014. The Fund Management has, however, not undertaken any significant activities since then. Although the Secretariat of the Fund had begun processing fifty seven (57) applications for loans totalling to Kshs.44,074,539, the performance of the Fund was relatively low at 1.15% in comparison to the cash and cash equivalents amount of Kshs.3,826,841,308 held in the Fund's bank accounts as at 30 June, 2020. The fund is still performing below expectations and Management has not indicated measures put in place to attract more State Officers and Public Officers to apply for motor car loans.

#### **Submission by the Accounting Officer**

397) The Accounting Officer submitted that it was noted that the Fund had at the time of audit processed 57 motor car loan applications totalling Kshs.44,074,539.00. However, with the approval of the Board, the fund organized sensitization exercises across the country targeting the beneficiaries at the county level beginning March 2020. This exercise was halted following the outbreak of the COVID 19 and implementation of the containment measures.

398) The efforts made through the sensitization exercise prior to the outbreak led to an increase in uptake to one hundred and ten applications (110) amounting to Kshs.193,793,436. The fund has projected in its work plan for the FY 2021/22 activities geared towards creating awareness through distribution of materials, use of social media and face to face forums in order to increase uptake.

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

#### **399) Conclusion**



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

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

### 400) **Conclusion**

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

## GOVERNMENT CLEARING AGENCY

### REPORT ON THE FINANCIAL STATEMENTS

#### **Basis for Disclaimer of Opinion**

#### **130 Non-Disclosure of Receipts and Payments**

- 401) The statements of receipts and payments reflects an amount of Kshs.2,174,171 received in the 2018/2019 financial year that was transferred to the Exchequer in 2019/2020. However, analysis of entries in the bank statement for the Fund bank account No. 01001007625100 operated at the National Bank of Kenya revealed that the Agency received a total of Kshs.252,459,894 and made payments amounting to Kshs.213,585,119 during the year under review. No explanation was provided on why the Agency did not disclose the receipts and the payments in the financial statements. Further, supporting documents for the transactions reflected in the bank statement were not provided for audit.
- 402) Consequently, the accuracy and completeness of the reported receipts and payments of Kshs.2,174,171 could not be confirmed.

#### **Submission by the Accounting Officer**

- 403) The Accounting Officer submitted that the Government Clearing Agency was responsible for receiving of clearance/shipping documents, preparation and processing of imports/exports, warehousing and transporting of goods for other Government Ministries/Departments/Agencies (MDAs) who seek its services.
- 404) This is a dormant fund and it is in the process of being wound up. The National Treasury established a Taskforce on winding up of Dormant Funds including Government Clearing Agency.
- 405) The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019. A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his

letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation orders 2020 were submitted to the cabinet for consideration and approval.

406) The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/ (18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General's Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly.

407) With the conclusion of the winding up, the issues raised by the Auditor under Para 148 to Para 154 will be fully addressed.

### **131. Unresolved Prior Year audit matters**

408) As disclosed under progress on follow up of prior years' auditor's recommendations section of the financial statements, issues reported in the prior year, remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues.

### **Submission by the Accounting Officer**

409) The Accounting Officer submitted that the Government Clearing Agency was responsible for receiving of clearance/shipping documents, preparation and processing of imports/exports, warehousing and transporting of goods for other Government Ministries/Departments/Agencies (MDAs) who seek its services.

410) This is a dormant fund and it is in the process of being wound up. The National Treasury established a Taskforce on winding up of Dormant Funds including Government Clearing Agency.

411) The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019. A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation orders 2020 were submitted to the cabinet for consideration and approval.

412) The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/ (18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General's Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly.

413) With the conclusion of the winding up, the issues raised by the Auditor under Para 148 to Para 154 will be fully addressed.

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

##### 414) **Conclusion**

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

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

##### 415) **Conclusion**

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

#### **TREASURY MAIN CLEARANCE FUND**

##### **Basis for Qualified of Opinion**

##### **134 Long outstanding accounts Receivables-Debtors**

416) As reported previously, the statement of assets and liabilities reflects accounts receivables-debtors balance of Kshs.12,503,607,446 as at 30 June, 2020. The balance has been outstanding for a long period of time with no movement which is indicative of nil recoveries. Further, details and breakdown of Kshs.2,341,896,518 being remittance to an agent and included in the balance was not provided for audit.

417) Consequently, and in absence of a provision for doubtful debts, the recoverability of the long outstanding accounts receivables - debtors balance of Kshs.12,503,607,446 could not be confirmed.

##### **Submission by the Accounting Officer**

418) 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.

- 419) This is a dormant fund and it is in the process of being wound up. The National Treasury established a Taskforce on winding up of Dormant Funds including Treasury Main Clearance Fund. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019. A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation order 2020 was done and submitted to the cabinet for consideration and approval.
- 420) The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/ (18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General's Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly.
- 421) With the conclusion of the winding up, the issues raised by the Auditor under Para 157 to Para 159 will be fully addressed.

### **135. Unsupported Accounts payables- Creditors**

- 422) As previously reported, the statement of assets and liabilities reflects accounts payables – creditors balance of Kshs.12,490,478,941 as at 30 June, 2020. However, detailed listings in support of the balances were not availed for audit review.
- 423) Consequently, the accuracy and completeness of the accounts payables - creditors balance of Kshs.12,490,478,941 as at 30 June, 2020 could not be ascertained.

### **Submission by the Accounting Officer**

- 424) 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.
- 425) This is a dormant fund and it is in the process of being wound up. The National Treasury established a Taskforce on winding up of Dormant Funds including Treasury Main Clearance Fund. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019. A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C

Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation order 2020 was done and submitted to the cabinet for consideration and approval.

426) The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/ (18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General's Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly.

427) With the conclusion of the winding up, the issues raised by the Auditor under Para 157 to Para 159 will be fully addressed.

### **136. Unsupported deficit balance brought forward**

428) As reported previously, the statement of assets and liabilities reflects a net financial position (closing fund balance) of Kshs.13,128,505 which consists of a Fund balance and deficit brought forward of Kshs.14,000,000 and Kshs.871,495 respectively. However, the balances were not supported by any reconciliation.

429) Consequently, the accuracy of the closing Fund balance of Kshs.13,128,505 could not be confirmed.

### **Submission by the Accounting Officer**

430) 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.

431) This is a dormant fund and it is in the process of being wound up. The National Treasury established a Taskforce on winding up of Dormant Funds including Treasury Main Clearance Fund. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019. A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation order 2020 was done and submitted to the cabinet for consideration and approval.

432) The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/ (18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General's Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly.

433) With the conclusion of the winding up, the issues raised by the Auditor under Para 157 to Para 159 will be fully addressed.

### **Other Matter**

#### **137. Failure to wind up the fund**

434) As reported previously, the Fund has been dormant for a significant duration. In spite of the recommendations of the Public Accounts Committee and instructions of The National Treasury to wind up all dormant funds, the Fund continues to subsist, prepare financial statements and present them for audit. As at the time of finalizing this audit, the process of winding up the Fund was yet to be completed.

#### **Submission by the Accounting Officer**

435) 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.

436) This is a dormant fund and it is in the process of being wound up. The National Treasury established a Taskforce on winding up of Dormant Funds including Treasury Main Clearance Fund. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019. A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation order 2020 was done and submitted to the cabinet for consideration and approval.

437) The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/ (18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General's Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly.

438) With the conclusion of the winding up, the issues raised by the Auditor under Para 157 to Para 159 will be fully addressed.

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

##### 439) **Conclusion**

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

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

##### 440) **Conclusion**

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

#### KENYA LOCAL LOANS SUPPORT FUND

#### REPORT ON THE FINANCIAL STATEMENTS

##### **Basis for Disclaimer of Opinion**

##### **140 Unsupported Balances**

441) The financial statements presented for audit are not supported by trial balance and ledgers. In the circumstances, the accuracy of the reported balances could not be ascertained.

##### **Submission by the Accounting Officer**

442) The Accounting Officer submitted as follows:

##### **Lack of Trial Balance and Ledger**

443) The Fund balance of Kshs.87,005,779.65 represents bank, unaccounted for investment proceeds and accrued interest of Kshs.9,045,400.00, Kshs.6,364,973.50 and Kshs.71,595,406.15 respectively. The bank balance and unaccounted for redemption proceeds forms part of the bank balance on National Treasury Deposit account while accrued interest (Debtor – Cereals and Sugar Finance Corporation) has no supporting documents and is therefore earmarked for write-off. Except for accrued interest, other figures in financial statement form part of the ledger balance of Kshs.74,002,328,162.00.



444) This is a dormant fund and it is in the process of being wound up. The National Treasury established a Taskforce on winding up of Dormant Funds including Kenya Local Loans Support Fund. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019. A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation order 2020 was done and submitted to the cabinet for consideration and approval.

445) The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/ (18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General's Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly.

446) With the conclusion of the winding up, the issues raised by the Auditor under Para 162 will be fully addressed.

#### **141 Winding Up of the Fund**

447) As reported previously, the Fund has been dormant for a significant duration. In spite of the recommendations of the Public Accounts Committee and the instructions of The National Treasury to wind up all dormant funds, the winding up process was yet to be completed as at the time of finalizing the audit.

#### **Submission by the Accounting Officer**

448) The Accounting Officer submitted that this is a dormant fund and it is in the process of being wound up. The National Treasury established a Taskforce on winding up of Dormant Funds. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019. A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation order 2020 was done and submitted to the cabinet for consideration and approval.

449) The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/ (18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General's Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly.

450) With the conclusion of the winding up, the issues raised by the Auditor under Para 163 will be fully addressed.

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

##### 451) **Conclusion**

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

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

##### 452) **Conclusion**

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

#### PROVIDENT FUND

#### REPORT ON THE FINANCIAL STATEMENTS

##### **Basis for Qualified Opinion**

##### **144 Un-Supported Other Payables**

453) The statement of financial position reflects a balance of Kshs.9,715,111 being other payables brought forward from previous years. The balance includes surplus cash remitted by Departments and interest due to National Government entities of Kshs.9,622,726 and Kshs.92,385 respectively. The supporting documents or analysis for the balances were not availed for audit review.

454) Under the circumstances, the accuracy and validity of the balances could not be confirmed.

##### **Submission by the Accounting Officer**

455) The Accounting Officer submitted that the statement of Assets and Liabilities reflects pending payables balance of Kshs.9, 715,111.00 under the following items: -

<b>Particulars</b>	<b>Amounts (Kshs)</b>
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Surplus cash remitted by Departments	9,622,726.00
Interest due from the Government	92,385.00
<b>Total</b>	<b>9,715,111.00</b>

456) These balances were brought forward from prior 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 the Dormant funds to assist ministries/departments and agencies to clear the outstanding old balances in their books of accounts. This is a dormant fund and it is in the process of being wound up. The National Treasury established a Taskforce on winding up of Dormant Funds. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17<sup>th</sup> May 2019.

457) A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10<sup>th</sup> September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19<sup>th</sup> November 2019 he advised that draft revocation orders be prepared on the fund. The revocation order 2020 was done and submitted to the cabinet for consideration and approval.

458) The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/ (18) dated 2<sup>nd</sup> March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General's Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly.

459) With the conclusion of the winding up, the issues raised by the Auditor will be fully addressed.

## Other Matters

### 145 Budgetary Control and Performance

460) The statement of comparison of budget and actual amounts reflects Nil approved budget for both receipts and payments items. The Fund however, received dividends totalling Kshs.67,867,933 during the year under review. The explanatory notes indicated that there was no budget drawn, even though the Fund expected dividends from both Kenya Power and Lighting Company PLC and East African Breweries Limited.

461) The Fund therefore, violated provisions of Public Finance Management Act, 2012 that requires preparation of estimates of expenditure and revenue of the entity in conformity with the strategic plan of the entity.

### **Submission by the Accounting Officer**

462) The Accounting Officer submitted that it was true for the year under review no budget was prepared, since the initial purpose of the fund ceased after the beneficiary's demise, but it still received dividend from the investments with Kenya Power and Lighting Company and Kenya Breweries Company. The winding up process as been initiated however the department will prepare a one-line budget in future to capture the dividend receivables until the time when the fund will be wound up.

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

### **463) Conclusion**

**146** There were no material issues relating to lawfulness and effectiveness in use of Public resources

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

### **464) Conclusion**

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

## **EUROPEAN WIDOWS AND ORPHANS PENSION FUND**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

#### **148 Failure to Prepare a Budget**

465) The statement of comparison of budget and actual amounts shows an expenditure of Kshs.100,680 incurred on dependant pension during the year under review. However, this amount was not included in the national budget estimates for the financial year 2019/2020. To this extent, the Management of the Fund is in breach of Section 68 (2) (h) of the Public Finance Management Act, 2012 which requires an Accounting Officer to prepare estimates of expenditure and revenues.

### **Submission by the Accounting Officer**

466) The Accounting Officer submitted that it was true the Fund budget was not included in the national budget estimates for the financial year 2019/2020. However, a budget will be prepared and included in future national budget estimates.

## 149 Accounts Payables

467) The statement of financial position reflects accounts payables of Kshs.16,780 being amount paid out as monthly pensions and returned in the financial year 2017/2018. The documentation to support the balance and details of the payees were however not availed for audit review. In addition, no explanation was provided on why the pensioners have not been paid three years down the line.

468) Consequently, the validity of the accounts payables balance of Kshs.16,780 could not be ascertained.

### Submission by the Accounting Officer

469) The Accounting Officer submitted that the statement of financial position reflects accounts payables of Kshs.16,780 being amount paid out as monthly pensions and returned in the financial year 2017/2018. The amount was returned due to unavailability of payroll, and document in support are hereby attached for audit review.

## 150 Failure to Provide Ledger and Trial Balance

470) The financial statements reflect various balances as at 30 June, 2020 which were not supported by a Ledger or Trial Balance as detailed below:

Item Description	Amounts (Kshs.)
1	Payment of Pensions 100,680
2	Investments 21,608,573
3	Receivables 21,221,715
4	Cash Balances 172,651,989
5	Payables 16,780
6	Capital Accounts 11,598,063

471) Under the circumstances, the accuracy and validity of the financial statements could not be confirmed.

### Submission by the Accounting Officer

472) The Accounting Officer submitted that it was true the financial statements reflect various balances as at 30 June 2020 which were not supported by a Ledger or Trial Balance.

473) However, the Ledger and the Trial Balance has been availed for audit review.

Item Description	Item line in	Amounts (Kshs.)
1	Payment of Pensions 7310214	100,680

2	Investments	7310217	21,608,573
3	Receivables (CSFC)	7310219	16,900,000
4	Receivables(Dividend)	7310224	4,321,715
5	Cash Balance	Balancing figure	172,651,989
6	Payables		16,780
7	Capital Accounts	7310216	121,598,063

474) The PMIS ledger has a challenge that will be addressed by the new system to be procured, whereby some item codes are missing. Cash balance is show in the ledger as a balancing figure, items for dividend receivable and payable are also not incorporated. The K.P.L.C paid on 2nd July 2021 dividend of Kshs.4,321,715 that was declared in the year 2016 and will be captured in the ledger during the financial year 2021/2022.

### 151 Unsupported Capital Accounts Adjustment

475) As previously reported, the Fund adjusted its investment account balance from Kshs.25,516,932 downwards to Kshs.21,608,573 by crediting the account with Kshs.3,908,360 in the financial year 2017/2018. The Capital account was debited with a similar amount of Kshs.3,908,360 adjusting the closing balance from Kshs.125,506,423 to Kshs.121,598,063. The two accounts had earlier been adjusted in 2011/2012 financial year with an amount of Kshs.17,364,820 in recognition of bonus shares which had been omitted. The Fund Management has not provided the journal vouchers to support the adjustments.

### Submission by the Accounting Officer

476) The Accounting Officer submitted that the PMIS system has a challenge in capturing certain prior year adjustments, receivables and producing financial reports. The challenge will be addressed by procuring a new system.

477) The adjustment of Capital account by Kshs.3,908,360.00 was effected through debiting the Capital account balance and crediting the investment account balance brought forward with a similar amount. The two accounts were adjusted in 2011/2012 financial year with an amount of Kshs.17,364,820 in recognition of bonus shares. The journal no.81 of 29th June, 2018 for Kshs.3,908,360.00 to support the adjustment is hereby attached for audit review.

478) **Resolved by PAC 2017/2018.**

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

479) **Conclusion**

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT  
AND  
GOVERNANCE

480) **Conclusion**

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

**ASIAN OFFICERS FAMILY PENSION FUND**

REPORT ON THE FINANCIAL STATEMENTS

**Basis for Adverse Opinion**

**154 Failure to Prepare Budget**

481) The statement of receipts and payments and the statement of comparison of budget and actual amounts reflects actual receipts and expenditure amounts of Kshs.5,998 and Kshs.1,601,196 respectively. However, there was no approved budget for the Fund contrary to the provisions of Section 68(1) and (2)(h) of Public Finance Management Act, 2012.

**Submission by the Accounting Officer**

482) The Accounting Officer submitted that it was true for the year under review no budget was prepared, since the fund budget is not factored in the National Budget Estimates. These anomaly was noted and the statement will be included in subsequent Budget Estimates.

**155 Accuracy of the Financial Statements**

483) Some balances reflected in the Trial Balance prepared and presented for audit were omitted in the financial statements as detailed out below:

No.	Items	Amount (Kshs.)
1	Pension Payment	1,156,505
2	Pension Payment	134,456,751
3	Income and Expenditure Account	50,554
4	Interest on Investment Asian	1,075,843,820
5	Interest on Investment Asian	592,085,314
6	Expenses of Management	10,613,702
7	Appreciation/Depreciation Account	337,703



484) Further, the items listed below were reported in the financial statements but were not reflected in the Trial Balance:

No.	Items	Amount (Kshs.)
1	Dividend Income	5,998
2	Payment of Pension	1,601,196
3	Cash Equivalent	446,890,321
4	Dividend Receivable	5,291,730
5	Payables	521,292

485) The Fund Management has not explained or reconciled the balances.

486) In the circumstances, the accuracy of the financial statements could not be confirmed.

#### Submission by the Accounting Officer

487) The Accounting Officer submitted that the PMIS system is designed and configured in a way that expenditures and incomes in the same line item do not knock (net) off but instead accumulate in the ledger since inception of the Fund. Therefore, the two items brought forward as expenditures are attributed to the current system configuration which will be addressed when a new system will be procured.

488) The expenditures/income brought forward don't relate to financial year 2019/2020 as shown in the Ledger but are historical expenditures incurred on the Fund. However, attached herewith find a reconciliation showing the omitted items form accumulated (retained earnings) surplus for the Fund.

489) Further, the items listed in the table below are in the Trial Balance as item indicated and shown in the attached ledger presented for audit review.

No.	Items	Item line in	Amount (Kshs.)
1	Dividend Income	7310224	5,998
2	Payment of Pension	7310214	1,601,196
3	Cash Equivalent	Balancing figure	446,890,321
4	Dividend Receivable	7310224	5,291,730
5.	Payables		521,292

490) Dividend Income of Kshs.5,998 is included in the ledger under item 4-867-0903-7310224 as Interest on Investment Provident Fund. As stated in paragraph above the current PMIS system is configured in a way that expenditures and incomes in the same line do not

knock (net) off but instead accumulate in the ledger. The challenge will be addressed when a new system will be procured. The Journal used to capture the Dividend is hereby attached for reference.

- 491) Bank Balance of Kshs.446,890,321/ is shown in the Trial balance as a balancing figure. The item of Other Receivables was not shown in the ledger due to system configuration but was captured in note 11.4. However, the amount of Kshs.5, 291,730/ being dividend receivable was credited in our account on 2nd July, 2021 and will be capture in the ledger during the F/Y 2021/2022.

## **Other Matters**

### **156 Unresolved Prior Year Issues**

The following prior year audit issues remained unresolved as at 30 June 2020.

#### **156.1 Irregular Payment of Pension**

- 492) As reported previously, the Management paid Kshs.519,800 to two deceased pensioners between the year 2007 and 2015. A further payment of Kshs.42,000 was made between July, 2015 and January, 2016 despite the dependents of the deceased pensioners having notified the Department of their demise in September, 2007 and February, 2008. The Fund Management subsequently recovered Kshs.418,710 while the balance of Kshs.143,090 remains outstanding.

#### **Submission by the Accounting Officer**

- 493) The Accounting Officer submitted that the National Bank credited our CFS account with Kshs.112,120 on 1<sup>st</sup> July,2021, and provided us with schedules of verifying the how the balance of Kshs.30,970 was deposited to our accounts. We have since done the reconciliation and submitted for audit review.

#### **156.2 Item in the Trial Balance Omitted in the Financial Statements**

- 494) The Trial Balance presented in support of the financial statements for the year ended 30 June, 2018 reflected some balances which were omitted from the financial statements as detailed below;

<b>Account Description</b>	<b>Debit (Kshs.)</b>	<b>Credit (Kshs.)</b>
Depreciations/Appreciations	337,703.00	
Expenses of Management	10,613,702.35	
Interest on Investment-Asian	592,078,739.65	
Government Contributions	-	1,219,565.05
Interest on Investment Asian	-	1,075,831,824.85

495) No explanation was provided by Management on what the balances relate to and the reasons for their omission. Further, the total debits and credits in the Trial Balance amounting to Kshs.1,042,467,389 and Kshs.1,491,614,679 respectively, differed by Kshs.449,147,290 which was not explained or reconciled.

496) Consequently, the financial statements did not reflect a true and fair position of the Fund as at 30 June, 2018.

#### **Submission by the Accounting Officer**

497) The Accounting Officer submitted that the PMIS system is configured in a way that it doesn't knock (net) off expenditures against income received hence the ledger accumulates expenditures and income as shown in the Trial balance. The above items brought forward as expenditures/income are attributed to the current state of the system's configuration which will be addressed when a new system will be procured. Therefore, these expenditures/income brought forward don't relate to Financial Year 2018/2019 as shown in the Ledger but are historical expenditures/income incurred on the Fund. To get the current year income/ expenditure, opening balance is subtracted from the closing balance.

498) However, a reconciliation of the trial balance and analysis of retained earning has been done manually and submitted for audit review. Further the total debits and credits in the Trial Balance are balancing, where the Cash at bank of Kshs.449,147,290 is shown as the balancing figure. Ledger/Trial balance reconciliation is hereby attached for audit review.

#### **156.3 Long Outstanding Reconciling Items**

499) The bank reconciliation for the month of June, 2018 in support of the cash book reflected payroll payments for the months of May and June, 2015 totaling to Kshs.237,646 but not recorded in the bank statement. Consequently, the validity of the reconciling items and the accuracy of the reported bank balances could not be confirmed.

#### **Submission by the Accounting Officer**

500) The Accounting Officer submitted that the bank reconciliation for the month of June 2018 in support of the cash book reflected payroll payments for the months of May and June 2015 totaling to Kshs.237,646 but not recorded in the bank statement. The amount was returned due to unavailability of payroll, and document in support are hereby attached for audit review?

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

##### 501) **Conclusion**

**157** There were no material issues relating to lawfulness and effectiveness in use of public resources

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

##### 502) **Conclusion**

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

#### ASIATIC WIDOWS AND ORPHANS PENSION FUND

#### REPORT ON THE FINANCIAL STATEMENTS

##### 503) **Unqualified Opinion**

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

#### **Emphasis of Matter**

##### **160 Failure to Wind Up the Fund**

504) As reported previously, the Fund has been dormant since June, 2002 after the death of the only surviving beneficiary. The Cabinet through memorandum dated 26 June, 2012 authorized the Attorney General, the Minister of State for Public Service and The National Treasury to commence the winding up process of the Fund. Subsequently, a task force was appointed by The National Treasury to wind up dormant Funds in August, 2015 and a draft legal notice for the de-gazettement of the Fund was prepared.

505) Further, information availed indicates that the Office of Attorney General recommended that The National Treasury prepares a draft Bill for the repeal of Asiatic Widows and Orphans Pension Fund Act (Cap 193) by Parliament. The draft Bill has been

prepared but is yet to be discussed by the Parliament for enactment. As at the time of finalizing this audit, the process was yet to be completed.

506) My opinion in respect of this matter is not qualified.

#### **Submission by the Accounting Officer**

507) The Accounting Officer submitted that as reported previously, the Fund has been dormant since June, 2002 since the death of the only surviving beneficiary. The National Treasury established a Taskforce on winding up of Dormant Funds. The National Treasury sought and got legal opinion and recommendations from the Attorney General vide his letter Ref.AG/CONF/6/E/170 VOL II (5) of 17th May 2019.

508) A cabinet Memorandum on winding of the fund vide letter Ref. No. MOF/AC/305C Vol. 2 (172) of 10th September 2019 was forwarded to the Attorney General and in reply vide his letter Ref. AG/LDD/199/1/81 OF 19th November 2019 he advised that draft revocation orders be prepared on the fund. The revocation order 2020 was done and submitted to the cabinet for consideration and approval.

509) The Head of Public service vide letter ref no. CAB/GEN.3/1/1 VOL.XVII/ (18) dated 2nd March 2021 communicated The Cabinet Approval for revocation order of the Fund. The Orders were forwarded to Attorney General's Office vide letter REF AG.MOF/AC/305C VOL. 2 (213) dated 12 April, 2021 for onward transmission to the National Assembly. With the conclusion of the winding up, the issues raised by the Auditor will be fully addressed.

#### **510) Conclusion**

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

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

#### **511) Conclusion**

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

### **AFRICAN UNION AND OTHER INTERNATIONAL ORGANISATIONS SUBSCRIPTION FUND**

#### **REPORT ON THE FINANCIAL STATEMENTS**

#### **512) Unqualified Opinion**

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

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

### **Basis of Conclusion**

#### **164 Irregular Transfer of funds to the exchequer account.**

513) During the year under review, an amount of Kshs.5,000,000,000 was transferred from the Fund Account No.1000323876 to the Exchequer Account No.1000003987. The transfer was contrary to Regulation 4 of the Public Finance Management (African Union and Other International Organizations Subscription Fund) Regulations, 2017 which states that the object and purpose of the Fund shall be to make Kenya's Contribution to the African Union and any other International Organisation, to which Kenya has a financial obligation. The Fund was therefore in breach of the Regulations.

#### **Submission by the Accounting Officer**

514) The Accounting Officer submitted that it was true that the Kshs.500,000,000 was transferred to the Exchequer account to pay for the subscriptions to international organizations. This is because the budget for subscriptions was captured as if they were to be paid from exchequer instead of the Appropriations in Aid/ Fund. However, this was rectified in the subsequent year

#### **165 Lack of Secretariat**

515) Regulation 7(1) of the Public Finance Management (African Union and Other International Organizations Subscription Fund) Regulations, 2017 designates the Principal Secretary of The National Treasury as the Fund Administrator. Regulation 7(2) further requires the Fund Administrator to control the administration of the Fund, cause to be kept proper books of accounts and other records relating to the Fund. However, the Fund Administrator has not established a Secretariat to undertake the duties specified in the Regulations.

#### **Submission by the Accounting Officer**

516) The Accounting Officer submitted that it was true that by the time of audit, the Fund administrator and secretariat had not been fully constituted but currently they have all been established.

#### 4. STATE DEPARTMENT FOR PLANNING

##### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1072

**Mr. Saitoti Torome, the Accounting Officer for the State Department of Planning (Vote 1072) appeared before the Committee on 7<sup>th</sup> February, 2022 to adduce evidence on the Audited Financial Statements for the State Department of Planning (Vote 1072) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                            |   |                              |
|----------------------------|---|------------------------------|
| 1. Mr. Elias N. Njoroge    | - | Senior Finance Officer       |
| 2. Mr. Macdonald G. Obudho | - | Director General -KNBS       |
| 3. Dr. Mohamed A. Sheite   | - | Director General             |
| 4. Ms. Margaret M. Mwangi  | - | Director Corporate           |
| 5. Mr. John M. Munywoki    | - | Senior Chief Finance Officer |
| 6. Ms. Veronica Kamau      | - | Deputy Accountant General    |
| 7. Mr. John Makau          | - | DDM                          |
| 8. Mr. Peterson Njenga     | - | Principal Economist          |
| 9. Mr. Douglas Mulwa       | - | Deputy Director Supply Chain |
| 10. Mr. Josia M. Omosa     | - | Chief Secretary - KNBS       |
| 11. Ms. Olivia Kimata      | - | Principal Accountant         |

And submitted as follows:

#### **Basis for Qualified Opinion**

#### **166. Unsupported District Suspense Balances**

517) The statement of assets and liabilities reflects an accounts receivables amount of Kshs.26,098,637 which, as disclosed in Note 9 to the financial statements, includes an amount of Kshs.25,506,369 in respect of district suspense being the difference between monies disbursed to various regional authorities in the financial year 2016/2017 for drought intervention measures totaling to Kshs.700,500,000 and Kshs.674,993,630 which was converted to expenditure. However, expenditure returns from the regional authorities indicated that out of the total amount of Kshs.674,993,631 shown as converted expenditure, only Kshs.632,905,707 had the relevant supporting documents, leaving an unsupported balance of Kshs.67,594,293 as detailed below:

<b>Regional Authority</b>	<b>Total AIE Amount Issued (Kshs.)</b>	<b>Amount Reported as Converted to Expenditure (Kshs.)</b>	<b>Verified Expenditure Amount (Kshs.)</b>	<b>Unsupported Expenditure (Kshs.)</b>
Coast Development Authority	42,500,000	39,692,998	39,692,998	2,807,002
Ewaso Nyiro South Development Authority	142,000,000	142,000,000	135,288,842	6,711,158



Lake Basin Development Authority	24,000,000	17,986,657	21,862,504	2,137,496
TARDA	402,000,000	402,000,000	351,773,250	50,226,750
Kerio Valley Development Authority	45,000,000	28,313,976	39,288,113	5,711,887
Ewaso Nyiro North Development Authority	45,000,000	45,000,000	45,000,000	0
<b>Total</b>	<b>700,500,000</b>	<b>674,993,630</b>	<b>632,905,707</b>	<b>67,594,293</b>

518) Further, even though the funds disbursed in 2016/2017 financial year were to be utilized in the year of disbursement and in accordance with the approved work plans, the regional authorities have continued to utilize the funds over the last four years without seeking further approvals on the activities being implemented outside the approved work plan and execution time lines.

519) Consequently, the propriety on utilization of district suspense amounting to Kshs.67,594,293 and the accuracy of the reported accounts receivables balance of Kshs.26,098,637 could not be confirmed.

#### **Submission by the Accounting Officer**

520) The Accounting Officer admitted that review of expenditure returns from the Regional Authorities that out of the total indicated as converted to expenditure of Kshs.674,993,630 only Kshs.632,905,707 had relevant supporting documents leaving unsupported balance of Kshs.67,594,293.

521) However, the various Regional Authorities have submitted expenditure returns which included payment vouchers and were availed for audit verification.

#### **522) Committee Observations and Findings**

- (i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012 which amounts to dereliction of duty;
- (ii) The Committee further observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and
- (iii) However, the Committee observed that the explanation and documents given by the Accounting Officer with regards to the Unsupported District Suspense Balances was satisfactory.

#### **523) Committee Recommendations**

**The Committee recommends the Accounting Officer to ensure he/she prepares and keeps proper accounting records in accordance with section 68 (2) (b) of the PFM Act, 2012 and**

also, ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

#### **167. Unsupported Pending Bills**

524) Note 16.1 to the financial statements reflects pending bills of Kshs.3,908,434 as at 30 June, 2020 which related to 2017/2018 and prior years. However, supporting documents including requisitions by the user departments, local service orders and proof that services were provided were not availed for audit review. Lack of supporting documentation has led to the delay by Management to initiate payment process of the bills.

525) Consequently, the accuracy and validity of the reported pending bills of Kshs.3,908,434 as at 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

794) The Accounting Officer admitted that the State Department had pending bills of Kshs.3,908,434 as at 30 June, 2020 which related to 2017/2018 and prior years and whose nonpayment was due to lack of support documentation. The State Department continues to engage the concerned stakeholders (service providers, user sections/directorates). Further, a task force has been appointed to review and evaluate the pending bills in view of authenticating the claims.

526) The State Department has not yet cleared the long outstanding pending bills for lack of adequate documentation.

#### **527) Committee Observations and Findings**

- (i) **The Committee observed that engagement with service provider to provide necessary documentation is ongoing; and**
- (ii) **The matter remained unresolved.**

#### **528) Committee recommendations**

The Committee therefore recommends that:

**Within three months of adoption of this report, the Accounting officer to provide supporting documents to the Auditor General for verification and subsequent reporting in next audit cycle.**

#### **Other Matter**

#### **168. Unresolved Prior Year Matters**

529) The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2018/19 and a recommendation was issued therein:

#### **169. Budgetary Control and Performance**

530) The summary statement of appropriation-recurrent and development combined reflected actual receipts of Kshs.41,070,157,347 against a budget of Kshs.55,264,056,577 resulting into a receipts shortfall of Kshs.14,193,899,230 or 26% of the budgeted receipts. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.55,264,056,577 and Kshs.41,064,170,664 respectively resulting to an under expenditure of Kshs.14,199,885,913 or 26% of the budget which occurred mainly under transfers to other government units. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

#### **Submission by the Accounting Officer**

531) The Accounting Officer submitted that the under-expenditure amounting to Kshs.14,199,885,913 was as a result of undisbursed amounts occasioned by lack of exchequer. The bulk of the under-expenditure amounting to Kshs.13,714,800,000 relates to the National Government Constituency Development Fund (NG-CDF) and Kshs.347,250,000 for the KNBS-World Bank funded Performance for Results (PfR) Programme. The funds relating to NG-CDF were however budgeted for and fully disbursed in the preceding FY 2020/21. Appendix 169. Also included in the receipt's shortfall is Kshs.105,845,097 relating to externally funded projects and the Kshs.31,990,816 for GOK funded projects and operations. The reason for this under expenditure was due to failure by Development Partners to honor their contractual commitments and lack of GOK Exchequer respectively.

#### **532) Committee Observations and Findings**

- (i) **The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Budgetary Control and Performance was satisfactory; and**
- (ii) **The Committee marked the matter as resolved.**

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

#### **Basis for Conclusion**

#### **170. Advance Payments**

533) The Department paid in advance for the supply of flowers, newspapers and cleaning services amounting to Kshs.618,000, Kshs.787,156 and Kshs.1,307,040 respectively. Although Management explained that the payments were done to ensure continuity at the start of the subsequent financial year and that no funds were lost, advance payments for

goods or services before they are delivered and accepted is prohibited under Section 146 of the Public Procurement and Assets Disposals Act, 2015.

534) Management was therefore in breach of law.

#### **Submission by the Accounting Officer**

535) The Accounting Officer submitted that the State Department agrees with the audit findings that advance payments were made for supply of fresh cut flowers, newspapers and cleaning services to M/s Vivienes Super Florists, M/s Rex Kiosk and M/s Courier International Limited respectively. This was to avoid interruption in the supply of contracted essential services. The services were later rendered, received and certified by the State Department. Copies of delivery notes and job cards were availed for perusal by the Committee.

536) The tender for the supply of goods and services was running for two years and thus the service provider was obliged to continue with the supply of the same.

#### **537) Committee Observations and Findings**

- (i) **The Committee observed that the Accounting Officer admitted breach of Section 146 of the Public Procurement and Assets Disposals Act, 2015.**

#### **538) Committee Recommendation**

- 1) **The Committee reprimands the Accounting Officer for breach of Section 146 of the Public Procurement and Assets Disposals Act, 2015.; and,**
- 2) **The Accounting Officer should ensure compliance with the Public Procurement and Asset Disposal Act, 2015 and its regulations in all procurement processes.**

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

#### **539) Conclusion**

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

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

#### **DATA COLLECTION AND DATABASE DEVELOPMENT PROJECT (UNFPA-KEN7P32A) - KENYA NATIONAL BUREAU OF STATISTICS**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### 540) **Unqualified Opinion**

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

#### **Other Matter**

#### 173. **Status of Project Activities**

541) As reported in the previous three financial years, the Project remained dormant in the year under review. However, it had an opening cash in bank balance amounting to Kshs.2,166,658 against which bank charges amounting Kshs.4,320 were debited resulting in a closing balance of Kshs.2,162,338, as reflected in the statement of financial assets and liabilities as at 30 June, 2020.

542) Management has indicated that activities for the Project were implemented under GOK/UNFPA 8th County Programme and therefore, no new programme agreement was signed in respect to the Project's activities, which entailed financing preparatory activities for the 2019 Kenya Population and Housing Census. Management has further indicated that although no funding was received in the four financial years ended 30 June, 2020, UNFPA has indicated they will finance a 9th GOK/UNFPA Country Programme on data collection and database management. Management says it has maintained the Project bank account for the purpose.

#### **Submission by the Accounting Officer**

543) The Accounting Officer submitted that the Bureau implemented the GOK/UNFPA 8th Country Programme. The main aim of the project was to undertake 2019 Kenya Population and Housing Census preparatory activities, hold sensitization meetings with donors and other stakeholders, carry out training on Integrated Multi-sectoral Information System (IMIS), among other activities.

544) On 11th April 2016 a contract was signed by the PS, Ministry of Devolution and Planning and the UNFPA Country Representative, and this formed the basis of the disbursements.

#### **Current Status on the Bank Account**

545) The project's account remained dormant for several periods prior to 30th June 2020. The management sought authority from the Board to close off the account and avoid incurring further bank charges. Further, concurrence has been sought from UNFPA Kenya Country Office to give a 'No Objection' to close off the account and either refund the amount, or utilize it to support a future activity, whose work-plan would be availed and agreed upon.

#### 546) **Committee Observations and Findings**

The Committee observed the bank account continue to incur charges yet the project is dormant.

#### Committee recommendations

Within sixty days of adoption of this report, the Accounting Officer to liaise with the National Treasury to close the bank account to avoid further bank charges.

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

##### 547) Conclusion

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

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

##### 548) Conclusion

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

#### COORDINATION OF POPULATION POLICY IMPLEMENTATION PROJECT (UNFPA PROJECT NO. KEN08POP)– NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT

#### REPORT ON THE FINANCIAL STATEMENTS

#### Basis for Qualified Opinion

#### 176. Unauthorized Borrowings from National Council for Population and Development (NCPD)

549) The Project's records examined indicated that during the year under review, Management withdrew funds totaling to Kshs.38,067,000 from the Secretariat Account as follows:

Date	Amount (Kshs.)
31 October, 2019	16,667,000
31 December, 2019	.6,304,845
30 January, 2020	15,095,159
<b>Total</b>	<b>38,067,000</b>

550) The withdrawals were designated as borrowings made to implement project activities and occasioned by delays in receipt of the Project's Funds. However, there was no evidence to show Management sought authority from the Accounting Officer or the UNFPA before withdrawing the funds.

551) The records further show that Kshs.22,971,845 was refunded later in the financial year which left Kshs.15,095,159 outstanding as at 30 June, 2020. However, whereas the withdrawals and refunds were, though inappropriately, treated as payments and receipts in the project accounts, the outstanding balance amounting to Kshs.15,095,159 as at 30 June, 2020 has not been disclosed in the Notes to the financial statements. As a result, the financial statements do not present a true and fair view of the financial position of the Project as at 30 June, 2020 and its operations for the year then ended.

#### **Submission by the Accounting Officer**

552) The Accounting Officer submitted that the UNFPA disburses funds to the National Treasury in the PMG special account for the project. The council makes requisitions immediately to National Treasury to release the funds through the State Department of Planning. The council has been experiencing delays in receipt of funds from the special account. This is at times attributed to the donor having committed less than what they disburse or delays within the system at National Treasury. This is an internal problem involving government agencies since the funds are usually in the special account. This therefore results in internal borrowing within the council to implement the activities. Kshs.15,095,159 was received in July 2021. This is disclosed by way of note. A copy of the bank statement was availed for perusal by the Committee.

553) Letters from the Accounting Officer, authorizing the inter borrowing were also availed for perusal by the Committee. The refund to UNFPA amounting to Ksh.21 314, 255 recognized as has been corrected. Attached is JE correcting the entry, the corrected statement and PV refunding the income and bank statement.

#### **554) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regards to the Borrowings from National Council for Population and Development (NCPD) was satisfactory; and**
- (ii) The Committee marked the matter as resolved.**

#### **177. Unreconciled Cash on Hand Balance**

555) The statement of financial assets and liabilities reflects cash on hand totaling Kshs.94,248 held in five regional project offices namely Mombasa, Machakos, Kisumu, Eldoret, and Garissa. However, records at the offices reflected cash on hand balances totaling to Kshs.499,833 as at 30 June, 2020. No information has been provided to reconcile the two balances. As a result, the accuracy and fair statement of the cash on hand balance totaling Kshs.94,248 reflected in the statement of financial assets and liabilities as at 30 June, 2019 has not been confirmed.



### Submission by the Accounting Officer

556) The Accounting Officer submitted that the Regional offices have only one bank account each, in which all funds are deposited both for the UNFPA and GOK funds, it would be very costly to open and maintain bank accounts in each region every time the council gets funding from various donors. Regional offices usually maintain Cash account/Cash book as the control account where the funds are separated during spending and withdrawal from their bank account. The analysis of the said amount for the regional offices and head office was availed for perusal by the Committee.

REGIONS	TOTAL CERTIFICATE BALANCE	GOK-FUNDS(IN ONE ACCOUNT)	UNFPA-FUNDS	COMMENTS
KISII	67,858	54,858	13,000	
MACHAKOS	104,411	102,011	2,400	
MOMBASA	97,863.30	94,223.30	3,640	
KISUMU	191,790	134,033	57,757	
ELDOROT	-	(1,160)	1,160	Utilized by bank charges
GARISSA	37,911.35	21,620.35	16,291	
<b>TOTAL</b>	<b>499,833.65</b>	<b>405,585.65</b>	<b>94,248</b>	

### 557) Committee Observations and Findings

- (i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
- (ii) The Committee further observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 which constitutes dereliction of duty; and
- (iii) However, the Committee observed that the explanation and documents given by the Accounting Officer with regards to the Unreconciled Cash on Hand Balance was satisfactory.

### 558) Committee Recommendations

The Committee recommends the Accounting Officer to ensure he/she prepares and keeps proper accounting records in accordance to section 68 (2) (b) of the PFM Act, 2012 and also, ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.

### Other Matter

## **178. Unresolved Prior Year Matters**

559) The outstanding tax refunds amounting to Kshs.500,400 due from the Kenya Revenue Authority, and insufficient disclosure made on expenditures totaling Kshs.24,781,975 highlighted in the audit report for the financial year ended 30 June, 2019 were not resolved during the year under review.

560) No plausible explanation has been provided by Management for the failure to address the issues.

## **Submission by the Accounting Officer**

561) The Accounting Officer submitted that the issue was resolved during the audit carried out for the financial year 2020/2021 and the council was issued with an Unmodified audit opinion. A copy of the Auditor General's Report for the Financial Year ended June 30th 2021 is hereby attached for reference

## **562) Committee Observations and Findings**

**The Committee observed that the issue was discussed during the examination of the State Department account for financial year 2018/19 and a recommendation was issued thereof.**

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

### **563) Conclusion**

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

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

### **564) Conclusion**

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

## **MULTIPLE INDICATOR CLUSTER SURVEY PROJECT - UNICEF - KENYA NATIONAL BUREAU OF STATISTICS**

## **REPORT ON THE FINANCIAL STATEMENTS**

### **565) Unqualified Opinion**

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

## **Other Matter**

### **182. Status of Project Activities**

566) The financial statements indicate that that the Project did not receive any funds from UNICEF or the Government of Kenya during the year under review. In addition, no project activities were carried out in the year and the only expense incurred amounting to Kshs.4,320 related to bank charges for the Project account. Management has previously indicated the intention to close the Project Bank account to avoid the bank charges but is yet to do so.

### **Submission by the Accounting Officer**

567) The Accounting Officer submitted that the projects account in Cooperative Bank remained dormant within the period as UNICEF did not fund the project. The management sought authority from the Board to close off the account and avoid incurring further bank charges. This was granted and follow up was done with the National Treasury. Approval was granted on 13th January 2022 and the same communication was done to the bank which confirmed that the bank account was closed.

### **568) Committee Observations and Findings**

- (i) **The Committee observed that the project account has since been closed;**
- (ii) **The Committee further observed that the explanation and documents given by the Accounting Officer with regards to the Status of Project Activities was satisfactory; and**
- (iii) **The Committee marked the matter as resolved.**

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

### **Basis for Conclusion**

### **183. Undisclosed Financing Conditions**

569) As in the previous financial year, the Project financing agreement signed between the Government of Kenya and UNICEF was not availed for audit review. Management has explained that no agreement was signed in respect to the Project as funding from UNICEF was based on work plans for various activities. However, Management has not disclosed the terms and conditions attached to the work plans. As a result, the validity of the cumulative receipts and payments amounting to Kshs.86,392,917 and Kshs.86,335,930 respectively transacted during the years ended 30 June, 2020 has not been confirmed.

### **Submission by the Accounting Officer**

570) The Accounting Officer submitted that the Bureau inherited the activities under UNICEF Programme from the State Department for Planning following the delinking process from the Ministry in 2007. UNICEF continued with direct funding of ad hoc

activities with the Bureau, based on specific work-plans. Such activities included some 2019 census activities. The funds were accounted for based on the approved budget and there was no specific financing agreement.

571) However, UNICEF Kenya ushered a new Country Programme for the period July 2018 to June 2022, anchored under a new financing framework. Within this programme the social policy section was partnered and planned with several finance activities in collaboration with several implementing agencies affiliated to The National Treasury and Planning. All funds would be channeled through the budgetary system of The National Treasury, before being released to the implementing agency.

#### 572) **Committee Observations and Findings**

- (i) **The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;**
- (ii) **The Committee further observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;**
- (iii) **The Committee similarly observed that the explanation and documents given by the Accounting Officer with regards to the Advance Payments was not satisfactory; and**
- (iv) **The Committee observed the matter was discussed in the financial year 2018/19 and made following recommendations;**

#### 573) **Committee Recommendations**

**The Cabinet Secretary for the National Treasury should within three (3) months of adoption of this report, reprimand the Accounting Officer for failure to provide at the time of audit, supporting documents contrary to the provisions of Section 9(1e) of the Public Audit Act, 2015.**

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

#### 574) **Conclusion**

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

### NATIONAL INFORMATION PLATFORM FOR FOOD SECURITY AND NUTRITION PROJECT- FOOD/2017/393-022 - KENYA NATIONAL BUREAU OF STATISTICS

### REPORT ON THE FINANCIAL STATEMENTS

## **Basis for Qualified Opinion**

### **185. Incorrect Domestic and Foreign Grants Balance**

575) The statement of receipts and payments reflects proceeds from domestic and foreign grants totaling Kshs.57,079,875, as further disclosed in Note 9.3 to the financial statements. Included in the balance are unknown receipts totaling to Kshs.7,200,000 not captured in the Project's records. Had the records reflected the correct balance, the Project would have reported a deficit amounting to Kshs.2,378,047 instead of the surplus amounting to Kshs.4,812,950 reflected in the statement of receipts and payments for the year under review.

576) No plausible explanation has been provided by Management to explain how the error occurred.

### **Submission by the Accounting Officer**

577) The Accounting Officer submitted that the disbursement of Kshs.7,200,000 was made for the Data Collection and Database Development-KNBS funded by UNFPA. The amount was credited to the NIPFN account on 30th June 2020 and the financial statements were prepared as at that date. This error was subsequently noted and on 8th October NIPFN credited KNBS Account with the Kshs.7,200,000. The financial statements were subsequently restated after the receipt of Kshs.7,200,000 was disclosed to be for the UNFPA project in KNBS and had been wrongly credited into the NIPFN account.

### **578) Committee Observations and Findings**

- (i) **The Committee observed that the explanation and documents given by the Accounting Officer with regards to Incorrect Domestic and Foreign Grants Balance was satisfactory; and**
- (ii) **The Committee marked the matter as resolved.**

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

### **Basis for Conclusion**

#### **186. Induction Costs Incurred on Non-Project Staff**

579) Examination of payments on use of goods and services indicates that during the year under review, the Project held a staff induction workshop at a cost of Kshs.5,584,687. However, the expenditure included Kshs.3,738,200 spent on 33 staff members of the Bureau who were not attached to the Project. No plausible explanation was provided by Management for inclusion of the large number of non-project staff in the induction workshop. As a result, value for money on the Project's funds incurred on the staff not engaged by Project has not been confirmed.

### **Submission by the Accounting Officer**

- 580) The Accounting Officer submitted that the overall goal of the project is to strengthen the data and information systems for food security and nutrition through data mining, maximizing the analysis and filling the existing policy gaps to better inform the strategic decisions to prevent malnutrition. It's on basis that Bureau was identified and mandated with the role of overall execution of the project and provision of leadership and guidance to the data analysis.
- 581) The role of the KNBS in the execution of the project created the need for a comprehensive induction for both the Bureau and the newly recruited project to promote a desired working environment. The objectives of the induction workshop therefore were twofold; one was to sensitize the Bureau Technical Staff handling various units on the project objectives, expectations and which role each was to play in supporting the project's mandate of maximizing the analysis of existing secondary data. Secondly, the project staff were to be inducted on the existing data, key surveys relevant to the project, ICT resources, Government operations and Human Resource Management within the Bureau.
- 582) Further, the formulation of the project envisioned continuity of the implementation of the project activities upon exit of the project staff. The induction of technical staff was therefore very crucial in ensuring conceptualizing of the project from the two dimensions stated above. This is in line with project sustainability plan proposed in the contract document. The 33 Bureau staff involvement in the workshop was therefore necessary and each of staff played a specific duty.
- 583) The table highlighting roles played by each who attended the induction workshop, and the workshop report were availed to the Committee for perusal.
- 584) **Committee Observations and Findings**
- (i) **The Committee observed that the explanation and documents given by the Accounting Officer with regards to Induction Costs Incurred on Non-Project Staff was satisfactory; and**
  - (ii) **The Committee marked the matter as resolved.**

### **187. Overpayment of Salary to Officer**

585) Management advertised for and appointed a Project Finance Officer at a gross monthly pay of Kshs.290,758. However, the successful candidate was awarded gross pay of Kshs.465,212 per month upon appointment in September, 2019, resulting to a monthly excess pay of Kshs.174,454. As at 30 June, 2020, the aggregate overpayments amounted to Kshs.1,133,951.

586) No plausible explanation has been provided by Management for the discrepancy.

### **Submission by the Accounting Officer**

587) The Accounting Officer submitted that the letter of appointment for the finance officer dated 19th September 2019 stipulated a consolidated salary of Kshs.465,212.40 per month

resulting to an overpayment of Kshs.174,454.65 per month. In October 2020 when this anomaly was identified, the overpayment had accumulated to Kshs.2,343,507.50.

### **Current Status**

588) This anomaly was communicated to the officer. Recovery of the excess amount commenced with effect from December 2020 at the rate of Ksh.123,342.50 per month. This is continuing and the balance as at 30th January 2022 is Kshs.493,370.50. The last recovery will be May 2022.

### **589) Committee Observations and Findings**

- (i) The Committee observed that the Accounting Officer failed to comply with section 68(1)(a) and section 68(2)(a) of Public Finance Management Act 2012, which requires the Accounting Officer to ensure all expenditures incurred on public funds are lawful.
- (ii) The overpayment was being recovered with the last recovery expected in May 2022.

### **590) Committee recommendations**

- 1. The Committee reprimands the Accounting Officer during the period under review for failure to ensure compliance with section 68(1)(a) and section 68(2)(a) of Public Finance Management Act 2012.**
- 2. The Accounting Officer to produce documents as evidence of recovery to Auditor General for verification in the next audit cycle.**

### **188. Imprest Issued to Staff on Behalf of Others**

591) During the year under review, two staff members of the Kenya National Bureau of Statistics were issued with imprest totalling Kshs.4,648,468 on behalf of participants for two Project events organized in Kisumu and Mombasa. The issuance of imprest to the two on behalf of others was contrary to Regulation 91 of Public Finance Management Regulations of 2015 on Management of imprest which provides for issue of individual and not group temporary imprest.

592) No plausible explanation has been provided by Management for the anomaly.

### **Submission by the Accounting Officer**

593) The Accounting Officer submitted that it was rightly noted that bulk imprests were issued to two officers on behalf of other officers to facilitate project activities in Mombasa and Kisumu as follows:

<b>Imprest Warrant</b>	<b>Imprest Holder</b>	<b>Purpose</b>	<b>Amount</b>
3924102	Hanniel Nyangi	Facilitating retreat on food and nutrition security NIPFN in Kisumu	1,699,500



3924101	Milkah Mwangi	Facilitating induction on national information platform for food and nutrition	2,982,200
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594) The imprest holders were also part of the retreats and meetings being held and attended to. Group trainings and workshops involve many officers, and even non-Bureau staff. Due to logistical challenges in individual imprest issues, and the fact that imprest may not be issued to non-staff, it was found prudent to issue the same to a responsible officer, to administer and account for the same. The imprests were fully accounted for and copies of Imprest returns availed to the Committee for perusal.

**Current status**

595) The Bureaus no longer issues bulk imprest to officers on behalf of others, instead they are issued individually in the officer’s names and accounted for individually.

**596) Committee Observations and Findings**

- i. The Committee observed that the imprest was for expenditure on training and workshops involving even non-Bureau staff who could not be issued with imprests.
- ii. The Accounting Officer submitted the Bureau no longer issues bulk imprest to officers on behalf of others, instead they are issued individually in the officer’s names and accounted for individually
- iii. The Committee further observed that the explanation and documents given by the Accounting Officer with regard to Imprest Issued to Staff on Behalf of Others was satisfactory; and
- iv. The Committee marked the matter as resolved.

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

**597) Conclusion**

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

## 5. THE PRESIDENCY

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1011

**Mr. Kinuthia Mbugua, the Accounting Officer for the Presidency (Vote 1011) appeared before the Committee on 31<sup>st</sup> August, 2021 to adduce evidence on the audited financial statement for the Presidency (Vote 1011) for the Financial Year 2018/2019. He was accompanied by the following officers:**

- |                        |   |                                  |
|------------------------|---|----------------------------------|
| 1. Mr. Kang'ethe Thuku | - | Deputy Director General          |
| 2. Mr. David W. Waweru | - | Chief Finance Officer            |
| 3. Mr. Joel K. Langatt | - | Senior Deputy Accountant General |
| 4. Mr. Samuel T. Maina | - | Deputy Accountant General        |
| 5. Mr. Amos Nyakundi   | - | Deputy Director Finance          |

And submitted as follows:

**598) Unqualified Opinion**

**217.** There were no material issues noted during the audit of the financial statements of the Presidency.

**Other Matter**

**218. Pending bills**

599) As disclosed under the Notes 20.1 to the financial statements, The Presidency had pending bills totalling to Kshs.779,894,882 as at 30<sup>th</sup> June 2020, that were not settled during the year but were instead carried forward to 2020/21. Failure to settle bills during the year in which they relate to adversely affects the provisions of the subsequent year to which they have to be charged.

**Submission by the Accounting Officer**

600) The Accounting Officer submitted that it was true that the Presidency disclosed pending bills totalling to Kshs.779,894,882 during FY 2019/2020 as disclosed in notes to Financial Reports, as at 30<sup>th</sup> June, 2020, which were not settled during the year but were carried forward to subsequent Financial Year 2020/21. The pending bills occurred due to lack of exchequer funding arising from challenges in revenue collection due to the emergence of COVID-19. However, the Pending Bills were subsequently paid during FY 2020/2021. A list of all the pending bills as settled was provided for the Committee.

601) Further, the Office has continued to liaise with The National Treasury in pursuit of release of full exchequer towards minimizing the accumulation of pending bills in future.

**602) Committee observations and Findings**

- (i) **The Committee observed that the explanation provided and the supporting documents produced by the Accounting Officer with regard to the Pending Bills was satisfactory; and**
- (ii) **The Committee marked the matter as resolved.**

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

##### 603) **Conclusion**

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

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

##### 604) **Conclusion**

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

#### DONOR FUNDED PROJECTS

#### **KENYA DEVELOPMENT RESPONSE TO DISPLACEMENT IMPACTS PROJECT (IDA CREDIT NO.6021-KE)**

#### REPORT ON THE FINANCIAL STATEMENTS

##### 605) **Unqualified Opinion**

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

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

##### 606) **Conclusion**

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

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

##### 607) **Conclusion**

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

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

**REPORT ON THE FINANCIAL STATEMENTS**

**608) Unqualified Opinion**

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

**Other Matter**

**225. Budgetary Control and Performance**

609) The statement of comparative budget and actual amounts reflects final receipts budget and actual receipts on comparable basis of Kshs.175,466,216 and Kshs.149,543,373 respectively resulting to an under-funding of Kshs.25,922,843 or 24% of the budget. Also, the statement of comparative budget and actual amounts reflects final payments budget and actual expenditure on comparable basis of Kshs.175,466,216 and Kshs.138,880,373 respectively resulting to an under-funding of Kshs.36,585,843 or 33% of the actual receipts.

610) Management explained the underutilization to be a result of late disbursement of funds and minimal activities arising from the Covid-19 pandemic.

**The Committee was satisfied with the explanation and the matter was resolved.**

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

**611) Conclusion**

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

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

**612) Conclusion**

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

## 6. STATE DEPARTMENT FOR INTERIOR

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1021

**Dr. Eng. Karanja Kibicho, the Accounting Officer for the State Department of Interior (Vote 1021) appeared before the Committee on 8<sup>th</sup> November, 2021 to adduce evidence on the audited financial statement for the State Department of Interior (Vote 1021) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                            |   |  |
|----------------------------|---|--|
| 1. Ms. Alice Gichu         | – | Senior Chief Financial Officer               |
| 2. Mr. Francis KOOLI       | – | County Commander Kisii County                |
| 3. Mr. Henry N. Obara      | – | PSCMO Kisii County                           |
| 4. Mr. Reuben Nyakundi     | – | County Works Officer Kisii County            |
| 5. Mr. Geoffrey Rohoh      | – | Senior Deputy Government Primer              |
| 6. Mr. Steve Wamae         | – | SDD/SCMS Interior                            |
| 7. Mr. Mwenda Njoka        | – | Government press                             |
| 8. Mr. James K. Karori     | – | Deputy Accountant General                    |
| 9. Mr. David Mutia         | – | Senior Principal Finance Officer             |
| 10. Ms. Janet Mucheru      | – | Secretary Civil Registration                 |
| 11. Ms. Elizabeth W. Kiano | – | DAG head of Internal Audit                   |
| 12. Mr. Harrison Kariuki   | – | Ag. CEO Director Finance – NCIC              |
| 13. Mr. John Kiragu        | – | Security                                     |
| 14. Ms. Catherine Njuki    | – | Head of Accounts - NCIC                      |
| 15. Mr. Joe Mwema          | – | National Cohesion and Integration Commission |
| 16. Mr. Alex Muteshi       | – | Director General Immigration                 |
| 17. Mr. Charles Kimotho    | – | Accountant Interior                          |

And submitted as follows:

#### **Basis for Qualified Opinion**

#### **228. Unreconciled Variances between the Financial Statements and the Integrated Financial Management Information System (IFMIS) Trial Balance**

889) A review of the amounts and balances reflected in the financial statements for the year ended 30<sup>th</sup> June, 2020 and the IFMIS trial balance as at that date revealed the following variances:

<b>Account Item</b>	<b>Financial Statements (Kshs.)</b>	<b>IFMIS Trial Balance (Kshs.)</b>	<b>Variance (Kshs.)</b>
Bank Balance - Recurrent	85,940,500	316,075,188,409	(315,989,247,909)
Bank Balance - Development	1,062,692,688	49,632,679,269	(48,569,986,581)
Bank Balance - Deposits	568,027,540	362,816,658	205,210,882
Cash in Hand/transit	76,912,183	336,183,534,750	(336,106,622,567)
Accounts Receivables	97,097,606	18,912,751,895	(18,815,654,289)
Accounts Payable	568,027,540	117,568,400,626	(117,000,373,086)
Suspense and Clearance	Nil	15,491,331,447	(15,491,331,447)
Other Current Assets	Nil	137,493,097	(137,493,097)
General Deposits	Nil	9,892,463,734	(9,892,463,734)
Other Liabilities	Nil	3,422,581,072	(3,422,581,072)

890) According to the Management, the unreconciled variances was as a result of challenges in the IFMIS - bank auto reconciliation. However, no reconciliation was provided for the above variances.

891) In the circumstances, the completeness and accuracy of the financial statements could not be ascertained.

#### **Submission by the Accounting Officer**

892) The Accounting Officer admitted that the financial statement and IFMIS Trial balance revealed the following variances;

<b>Account</b>	<b>Financial Statements (Ksh.)</b>	<b>IFMIS Trial Balance (Ksh.)</b>	<b>Variance (Ksh.)</b>
<b>Recurrent</b>	85,840,500.00	316,075,188,408.90	315,989,247,908.90
<b>Development</b>	1,062,692,688.00	49,632,679,268.50	48,569,986,580.50
<b>Deposit</b>	568,027,540.00	362,816,657.90	205,210,882.10
<b>Cash in hand/transit</b>	76,912,183.00	336,183,534,750.35	336,106,622,567.35
<b>Accounts receivables</b>	97,097,606.00	18,912,751,894.74	18,815,654,288.74
<b>Accounts payable</b>	568,027,540.00	117,568,400,626.30	117,000,373,086.30

<b>Suspense and clearance</b>		15,491,331,446.65	15,491,331,446.65
<b>Other current assets</b>		137,493,096.55	137,493,096.55
<b>General deposits</b>		9,892,463,734.10	9,892,463,734.10
<b>Other liabilities</b>		3,422,581,072.15	3,422,581,072.15

893) This was occasioned by challenges in the IFMIS bank auto-reconciliation particularly missing bank statements in the IFMIS system. The State Department is continually engaged with the IFMIS Department of the National Treasury to reconcile these variances.

894) **Committee Observations and Findings**

- (i) **The Committee observed that the Accounting Officer had taken measures to have the ongoing reconciliations completed; and**
- (ii) **The matter remained unresolved.**

895) **Committee Recommendations**

**Within six months upon the adoption of this report, the Accounting Officer should ensure all the ongoing reconciliations are completed and report the same to the Office of the Auditor General for verification.**

**229. Long Outstanding Balances in Bank Reconciliation Statements**

896) The statement of assets and liabilities as at 30th June, 2020 reflects cash and cash equivalents amount of Kshs.1,793,572,911.00 comprising bank balances of Kshs.568,027,540.00, Kshs.85,940,500.00 and Kshs.1,062,692,688.00 held in the deposits, recurrent and development bank accounts and cash in hand of Kshs.76,912,183.00. However, included in the bank reconciliation statements were payments in the cash book not in the bank statements amounting to Kshs. 3,570,850,358.00 which had been outstanding since the year 2015. Further, receipts in the bank statements not in the cash books of Kshs. 1,162,179,134.00 had also been outstanding since 2015.

897) In addition, payments in the bank statements not in the cash books included long outstanding items totaling Kshs.6,778,532,994.00 and relating to the period between 2015 to 2019 while receipts in the cash books not in the bank statements totaling Ksh.412,234,356.00 had also been outstanding for long and related to the period between 2015 to 2019. The Management cited lack of documents to clear the outstanding items and that the State Department had written to The National Treasury requesting for approval to write off the long outstanding balances.

898) Under the circumstances, the accuracy of the bank balances of Kshs.1,716,660,728.00 included in the reported cash and cash equivalents balance as at 30 June, 2020 could not be



ascertained.

### Submission by the Accounting Officer

899) The Accounting Officer admitted that the statement of assets and liabilities reflected Ksh.1,793,572,911.00 cash and cash equivalent which comprises of Ksh.568,027,540.00, Ksh.85,940,500.00, Ksh.1,062,692,688.00 being Deposit, Recurrent and Development respectively and Ksh.76,912,183.00 cash in hand as analyzed below:

	Amount	Remarks
Deposit	568,027,540.00	Attached analysis
Recurrent	85,940,500.00	Reconciliation on process
Development	1,062,692,688.00	Reconciliation on process
Cash in hand	76,912,183.00	Attached F.0.51

900) The Accounting Officer further admitted that included in bank reconciliation statement were payments in the cash book not in the bank statement amounting to Ksh.3,570,850,357.95 which have been outstanding since 2015. Further receipts in the bank statement not in the cash book of Ksh.1,162,179,133.80 had also been outstanding since 2015. In addition, payments in the bank statements not in the cash book included long outstanding items totaling to Ksh.6,778,532,993.90 and relating to period between 2015 and 2019. Further, receipts in the cash book not in the bank statement totaling to Ksh.412,234,356.45 have also been outstanding for long and relate to the period between 2015 and 2019. To date we have been able to reconcile the outstanding items as analyzed below:

	Outstanding amount	reconciled amount
Payment in cashbook not in bank	3,570,850,357.95	2,659,376,446.70
Receipts in bank not cash book	1,162,179,133.80	220,582,687.30
Payment in bank not in cash book	6,778,532,993.90	3,323,812,569.10
Receipt in cash book not in bank Statement.	412,234,356.45	392,503,498.70

901) The reconciled items have been adjusted in the cash books accordingly and a taskforce has been set up to FastTrack this exercise.

902) **Committee Observations and Findings**

- (i) **The Committee observed that the Accounting Officer had taken measures to have the ongoing reconciliations completed; and**
- (ii) **The matter remained unresolved.**

903) **Committee Recommendations**

**Within six months upon the adoption of this report, the Accounting Officer should ensure all the ongoing reconciliations are completed and report the same to the Office of the Auditor General for verification.**

**230. Pending Bills**

904) Note. 30.1 to the financial statements reflects pending bills totaling Kshs. 3,803,126.00 which were not settled during the year under review but were instead carried forward to 2020/2021 financial year. A review of the pending bills as at 15th February, 2021 indicated that the State Department had cleared bills amounting to Kshs.2,737,974,360.00 leaving an amount of Kshs.1,065,152,301.00 uncleared. Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form the first charge for the subsequent year.

**Submission by the Accounting Officer**

905) The Pending Bills were as a result of short fall in Exchequer funding as extracted from the summary of appropriation in the financial statement.

Approved Net Budget	-	133,336,154,796
Exchequer Funding	-	129,029,210,513
Shortfall in funding	-	4,316,944,283

906) All the pending bills for the year under review have since been cleared.

907) **Committee Observations and Findings**

- (i) **The Committee observed that all pending bills have since been cleared; and**
- (ii) **The matter was therefore resolved.**

**231. Late Exchequer Releases**

908) Exchequer issues totaling Kshs.13,634,968,553.00 comprised of recurrent and development expenditures of Ksh.11,890,320,245.00 and Kshs.1,744,648,308.00 respectively, were received in the bank account of the State Department during the month of June, 2020. The late Exchequer releases may have hindered timely implementation of the State Department's programmes.

### **Submission by the Accounting Officer**

909) The Accounting Officer admitted that the State Department received some exchequer late in the financial year as indicated in the report and this impacted negatively on service delivery to the public. The State Department has no control over the timing of release of exchequer. Even after receiving the exchequer late, the State Department was able to process most of the payments.

### **910) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Late Exchequer Releases was satisfactory; and**
- (ii) The Committee marked the matter as resolved.**

### **232. Unresolved Prior Year Matters**

911) As disclosed under progress on follow up of prior years' auditor's recommendations section of the financial statements, some of the issues reported in the prior year remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues.

### **912) Committee Observations and Findings**

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

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

### **Basis for Conclusion**

### **233. Fixed Assets Register with Nil Balances**

913) The statement of receipts and payments reflects an expenditure of Kshs.6,357,915,058.00 under acquisition of assets. However, the summary of fixed assets register disclosed under Annex 2 to the financial statements reflects nil balances and does not contain any information on the various classes of assets owned by the State Department including the historical costs brought forward, additions and disposals during the financial year 2019/2020, and the cumulative cost as at 30 June, 2020 as required by the Public Sector Accounting Standards Board.

### **Submission by the Accounting Officer**

914) At the time of the audit the State Department for Interior and Citizen Services had submitted a summary of fixed assets register disclosed under annex 2 reflecting nil balances and it did not contain any information on the various classes of assets owned by the State Department.

915) The State Department has since put together an asset register and is in the process of transferring the information to the required format by the Public Sector Accounting Standards Board.

916) **Committee observations and Findings**

- (i) **The Committee observed that the explanation provided by the Accounting Officer was satisfactory; and**
- (ii) **The matter was marked as resolved.**

**234. Lack of Ownership Documents for Mombasa Police Stations**

917) A review of records held at Mombasa Police Headquarters revealed that various police stations and posts in Mombasa County lack ownership titles for parcels of land on which they are situated namely; Regional Police Headquarters Mombasa - MI/XXVI/GL; Mbaraki Deport - MI/XXIII/GL; Central Police - MI/XXIV/16; Makupa Police Station - MI/XIII/I; Divisional Police Headquarters - MI/XXVI/26 and Tononoka Police Post - XXII/1390. According to the Management, the process of acquiring legal ownership documents was ongoing with the objective of having legal documents for all parcels of land owned by the police country wide. In the absence of title documents, it was not possible to confirm the land ownership for the Mombasa police stations and posts.

**Submission by the Accounting Officer**

918) The Accounting Officer admitted that the listed parcels of land for Kenya Police Service in Mombasa County lack ownership documents. He reported that a team of officers was appointed in 2020 to identify all our physical assets, movable and immovable with a view to acquiring ownership documents.

919) **Committee observations and findings**

- (i) **The Committee observed that the acquisition of titles is ongoing; and**
- (ii) **The query remained unresolved.**

**Committee Recommendations**

**Within three months upon the adoption of this report, the Accounting Officer should present a comprehensive register of parcels of land belonging to the Kenya Police Service in Mombasa to the Office of the Auditor General for verification.**

**235. Proposed Gusii Stadium Fabricated Steel Terraces (Breaches)**

920) The tender for the proposed Gusii Stadium fabricated steel terraces was awarded to a local company at a total cost of Kshs.107,013,691.00 for two (2) steel flanking - Kshs.21,683,160.00 and ten (10) spectator terraces - Kshs.89,129,410.00 The contract was

signed on 30 March, 2020 for a period of 8 weeks. Further, the Bill of Quantities included an amount of Kshs. 2,759,946.00 for prime costs whose supporting documents were not provided.

#### **Submission by the Accounting Officer**

921) The prime cost of Ksh.2,759,946.00 was utilized as a contribution to construct an additional 9th bleacher that was found necessary by the project technical team vide minutes of 17th March, 2020.

#### **922) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard Proposed Gusii Stadium Fabricated Steel Terraces (Breaches) was satisfactory; and**
- (ii) The Committee marked the matter as resolved.**

#### **236. Proposed Masonry Perimeter Wall at Kisii County Commissioner's Residence**

923) The State Department awarded the contract for the proposed masonry wall at Kisii County Commissioner's residence to a local firm at a contract sum of Kshs. 13,911,482.00. However, field inspection of the project status revealed that wall skirting, plastering and painting on some sections were not done and the electric burglar proofing on the wall was falling off. If these defects are not rectified, the perimeter wall is at risk of not lasting for long and value for money in its construction may not be realized. Further, examination of documents revealed that the contractor was paid the retention money in full without fixing the said defects.

#### **Submission by the Accounting Officer**

924) The Accounting Officer submitted that the State Department awarded the contract for the proposed masonry wall at Kisii County Commissioner's residence (now Kisii state lodge) to a local firm at a contract sum of Ksh.13,911,482.00. However the field inspection of the project status revealed that the wall skirting, plastering and painting on some sections were not done and the electrical burglar proofing on the wall was falling off.

925) This was due to unprecedented rains which made a section of the wall to collapse. This was as a result of surface runoff which was not properly channeled. The stagnated water caused excess force on the wall making it to collapse.

926) The Project Manager vide letter Ref: PW/MADKA/HTL/02/2021 dated 13th February, 2021 verified and confirmed that the contractor had properly fixed and reinstated the damaged walls including all associated defects to specifications, precision and standards and hence authorized release of final retention money. The certificate of making good defects is also attached.

927) **Committee Observations and Findings**

- (i) **The Committee observed that the contractor had eventually made good all the defects; and**
- (ii) **The Committee marked the matter as resolved.**

**237. Proposed Phase III of Nyamarambe Police Post Residential Houses**

928) The Police Department awarded the tender for construction of the proposed Nyamarambe Police Post Residential Houses Phase III to a local firm at a contract sum of Kshs.9,976,150.00. The contract was for 36 weeks (9 months). However, the original bid document was not provided for audit verification. Further, audit inspection conducted on 25 November, 2020 revealed that although some works were still outstanding, the full contract sum had been paid according to the payment records and certificate of practical completion dated 23 June, 2020. The outstanding works included: fixing of grills to the stair cases and balconies; installation of electrical fittings; wiring of the whole building; fixing of window on staircase; fixing of grills to all windows as per the Bill of Quantities; fixing of grills on first and second floors elevations; construction of a septic tank and; fencing and installation of a gate. In addition, fixing of ceiling was done without wiring; staircase tiles were put without fixing of the staircase grills; doors were poorly fixed; door hinges were not aligned and some parts of the building were not properly painted.

929) Consequently, it was not possible to confirm whether the State Department got value for money for the Phase III Project.

**Submission by the Accounting Officer**

930) The Accounting Officer submitted as follows:

1. The Accounting Officer admitted that the original bid document was not provided for audit verification during the inspection conducted on 25<sup>th</sup> November 2020. Certified copies of the bid documents are attached.
2. The Accounting Officer further admitted that there were some outstanding works on the project. However, the project was being implemented in phases based on budgetary allocations. The first three phases of the BQ have already been completed. The outstanding works as itemized in the table below (1-10) will be considered in the next phase since they were not in the BQs of the first three phases while the works as itemized 11, 12 and 13 were in the phase III BQs and have already been executed.

S/NO	ITEM	REMARKS
1.	Fixing of Grills to the stair cases and balconies was not done.	Not in BoQs

2.	Installation of electrical fittings.	Not in BoQs
3.	Wiring of the whole building.	Not in BoQs
4.	Fixing of window on the staircase	Not in BoQs
5.	Fixing of grills to all windows as per the bill of quantities	Not in BoQs
6.	Grills on the first and second floors elevations were not fixed	Not in BoQs
7.	Septic tank was missing	Not in BoQs
8.	Fencing and the gate was not done	Not in BoQs
9.	Fixing of the ceiling was done without wiring	Not in BoQs
10.	Staircase tiles were put without fixing of the staircase grills meaning they had to be removed to fix the grill	Not in BoQs
11.	Doors were poorly fixed	Already addressed
12.	Door hinges were not aligned	Already addressed
13.	Some parts of the building were not properly painted	Already addressed

931) **Committee observations and findings**

- (i) **The Committee took note of the submission by the Accounting Officer and found the explanation satisfactory; and**
- (ii) **The matter was marked as resolved.**

**238. Avoidable Payment of Legal Claims Penalties and Interests**

932) Examination of records and documents relating to legal claims that the State Department incurred expenditure of Kshs.389,246,434 being penalties and interest imposed for failure to clear or pay court claims when awarded or due. The State Department attributed the delay in settling court awards and claims to lack of adequate funds. Further, a review of the legal documents revealed that claims amounting to Kshs. 1,919,859,883 had not been paid as at 30th June, 2020 despite the court awards having been decreed in



earlier years. Failure to clear the legal dues on time has resulted in heavy penalties and accumulated interests.

#### **Submission by the Accounting Officer**

933) The Accounting Officer submitted as follows:

1. The Accounting Officer admitted that the State Department did incur an amount of Kshs.389,246,434.00 as penalties and interests due to failure to pay court awards when due.
2. The Department did also reflect an outstanding amount of Kshs. 1,919,858,883.00 for the period ended 30th June, 2020. The State Department acknowledges the fact that this has continued to attract penalties and interest for delay in settling these awards.

934) This was occasioned by inadequate funding for legal awards in the budget. In the financial year under review the budgetary allocation for this purpose was Kshs. 710,760,000.00 all of which was expended and the outstanding claims carried forward to 2020/2021 financial year. We have continued to clear the claims on the basis of funds availed in the budget.

935) **Committee observations and findings**

- (i) **The Committee took note of the submission by the Accounting Officer and found the explanation satisfactory; and**
- (ii) **The matter was marked as resolved.**

#### **239. Provision of Comprehensive Medical Cover**

936) The National Police Service procured a comprehensive medical cover for a period of two years commencing 1 October, 2017 to 30 September, 2019. The tender was awarded to the National Hospital Insurance Fund on 26 September, 2017 at a contract sum of Kshs.4,785,805,560.00 Included in the contract sum of Kshs.4,785,805,560.00 was Kshs.200,000,000 for excess of loss cover to cushion members who might exhaust their limit. However, no documentary evidence has been provided to date to show whether an amount of Kshs.400,000,000.00 in respect of excess of loss covers for 2018/2019 and 2019/2020 was refunded.

937) Although the National Police Service wrote to the National Hospital Insurance Fund (NHIF) vide letter Ref: NPS/IG/SEC/1/1//29Vol.IV/25 dated 19 February, 2021 requesting for details on the excess of loss, no response had been received from the NHIF by the time this audit report was finalized.

938) Consequently, it was not possible to determine whether the National Police Service got value for money from the amount of Kshs. 400,000,000.00 that was due for refund from

the National Hospital Insurance Fund at the end of the comprehensive medical cover contract period.

#### **Submission by the Accounting Officer**

939) The State Department has since written to NHIF to account for the money paid in excess of cover amounting to Kshs.400,000,000.00 vide our letters Ref: NPS/IG/SEC/1/1/VOL.VII/22 and NPS/IG/SEC/1/1/VOL.VII/23 dated 26th February,2020. The NHIF is yet to account for the Kshs. 400,000,000.00 paid for the financial years – 2018/2019 and 2019/2020. In the meantime we have in total withheld Kshs.400,000,000.00 out of the amounts due to them for 2020/21 and 2021/2022 financial years.

#### **940) Committee Observations and Findings**

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

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

#### **941) Conclusion**

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

### **REVENUE STATEMENTS - STATE DEPARTMENT FOR INTERIOR**

#### **REPORT ON THE REVENUE STATEMENTS**

#### **Basis for Qualified Opinion**

#### **241. Long Outstanding Arrears of Revenue**

942) The statement of arrears of revenue as at 30 June, 2020 reflects a balance of Kshs.401,584,900. The outstanding arrears of revenue includes Kshs.188,802,500, Kshs.2,218,800 and Kshs.210,563,600 relating to Security of Government Buildings, Kenya Police Service and Directorate of Criminal Investigations, respectively.

943) As reported in 2018/2019 financial year, the amounts of Kshs.188,802,500 and Kshs.210,563,600 are owed by the Kenya Revenue Authority (KRA) for security services rendered by the Security of Government Buildings (SGB) Unit and the Postal Corporation of Kenya for fees collected in respect of certificates of good conduct on behalf of Directorate of Criminal Investigations (DCI), respectively. These amounts have been outstanding for a long period of time.

944) In the circumstances, the recoverability of the arrears of Kshs.188,802,500 and

Kshs.210,563,600 included in the statement of arrears of revenue could not be confirmed.

**945) Committee Observations and Findings**

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

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

**946) Conclusion**

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

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

**Basis for Conclusion**

**243. Manual Collection of Revenue at Civil Registration Department**

947) Examination of the Civil Registration Department revenue records revealed that an amount of Kshs. 116,184,053.00 was collected during the year under review from certificates of births and deaths. Included in the amount is Kshs.83,428,086.00 which was received in cash instead of through the e-citizen online platform. The Management explained that the Department continued to collect revenue directly without embracing the e-citizen because the staff had not been trained on how to operate the system. It was further explained that the pre-requisite hardware and software had not been installed.

948) Considering the huge investment by the government on e-citizen platform, the explanations for failure to use the platform fully in the collection of revenue are not plausible. The manual system for collection of revenue appears to be weak and prone to manipulation.

**Submission by the Accounting Officer**

949) The Accounting Officer admitted that an amount of Ksh. 83,428,086.00 was received in cash instead of through e-citizen platform. We would like to state as follows:

- (i) The National Registry processes applications for birth and death Certificates nationally using records manually submitted from all the 127 registries operating countrywide.
- (ii) The Civil Registration and Vital Statistics System (CRVSS) which is the main system meant to generate automated records is currently not linked to the E-citizen platform except one registry for Nairobi County domiciled at ACK Bishops house.
- (iii) Not all Civil Registration offices countrywide are connected to internet and the ones

connected experience frequent downtime.

- (iv) The CRVSS system which can be inter linked with the E-citizen platform is currently operating on obsolete hardware which requires to be upgraded to facilitate connectivity with E-citizen.

950) **Committee observations and findings**

- (i) **The Committee took note of the submission by the Accounting Officer and found the explanation satisfactory; and**
- (ii) **The matter was marked as resolved.**

**NATIONAL COHESION AND INTEGRATION COMMISSION**

**REPORT ON THE FINANCIAL STATEMENTS**

**Basis for Qualified Opinion**

**244. Unsupported Expenditure**

951) As disclosed in Note 10 to the financial statements, the statement of financial performance reflects an expenditure balance of Kshs.142,142,932.00 under general expenses which includes various unsupported payments amounting to Kshs.24,853,232.00. The unsupported payments include allowances paid for meetings, retreats, workshops, burials and court attendance. The allowances are not supported with relevant documents including attendance sheets by the participants and workshop or retreat reports.

952) In the circumstances, it has not been possible to confirm the accuracy and validity of the reported general expenses balance of Kshs.142,142,932.00.

**Submission by the Accounting Officer**

953) The team undertaking the audit relied upon payment vouchers for transfer of funds instead of surrender vouchers that had the attendance sheets of the participants of the workshops and schedules supporting payment of allowances to the participants. The total of Kshs.24,853,232.00 therefore is fully supported. The original payment vouchers have since been made available for audit verification.

954) **Committee Observations and Findings**

- (i) **The Committee observed that the explanation provided by the Accounting Officer was satisfactory; and**
- (ii) **The matter was marked as resolved.**

#### **245. Lack of Fixed Assets Register**

955) The statement of financial position reflects a balance of Kshs.79,965,371.00 under property, plant and equipment as at 30th June, 2020. The Commission, however, did not avail a register of fixed assets during the year under review. As a result, it has not been possible to ascertain the completeness and accuracy of the property, plant and equipment net balance of Kshs.79,965,371.00 Further, it could not be confirmed that preventative mechanisms required under Regulation 139 of Public Finance Management Regulations, 2015 were in place to eliminate theft, security threats, losses, wastage and misuse of assets.

956) Failure to provide a register of fixed assets is also contrary to the provisions of Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015 which provides that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

#### **Submission by the Accounting Officer**

957) The Commission has an updated Fixed Assets Register which has always been made available even in the previous Audits and which can be verified. A copy of the same has since made available for audit verification.

#### **958) Committee observations and findings**

- (i) The Committee took note of the submission by the Accounting Officer and found the explanation satisfactory; and**
- (ii) The matter was marked as resolved.**

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

#### **959) Conclusion**

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

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

#### **960) Conclusion**

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

## **NATIONAL HUMANITARIAN FUND**

### **REPORT ON THE FINANCIAL STATEMENTS**

## **Basis for Qualified Opinion**

### **248. Unsupported Payments to Internally Displaced Persons**

- 961) As disclosed in Note 4 to the financial statements, the National Humanitarian Fund made payments totaling Kshs. 237,822,385.00 to Internally Displaced Persons (IDPs) under cash payments programme in 2019/2020 financial year. However, examination of the records and documents provided to support the expenditure of Kshs.237,822,385.00 revealed that the payment schedules provided, though duly stamped and signed by the branch managers of the banks from which the disbursements were made to the IDPs, were in excel sheet format. They were not system generated and had no specific reference codes of individual IDPs indicating how each account was credited for both Equity and KCB banks. Further, no contact details were provided to enable confirmation of receipt of funds by the beneficiaries. In addition, the Kenya Commercial Bank payment schedules and bank statements reflects an additional amount of Kshs.94,277,314.00 paid to the IDPs which was not reported in the financial statements.
- 962) In the circumstances, it has not been possible to ascertain the completeness and accuracy of the payments of Kshs.237,822,385.00 included under other grants and transfers in the statement of receipts and payments for the year ended 30 June, 2020.

### **Submission by the Accounting Officer**

- 963) The Accounting Officer admitted that note 4 to the financial statements of the National Humanitarian fund disclosed payments totaling to Kshs.237,822,385.00 to IDP's under cash payments programme in 2019/2020 financial year. This office wrote to KCB and Equity banks to avail system generated schedules with EFT reference code to specific IDPS on how the individual accounts were credited as requested by the office of the Auditor General. The payment schedules provided were duly stamped and signed by the branch managers of the banks from which the disbursements were made to IDP's. Authorized schedules to support Kshs.237,822,385.40 grants to IDPS are available for further verification
- 964) The Accounting Officer observed that all the approved beneficiaries' names, ID numbers, IDPS group name, Bank and amount were forwarded to the commercial banks for payment ONCE. Only issues requiring clarification were referred back to the secretariat. Where the beneficiaries' details were correct no further communication was required from the Banks.
- 965) The only details required as at the time of IDPS registration were the Names, ID no, group Name, Bank/Branch through which the funds were to be disbursed and the amount each IDP was to receive.

### **Submission by the Accounting Officer**

- 966) The Kenya Commercial Bank payment schedules and bank statements reflected an

additional amount of Kshs.94,277,314 to the IDP's which was not reflected in the financial statements for 2019/2020. In the F/Y 2018/2019 it indicated an amount of Kshs.16,705,300.00 while in F/Y 2019/2020 the certificate of balance indicated a closing balance Kshs.0.60cts only. During the same period the bank returned a total of Kshs.14,132,934.00 to the National Humanitarian Account in CBK.

967) In preparation of the financial statement, these figures were treated as follows:

Opening balance	16,705,300.00
<b>Less: Amount returned to CBK</b>	<b>14,132,934.00</b>
: Amount captured in the financial statement	2,572,364.40
: Closing balance as at 30 <sup>th</sup> June 2020	<u>0.60</u>

968) The Kshs. 94, 277,314.00 can be reconciled as follows:

Kshs.91,708,290.63 is part of the amounts paid in the previous financial year, but returned to the main Bank Account due to various reasons. The bank subsequently re-remitted the same to the beneficiaries without involving the Ministry. The figure was not included in the financial statement since it was the bank's internal transactions and the Ministry had included the amounts in the previous financial year. Kshs.2,572,364.40 is included in the Financial Statement since it was transacted in the year under review. See the following analysis:

Amount transacted by the Bank	91,708,290.63
Amount reflected in the Financial Statements	2,572,364.40
Closing balance as at 30 <sup>th</sup> June, 2020	0.61
Less bank charges	3,341.64
<b>Total</b>	<b>94,277,314.00</b>

969) **Committee Observations and Findings**

- (i) **The Committee observed that the explanation provided by the Accounting Officer was satisfactory; and**
- (ii) **The matter was marked as resolved.**

#### **249. Unaccounted for Advances**

970) As previously reported, the statement of financial assets and liabilities as at 30<sup>th</sup> June, 2020 reflects outstanding advances totaling Kshs.71,960,000.00. As disclosed in Note 5B to the



financial statements, the outstanding advances of Kshs.68,960,000.00, Kshs.2,000,000.00 and Kshs.1,000,000.00 were issued to County Commissioners of Mandera, Nakuru and Bomet, respectively in 2014/2015 financial year for onward transmission to the beneficiaries (IDPs). Although the State Department for Interior provided copies of payment vouchers from Mandera County Commissioner amounting to Kshs.67,598,164.00 paid to four (4) contractors for construction of IDP's housing units at Rhamu, the payment vouchers were not supported by contract documents, Bills of Quantities (BQs), invoices and certificates of work done to confirm that the funds were utilized prudently and for the intended purposes.

971) In the circumstances, it has not been possible to ascertain the completeness and accuracy of advances balance of Kshs.71,960,000.00 as at 30<sup>th</sup> June, 2020.

#### **Submission by the Accounting Officer**

972) The Accounting Officer submitted that the outstanding advances relate to AIEs issued to County Commissioners of Mandera, Nakuru and Bomet in 2014/2015 financial year by the ministry of Devolution and Planning. This Audit Query had been raised in the Report for financial year ended 30<sup>th</sup> June 2019, deliberated and addressed by PAC in May, 2021. This office is awaiting PAC's recommendation.

973) The Accounting Officer further submitted as follows:

#### **I. Nakuru**

974) The County Commissioner Nakuru received Kshs.2, 000,000.00 on 7<sup>th</sup> April 2016 vide AIE no. 172760 being funds for construction of classrooms in two schools, Chebugen primary school and Governor Secondary for supporting Internally Displaced Persons. (IDPs) Kshs. 1,000,000.00 was spent on construction of classrooms at Governor Secondary School, Naivasha. The balance of Kshs. 1,000,000.00 was returned to the Ministry of Devolution and Planning because the funds were for Chebugen School which is in Bomet.

#### **II. Bomet**

975) The County commissioner Bomet received Kshs.1,000,000.00 on 26<sup>th</sup> May 2016 Vide AIE no. 631876 and a letter Ref: MDP/314/VOL.III/42 dated 16<sup>th</sup> April 2016 being funds for construction of classrooms in Chebugen Primary School for support of Internally Displaced Persons (IDPS).

#### **III. Mandera County**

976) Mandera County received Kshs.68,690,000.00 for construction of 104 no. IDP housing units at Rhamu. Kshs.67,598,164.00 was paid to the 4 (four) contractors for the construction

of the 104 housing units, Kshs.1,091,750.00 utilized for project costs while Kshs.270,000.00 was returned to Ministry of Devolution and Planning on 10<sup>th</sup> August, 2016 Account No. 1000181419 held at Central Bank of Kenya as unspent balance. (Annex 20).

977) The Accounting Officer submitted that the issues raised above were never raised at the Management letter level earlier in the year hence they were never addressed until now.

978) The State Department has however requested for the following supporting documents from the County Commissioner, Mandera vide letter Ref: AC.14/1/VOL.XXXX/44 dated 27<sup>th</sup> October, 2021.

- i. Payment vouchers
- ii. Contractual documents
- iii. Minutes of the tender committee
- iv. Site inspection reports
- v. Bills of Quantities
- vi. Invoices
- vii. Certificates of work done.
- viii. Completion certificates
- ix. Any other relevant documents

979) **Committee Observations and Findings**

- (i) **The Committee observed that Accounting Officer had taken measures to reconcile the returns from the field; and**
- (ii) **The matter remained unresolved.**

980) **Committee Recommendations**

**The Accounting officer should within three (3) months of tabling and adoption of this report, submit to the Auditor General the status report together with all the requisite documents for further verification.**

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

981) **Conclusion**

**250.** There were no material issues relating to lawfulness and effectiveness in use of ~~pl~~ resources.

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

982) **Conclusion**

**251.** There were no material issues relating to effectiveness of internal controls, risk

management and governance.

## GOVERNMENT PRESS FUND

### REPORT ON THE FINANCIAL STATEMENTS

#### Basis for Qualified Opinion

#### 252. Long Outstanding Debtors

983) The statement of financial position reflects receivables from exchange transactions balance of Kshs.235,470,668.00 as at 30th June, 2020. Included in the balance are long outstanding debts amounting to Kshs.183,816,360.00 which have been outstanding for more than five (5) years. No reason has been provided for failure to collect these debts whose recovery is doubtful. Further, no provision has been made in the financial statements for these long outstanding debts.

984) Under the circumstances, the receivables from exchange transactions balance of Kshs.235,470,668.00 may not be fairly stated as at 30th June, 2020.

#### Submission by the Accounting Officer

985) The Accounting Officer admitted that as at 30th June, 2020 the State Department had a balance of Kshs.235,470,668.00 as outstanding receivables out of which Kshs.183,816,360.00 is a long outstanding balance. The purpose of the Press fund is to procure supplies of raw materials for undertaking production by the Government printer of various printing and publishing works for sale to Government Ministries, Departments and Agencies. Out of the initial receivables of Kshs.235,470,668.00 as 30th June 2020 the State Department has accounted for receivables amounting to Kshs.158,676,959.00 leaving a balance of Kshs.76,793,709.00 as per the table below:-

	<b>GOVERNMENT PRESS FUND RECEIVABLES(DEBTORS)</b>			
	<b>AS AT 30TH JUNE 2020</b>			
	<b>DETAILS</b>	<b>F/YEAR</b>	<b>AMOUNT KSHS</b>	<b>CURRENT STATUS</b>
1	MINISTRY OF LANDS AND PHYSICAL PLANNING	2018/2019	154,251,450.00	45,875,370.00
2	NGO CO-ORDINATION BOARD	2018/2019	8,400.00	-
3	NATIONAL COHESION/VALUES	2017/2018	3,121,000.00	-

4	NAIROBI COUNTY COMMISSIONER	2018/2019	8,400.00	-
5	NORTH EASTERN REGIONAL COMMISSIONER	2018/2019	8,400.00	-
6	JUDICIARY	2016/2017	18,805,580.00	18,805,580.00
7	STATE DEPARTMENT OF LABOUR	2018/2019	30,000.00	-
8	PUBLIC SERVICE COMMISSION	2018/2019	921,000.00	-
9	STATE DEPARTMENT FOR SPORTS	2017/2018	18,000.00	-
10	THE PRESIDENCY	2018/2019	204,600.00	-
11	CABINET AFFAIRS AND SECRETARIAT	2017/2018	17,500.00	-
12	SECRETARY COFFEE SECTOR. CHIEF OF STAFF	2019/2020	221,000.00	-
13	STATE DEPARTMENT FOR CORRECTIONAL SERVICES	2018/2019	5,040,000.00	5,040,000.00
14	COMMUNICATIONS AUTHORITY OF KENYA (CAK)	2019/2020	1,003,478.00	650,259.00
15	IMMIGRATION	2019/2020	13,075,000.00	-
16	DCI	2019/2020	4,950,000.00	4,950,000.00
17	SERVICE QUARTER MASTER	2018/2019	17,125,000.00	-
18	NIIMS	2019/2020	316,500.00	-
19	STATE DEPARTMENT OF INTERIOR	2019/2020	12,804,300.00	-
20	GSU	2018/2019	2,068,560.00	-
21	NAIROBI METROPOLITAN SERVICE	2019/2020	1,282,500.00	1,282,500.00
22	STATE DEPARTMENT OF VOCATIONAL & TECH TRAINING	2019/2020	190,000.00	190,000.00
	<b>TOTAL</b>		<b>235,470,668.00</b>	<b>76,793,709.00</b>

986) Government press is a strong going concern that strives to collect all due debts owed to the department to enable it execute its mandate. The Government Printer has constituted a

committee to move to the institutions to look into overdue debts but the pace was slowed down by the Covid-19 pandemic.

987) **Committee Observations and Findings**

- (i) The Committee was satisfied with the explanation provided by the Accounting Officer; and
- (ii) The matter was marked resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

988) **Conclusion**

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**Basis for Conclusion**

**254. Poorly Maintained Stores**

989) Inspection of the Government Press Fund stores revealed that the stores are poorly ventilated, and a forklift used to deliver goods emits a lot of fumes hence making the working environment a health hazard to the officers. The stores are not fitted with CCTV cameras at various points within and outside the stores to monitor the events or activities taking place. Further, the Department does not have adequate safety and firefighting equipment for use in case of a fire outbreak or any emergency.

**Submission by the Accounting Officer**

990) The Accounting Officer admitted that Section 160(1) of PPDA 2015 states that an accounting officer of a procuring entity shall manage its inventory, assets and stores for the purpose of averting wastage and loss, and continuing utilization of supplies. During the process of issuing, receiving and stock taking, the stores are mostly scattered. The compound and some specific areas including the store are installed with hidden CCTV cameras which are managed from the Government Printer's office.

991) The State Department has plans for renovation of the existing bookshop building including paper store which include ventilation and surveillance cameras for the safety of both staff and the stores in the next year's budget where Kshs.300million was secured through the Sector Working Group.

992) **Committee observations and findings**

- (i) The Committee took note of the submission by the Accounting Officer and found the explanation satisfactory; and
- (ii) The matter was marked as resolved.

993) **Committee Recommendations**

**The Accounting Officer should within three (3) months of tabling and adoption of this report:**

- 1) **Establish an active workplace safety and health committee to address safety issues of employees at the Government Press Fund stores and submit supporting documentation to the Office of the Auditor General for audit verification.**
- 2) **Ensure that, workplace safety and health committee implements the following provisions of the Occupational Safety and Health Act,2007 and submit supporting documentation to the Office of the Auditor General for audit verification:**
  - i) **Section 11(1), (2) and (3) occupational on safety and health audits,**
  - ii) **Section 74(1)(a)(b) on storage at the workplace and**
  - iii) **Section 81(1)(a) and (b) on safety provisions in case of fire**

255. **Risk Assessment on Revenue Management**

994) During the year under review, the Government Press Fund collected a total of Kshs.1,863,199.00 through receipts in cash from the bookshop. However, the Department does not have a formal risk assessment policy on revenue. In addition, the Department does not perform periodic risk assessments in relation to revenue so as to identify threats, assess vulnerability, and design automated systems that could help in revenue collection.

**Submission by the Accounting Officer**

995) The Accounting Officer admitted that the Government press fund collected receipts in cash from the bookshop amounting to Kshs.1, 863,199.00 during the financial year 2019/20 as revealed in the audit. Most of the sales at the bookshop are weekly and special Kenya gazette sold at a minimal price of Kshs.60.00 and an official receipt is issued for the amount. The department has since acquired a pay bill number which will go a long way in enhancing revenue collection at the bookshop.

996) The Department is also in the process of formulating a risk assessment policy. In addition the Internal Audit office also performs risk assessment in relation to our revenue as part of their yearly work plans.

997) **Committee observations and findings**

- (i) **The Committee took note of the submission by the Accounting Officer and found the explanation satisfactory; and**
- (ii) **The matter was marked as resolved.**

## 7. STATE DEPARTMENT FOR CORRECTIONAL SERVICES

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1023

**Ms. Safina Kwekwe, the Accounting Officer for State Department of Correctional Services (Vote 1023) appeared before the Committee on 10<sup>th</sup> November, 2021, to adduce evidence on the Audited Financial Statements for State Department of Correctional Services (Vote 1023) for the Financial Year 2019/2020. She was accompanied by the following officers:**

- |                         |   |   |
|-------------------------|---|---|
| 1. Ms. Florence Omundi  | – | Kenya Prison Services                     |
| 2. Mr. Daniel Mwangi    | – | Head of Accounts                          |
| 3. Mr. Philip Gathuya   | – | Senior Chief Finance Officer              |
| 4. Mr. Wycliffe Muturi  | – | Internal Auditor                          |
| 5. Mr. Kennedy Odipo    | – | Deputy Director Probation                 |
| 6. Ms. Nelly Njoroge    | – | Principal Assistant Office Administration |
| 7. Ms. Wairimu Thangate | – | Director Prison Enterprises               |
| 8. Mr. Silas Mutwiri    | – | Kenya Prison Services                     |
| 9. Mr. Joseph Kirubi    | – | Senior Director Correctional Services     |

And submitted as follows:

#### **Basis for Qualified Opinion**

#### **256. Unsupported Cash Withdrawal**

998) The statement of assets and liabilities reflects cash and bank balances of Kshs.247,700 and Kshs.122,767,693, respectively as at 30 June, 2020. Examination of cash book and bank statements of the State Department for Correctional Services revealed that an amount of Kshs.2,300,000 was withdrawn on 30 June, 2020 from the Kenya Commercial Bank account but recorded in the cash book on 26 June, 2020. However, no records were kept to support the amount of cash withdrawn or any related expenditure.

999) In the circumstances, it has not been possible to ascertain the propriety of cash withdrawal of Kshs.2,300,000 or the completeness and accuracy of bank and cash balances as at 30 June, 2020.

#### **Submission by the Accounting Officer**

1000) The Accounting Officer admitted that examination of the cashbook, bank statement and AIEs issued to Eldoret Main Prison (Eldoret West Sub County) revealed that Ksh.2,300,000.00 was banked into the State Department for Correctional Services Account No. 1184401705 held with Kenya Commercial Bank on various dates during the month of August, 2019 as shown by the State Department for Correctional Services



Bank Statement. The amount was a transfer from the State Department for Interior and Coordination of National Government. The matter is under investigation by the EACC

1001) The transaction was reversed and money returned to State Department of the Interior. The Accountant and Cashier were interdicted pending investigations.

**1002) Committee observations and findings**

- (i) The Committee observed the matter is under investigations by EACC; and**
- (ii) The matter remained unresolved.**

**1003) Committee Recommendation**

**The Committee recommends that, within three months upon adoption of this report, the EACC report to the National Assembly on the progress of the investigations.**

**257. Unsupported Transfers from Development Vote to Deposits Account**

1004) The statement of assets and liabilities reflects a balance of Kshs.123,953,168 under accounts payables – deposits which includes an amount of Kshs.56,588,053 that was transferred from the State Department’s Development Account to Deposits Account on 30 June, 2019. According to Management, the transfer was in relation to retention money withheld from various contractors. However, no documentary evidence was provided for audit review to confirm the contracts in respect of which the retention money was withheld, and the amount deducted and withheld for each contract.

1005) In the circumstances, it has not been possible to confirm the validity and accuracy of the accounts payables – deposits balance of Kshs.123,953,168 as at 30 June, 2020.

**Submission by the Accounting Officer**

1006) The Accounting Officer submitted that the transfer was in relation to retention money withheld from various contractors as at June 2013 but swept into the exchequer account. The amount could only be credited to the State Department for Correctional Services by way of a budget provision under the Development Vote and then transferred into the deposit account. Schedules indicating the amount deducted and withheld in respect of each contract have been availed for audit review.

**1007) Committee observations and findings**

- (i) The Committee observed the matter was discussed in financial year 2018/19 and marked as resolved.**

**Status after verification by Auditor General**

1008) The management has not availed documentary evidence to confirm the contracts in respect of which the retention money was withheld or the specific amount deducted for each payment made to a contractor. The management still insists that the contracts

concerned were for periods prior to 2011/2012 and most of these documents were either mix up or misplaced when the State Department for Correctional Services was relocated from Jogoo A to Tele Posta building. In the absence of such documents the management is unable to avail a breakdown of the amount of Kshs.56, 588,053 in terms of how much was retained for which payment. However, evidence in form of a ledger extract has been availed to show that the retention money amounting to Kshs and the same has not 56,588,053 is still available in Central bank account number 1000302078 been released to the contractors. As earlier explained, these contracts were awarded by the parent ministry and not the State Department for correctional Services.

### **Further Committee Observations and Findings**

- (i) The amount of Kshs.56,588,053 is still held in Central bank account number 1000302078.

#### **1009) Committee recommendations**

**Within three months of tabling and adoption of this report, the Accounting Officer to provide the necessary documentation regarding the contract and unpaid retention money in order to have the matter settled.**

#### **258. Transfers to Other Government Units**

1010) The statement of receipts and payments for the year ended 30 June, 2020 reflects an amount of Kshs.5,724,820,121 in respect of transfers to other government units. As disclosed in Note 5 to the financial statements, the amount was transferred to the deposit pending bills account during the year under review. As explained in the Note, the amount was budgeted for in 2019/2020 financial year under Supplementary II to pay pending bills but due to time constraint it was not possible to pay the pending claims within 2019/2020 financial year.

1011) In the circumstances, the amount of Kshs.5,724,820,121 reflected in the financial statements is not the actual expenditure incurred but a transfer to deposits account awaiting settlement of pending bills. Further, it was not explained why the amount could not have been re-voted in the 2020/2021 financial year instead of being transferred to the deposits account thus holding funds which could have been utilized to fund more urgent projects or financial obligations.

#### **Submission by the Accounting Officer**

1012) The Accounting Officer admitted that the amount of Kshs.5,724,820,121 reflected in the financial statements is not the actual expenditure incurred but a transfer to Pending Bills Deposit accounts awaiting settlement of the historical pending bills. The amount

could not have been re-voted in the 2020/2021 financial year as the budget for 2020/2021 financial year had already been approved

1013) The debtors had waited for long since the historical pending claims related to periods prior to June 2018 and the funds were only provided in July 2020. The State Department therefore wishes to confirm that no funds were being held that could have been utilized to fund more urgent projects or financial obligations as the fund were availed in the Pending Bills Deposit account on 3rd July, 2020. The amount of Kshs.5, 724,820,121 is still deposits account & ring-fenced.

**1014) Committee observations and findings**

- (i) The Committee observed the matter relates to paragraph 259 on pending bills.
- (ii) The matter remained unresolved.

**1015) Committee Recommendation**

**The Committee recommends that, within three months upon adoption of this report, the Accounting Officer to report to the National Assembly on the true status of the amount of Kshs.5, 724,820,121.**

**Other Matter**

**259. Pending Bills**

1016) Disclosed in Note 17.1 to the financial statements are pending bills amounting to Kshs.6,326,536,196 that are related to construction of buildings and the supply of goods and services as at 30 June, 2020 and which were not settled in the year under review but were instead carried forward to the 2020/2021 financial year. Failure to settle bills in the year to which they relate adversely affects the subsequent year's provisions against which they have to be charged.

**Submission by the Accounting Officer**

1017) The Accounting Officer submitted that the pending bills amount of Ksh.6,326,536,196.00 included an amount of Ksh.5,724,820,121.00 referred to under query 258 that had been provided under recurrent vote for settlement of the historical pending claims that existed prior to 30th June, 2018. The balance was in respect to 2019/2020 recurrent vote Ksh.598,231,074.75 and Ksh.3,425,000.00 for development vote that were not paid due to lack of exchequer.

1018) The 2019/2020 recurrent and development pending bills formed the first Charge in the financial year 2020/2021 and have since been settled. On the historical pending bills, the National Treasury provided an amount of Ksh.5,724,820,121.00 out of which Kes.5,625,670,122.00 was for payment of claims and Ksh.99,250,000.00 provided for operations.

1019) The process is ongoing and the status is as analyzed below;

<b>SUMMARY OF HISTORICAL OUTSTANDING CLAIMS PROCESSING STATUS AS AT 08TH NOVEMBER, 2021</b>				
	Summary			
A	Funding- National Treasury		5,625,670,122	100%
	Total Payable (B+H)	3,626,452,810		64%
	Total Unpayable (C+D+E)	1,999,217,312		36%
	<b>Total</b>		<b>5,625,670,122</b>	<b>100%</b>
B	Payments done to suppliers	2,818,305,430		78%
G	Claims in National Treasury list under verification and validation	808,147,380		22%
	<b>Total</b>		<b>3,626,452,810</b>	<b>100%</b>
	<b>Unpayables (C+D+E+F)</b>			
C	Claims in National Treasury list but not declared in prison returns	146,979,321		7%
D	Claims in National Treasury List but paid in previous Years	729,449,567		36%
E	Claims with EACC	134,183,620		7%
F	Claims in National Treasury list but without documentation	988,604,805		49%
	<b>Total Unpayable</b>		<b>1,999,217,312</b>	<b>100%</b>
	<b>Total Funding</b>		<b>5,625,670,122</b>	<b>100%</b>

1020) As indicated above, the payment of the bills is ongoing and out of Ksh.3,626,452,810.00 categorized as payable Ksh.2,818,305,430.00 which is 78% of the total payable has been paid as at 08th November 2021.

**1021) Committee observations and findings**

- (i) Submission by the Accounting Officer indicated that pending bills amounting to Kshs. 1,999,217,312 had been found unpayable; and
- (ii) The matter remained unresolved.

**1022) Committee Recommendation**

**Within three months upon adoption of this report, the Accounting Officer to report to the National Assembly on the true status of the pending bills of Kshs.5, 724,820,121.**

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

### Basis of Conclusion

#### 260. Irregular Payments

1023) Examination of payment records at the State Department for Correctional Services in respect of payments of historical pending bills during the financial year 2017/2018 revealed that payments totalling Kshs.555,652,356 were made at the State Department's Headquarters on behalf of various prison stations. However, verification of the payment vouchers at the stations revealed various irregularities as indicated below:

- a) Suppliers paid who did not actually make any supplies;
- b) Payment vouchers attached to unverifiable S13 accountable documents;
- c) Suppliers paid at the Headquarters who were not known to the stations;
- d) Suppliers paid who had never been contracted to supply rations in those stations;
- e) Stations having not ordered for or received ration on the dates indicated in the delivery notes;
- f) Seven (7) prison stations book not reflecting orders or deliveries of the same; and
- g) Prison stations counter receipt book register (CRBR) not having series of those counter receipt vouchers (S13) used.

1024) Further, examination of historical pending bills detailed data and a comparison between National Treasury IFMIS and total expenditure returns at prison stations level revealed that an amount of Kshs.419,976,543 was overpaid compared to actual deliveries at the stations. The actual supplies amounted to Kshs.190,347,882 and IFMIS payments amounted to Kshs.610,324,425. The unsupported claims or payments relate to historical supplies covering financial years 2014/2015 up to 2017/2018.

1025) It should however, be noted that the above matters regarding irregular payments, doubtful procurements and overpayments are currently under investigation by the EACC.

#### Submission by the Accounting Officer

1026) The actual supplies amounted to Kshs.190, 347,882 and IFMIS payments amounted to Kshs.610, 324,425. The unsupported claims or payments relate to historical supplies covering financial years 2014/2015 up to 2017/2018. The above matters regarding irregular payments, doubtful procurements and overpayments are under investigation by the EACC.

**1027) Committee observations and findings**

- (i) **The Committee observed that the matter is before EACC for investigations; and**
- (ii) **The matter remained unresolved.**

**1028) Committee Recommendation**

**The Committee recommends that, within three months upon adoption of this report, the EACC to be report to the National Assembly on the progress of the investigations.**

**261. Stalled Projects**

1029) Audit inspection and verification at the various prison stations in Nairobi, Eastern, Nyanza, Western, Rift Valley and Coastal regions revealed a series of projects that had stalled largely due to challenges in funding as follows:

- i. Shimo La Tewa Medium Prison - construction of a two-bedroom unit staff housing stalled in the year 2009 when the works were 67% complete with an expenditure of Kshs.2,000,000.
- ii. Manyani Maximum Prison - construction of a two-bedroom senior officers' houses stalled in the year 2010 when the works were 30% complete with an expenditure of Kshs.2,000,000.
- iii. Kitale Main Prison - construction of prisoners' dining hall and kitchen at Kitale Prison Women Wing stalled when 89% of the work had been done at a cost of Kshs.4,000,000.
- iv. Bungoma GK Prison - construction of Women Wing at Bungoma Prison stalled when 23% of the work had been done at an expenditure of Kshs.2,000,000.
- v. Kakamega Main Prison - construction of a store in Kakamega Main Prison stalled at 33% after an expenditure of Kshs.3,000,000.
- vi. Kericho Medium Prison - prisoners mixed block stalled in the year 2016 at 49% after an expenditure of Kshs.2,500,000.
- vii. Naivasha Women Prison – construction of the women ward stalled for lack of funds in the year 2016 when it was 70% complete and with an expenditure of Kshs.6,100,000.

1030) Management has not explained satisfactorily the efforts being made for completion of the projects. Consequently, value for money from the expenditure totaling Kshs.21,600,000 incurred so far on the stalled projects could not be ascertained.

**Submission by the Accounting Officer**

1031) The Accounting Officer admitted that Audit inspection and verification at various Prison stations in Nairobi, Eastern, Nyanza, Western Rift Valley and Coast Regions revealed a number of projects stalled largely due to challenges in funding.

1032) The 8 No. projects indicated were affected by budget rationalization exercised in Financial Years 2019/20 and 2020/21 and were therefore not implemented as envisaged. They were also not accommodated in Financial Year 2021/22 due to budgetary constraints.

1033) The 8 projects are included in the Medium Term budget for the Financial Year 2022/23 in order to complete them as detailed below:

<b>Project</b>	<b>Outstanding project cost as at 30th June 2021</b>	<b>Allocation 2022/23</b>
<b>Code</b>	<b>Kshs.</b>	<b>GoK</b>
1023102914 Construction of two bedroomed units staff houses at Shimo Medium Prison	2,071,700	2,071,700
1023102901 Construction of six one bedroomed staff houses at Manyani GK Prison	4,700,000	4,700,000
1023102922 Construction of Dining hall at Kitale Main Prison	4,000,000	4,000,000
1023102801 Construction of reception block at Kitale Women Prison	500,000	500,000
1023001102 Completion of women wing at Bungoma Prison (3 cells, 2 wards, passage, toilets and bathrooms)	7,500,000	7,500,000
1023101347 Completion of a Ration Store at Kakamega Prisons	6,206,160	6,206,160
1023101101 Completion of mixed block at Kericho Medium Prison	2,624,000	2,624,000
1023101103 Completion of mixed block and chain link fence at Naivasha Women Prison	1,580,000	1,580,000

1034) Value for money from the expenditure totaling Kshs.21, 600,000 incurred so far on the stalled projects will be fully realized on completion of the projects once funding is provided in the 2022/2023 budget.

#### **1035) Committee observations and findings**

- (i) The Committee observed that the projects were not completed due to budgetary rationalization**
- (ii) The Committee observed that the State Department has factored the above 8 projects in Financial Year 2022/2023 budget and allocation has since been made; and**
- (iii) The matter remained unresolved.**

#### **1036) Committee Recommendation**

**The Committee recommended that, within six (6) months after adoption of this report, the Accounting Officer to present to the National Assembly a status report on the projects.**

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



### **1037) Conclusion**

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

### **263. Unauthorized Expenditure on School Examinations - National Industrial Training Authority**

1038) The statement of financial performance for the year ended 30 June, 2020 reflects an expenditure balance of Kshs.35,581,502 under general expenses. Included in the expenditure, as disclosed in Note 11 to the financial statements, is an amount of Kshs.20,895,500 incurred on school examinations – National Industrial Training Authority (NITA). The expenditure of Kshs.20,895,500 was processed vide two (2) payment vouchers which were not authorized for payment in 2019/2020 financial year and were expensed under general expenses.

1039) In the circumstances, the accuracy and validity of the general expenses figure of Kshs. 35,581,502 could not be confirmed.

### **Submissions by Accounting Officer**

1040) It is true that the Statement of Financial Performance for the year ended 30th June 2020 reflected an expenditure of kshs 35,581,502 under general expenses. It is also true that included in the general expenses was an expenditure of kshs 20,895,500.00 (10,610,500.00 + 10,285,000.00) being examination fees due to NITA for trade tests booked and done by the prisoners in August and December 2020.

1041) The payments were processed vide two vouchers for august 2019 series Kshs 10,610,500.00 and December 2019 series Kshs 10,285,000.00 respectively which by the closure of the financial year had not paid. The expense was recognized in the financial statements as the Prison Industry Fund is accounted for on accrual basis. The copies of the unpaid payment vouchers are herewith provided.

1042) The accuracy and validity of the general expenses figure of Kshs.35, 581,502 can therefore be confirmed as correctly accounted for

### **1043) Committee Observations and Findings**

- (i) The Committee observed that the copies of the unpaid vouchers submitted by the Accounting Officer as part of the evidence have not been verified by the Office of the Auditor General due to late submission of documents by the State Department; and**
- (ii) The matter remained unresolved.**

### **Status after verification by Auditor General**

1044) The management has availed Original Payment Voucher number 4360 for Kshs 10,610,500 and PV number 003 for Kshs 10,285,000 which were processed to Pay NITA a total amount of Kshs 20,895,500. Examination of the Payment Vouchers established that the amounts were payable to NITA for conducting trade tests examinations to prisoners from various prisons. However, the management has not given any justification why the service provider has not been paid to date despite the Prison Industries Revolving Fund reflecting cash and bank balance amount of Kshs 769,350,340 as at 30th June 2021.

**1045) Further Committee Observations and Findings**

- (i) The Committee observed the amount was payable to NITA.**
- (ii) The Accounting Officer had not made payments that were due to NITA.**
- (iii) The Accounting Officer explained that the Department will be conducting the examinations using internal personnel since they are the ones who supervise the examinations when the same are being conducted by NITA. The Committee was convinced that the method will save funds for the State Department.**

**1046) Committee Recommendation**

**The Committee recommended the Accounting Officer should ensure all payments due are made in time in accordance with Section 74(4) of Public Finance Management Act, 2012.**

**264. Unsupported Sales**

1047) The statement of financial performance for the year ended 30 June, 2020 reflects sales of furniture and number plates totalling to Kshs.319,494,022. However, Management did not provide monthly sales orders, cash book extracts, receipt books, bank statements and schedules in support of the sales amount of Kshs.319,494,022. Further, an audit verification at Kamiti Industry Prison revealed sales of furniture and number plates worth Kshs.14,050,440 and Kshs.334,195,020, respectively both totalling Kshs.348,245,460 during the year ended 30 June, 2020.

1048) In the circumstances, the accuracy and completeness of the sales figure of Kshs.319,494,022 could not be ascertained.

**Submission by the Accounting Officer**

1049) The Accounting Officer admitted that the statement of financial performance for the year ended 30th June 2020 reflected sale of goods balance of Kshs.319,494,021.77. The fund's management availed the monthly sales returns, the cash book, receipt books, bank statements and all the support schedules.

1050) The sale of goods figure of Kshs.319,494,021.77 as analyzed in note 6 of the financial statement is stated below;

Description	2019-2020
	Kshs
Sale of goods – Cash sales	375,427,592.10
Sale of goods – credit sales	35,470,685.00
Total Sales	410,898,277.10
Previous debt collected during the year	-91,404,255.33
<b>Total sales from the sale of goods</b>	<b>319,494,021.77</b>

1051) The Kamiti Prison Industry furniture sales of Kshs.14,050,440.00 and number plate sales of Kshs.334,195,020 for the year ending 30 June 2020 both totaling Kshs.348,245,460 are included in the total Industry sales of Kshs.410,898,227.10 (375,427,592.10 Cash sales + 35,470,685.00 credit sales).

1052) The accuracy and completeness of the sales figure of Kshs.319, 494,021.77 can therefore be ascertained. The supporting monthly sales orders, cashbook extracts, receipt books, bank statements and schedules in support of the sales amount of kshs.319,494,022 have since been availed to the Auditor General for review.,

**1053) Committee observations and findings**

- (i) **The observed that the supporting monthly sales orders, cashbook extracts, receipt books, bank statements and schedules submitted by the Accounting Officer as part of the evidence have not been verified by the Office of the Auditor General due to late submission of documents by the State Department; and**
- (ii) **The matter remained unresolved.**

**Status after verification by Auditor General**

1054) The assertion that the cashbook extracts, receipt books, bank statements and schedules in support of the sales amount of Kshs. 319,494,022 have since been availed to the Auditor General for review is not factually correct because the same are yet to be availed.

1055) Information availed is that the revenue from sale of items is directly wired to the Prisons Service Fund Account at Prisons headquarters through a pay-bill number. The records /documents in relation to the collection is maintained at the Prison head office and none at the Prison station where such sales are made. This makes it difficult for the audit to compare the amount recorded as revenue from a certain station with the record of the same at the head office. The cashbook at the head office is posted using entries in the bank statement but not from source documents raised at the point of sale.

1056) A visit to Magereza house has confirmed that the fund has a total of 104 industrial stations located within Correctional facilities around the Country. Each station has its independent serialized Government miscellaneous receipt (MR) book and independent

Paybill which are utilized for collection of revenue. All sales are through cashless payment platform (paybills, Electronic funds transfer and corporate cheques) and are recorded in the miscellaneous receipt. In addition, the receipts are regularly presented to Prisons headquarters for verification and recording. All the presented receipts are later controlled by a daily sales/revenue ledger which clearly records all station revenue collected and it forms the basis of the Total annual revenue.

1057) All daily sales are transmitted daily to the Equity bank account which serves as a collection account and later to Central Bank account. It important to note that the Equity account is a transmission ONLY account. These funds are later issued to stations via AIE (Authority to incur Expenditure). The State Department has promised that a record of daily revenue collection shall be introduced at the collection point (Prison) where one MR will be raised for purpose of the daily record and reconciliation with the electronically transmitted amounts and records at the Prison headquarters.

**1058) Further Committee Observations and Findings**

- (i) The Accounting Officer did not provide supporting monthly sales orders, cashbook extracts, receipt books, bank statements and schedules to the Auditor General as reported.**
- (ii) The report on sales was based on entries in the bank statement but not from source documents raised at the point of sale.**
- (iii) The reconciliations on the variances between the two figures was not supported through documentation.**

**1059) Committee Recommendations**

**The Auditor-General to revisit the matter and report back in the next audit cycle.**

**265. Unreconciled Creditors Balance**

1060) The statement of financial position as at 30 June, 2020 reflects creditors balance of Ksh.356, 655,099 which differs with the amount of Kshs.356,143,099 disclosed in Note 17 to the financial statements. The resulting difference of Kshs.510,000 has not been reconciled or explained.

**Submission by the Accounting Officer**

1061) This resulted in a difference of Kshs.512,000.00 and not 510,000.00 as stated in the query. This was as a result of the erroneous omission of a creditor- Waridirose Limited in the creditors list. The error has since been corrected. The payment voucher for the merchant was processed but had not been paid by the time of the closure of the financial year. The same was later paid on 24th February 2021.

#### **1062) Committee observations and findings**

- (i) The observed that the copies of the payment voucher submitted by the Accounting Officer as part of the evidence had not been verified by the Office of the Auditor General due to late submission of documents by the State Department; and**
- (ii) The matter remained unresolved.**

#### **Action Point**

1063) The Office of the Auditor General to verify the availed payment voucher by the Accounting Officer and advise the committee accordingly.

#### **Status after verification by Auditor General**

1064) The Accounting Officer availed Original Payment Voucher number 00122 dated 19th February 2021 as evidence to confirm that the erroneous omission of a creditor- Waridirose Limited in the creditors list was later settled on 24th February 2021. The delay in settling the debt was caused by misplacement of the original payment voucher earlier prepared for the same purpose. Resultantly the authority was sought and granted by the accounting officer for the payment to be processed using certified true copies. The supplier has since been paid and the issue settled.

#### **1065) Further Committee observations and findings**

- (i) The Committee was satisfied by the observations made on verification of documents by the Auditor General; and**
- (ii) The Committee marked the matter as resolved.**

### **266. Budgetary Control and Performance**

1066) The statement of comparison of budget and actual amounts reveals that the Prison Industries Revolving Fund realized an actual revenue amount of Kshs.319,494,022 or 37% against budgeted revenues of Kshs.857,929,352. Further, the statement indicates that the Fund utilized an amount of Kshs.177,867,060 which represents 26% of the budget expenditure figure of Ksh.674,432,436, resulting to an under expenditure of Ksh.496,565,376 or 74% of the budgeted expenditure. Consequently, the Fund may not have implemented all programs and work plans fully as approved in the budget.

#### **Submission by the Accounting Officer**

1067) The Accounting Officer admitted that the statement of Comparison of Budget and Actual amounts revealed that the prison industries fund realized actual revenue of Kshs.319,494,021.77 or 37% against budgeted revenue amounts of Kshs.857,929,352.50 while the fund utilized an amount of Kshs.177,867,060.00 a 26% of the budgeted expenditure of Kshs.674,432,436 resulting in an under expenditure of Kshs.496,565,376 or 74% of the budgeted expenditure.

1068) The underperformance by 74% was caused by the lock down and social distance measures as advised by the Ministry of Health in order to protect inmates from COVID 19 pandemic which lead to closure of Prison Industry workshops countrywide resulting to low business.

1069) Management is adhering to budgetary provisions to meet the fund's core mandate as the health situation improves and the country opens up from the lock down.

#### **1070) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Budget Control and Performance was satisfactory; and**
- (ii) The Committee marked the matter as resolved.**

### **267. Unresolved Prior Year Matters**

#### **267.1 Pay Master General (P.M.G) Account**

1071) The statement of financial position reflects a balance of Kshs.175,987,430 under Pay Master General (P.M.G) Account. The balance represents amounts held on behalf of the Fund in the former Ministry of Home Affairs Deposits Account which was yet to be transferred to the Fund's new account as at 30 June, 2020. In addition, documentary evidence including bank certificates and bank reconciliation statements for the said deposits account have not been provided to support this balance.

1072) In the circumstances, the existence, completeness and accuracy of the P.M.G Account balance of Kshs.175,987,430 as at 30 June, 2020 could not be confirmed.

#### **1073) Committee Observations and Findings**

1074) The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was issued thereof.

#### **267.2 Cash in Transit**

1075) As disclosed in Note 12 to the financial statements, the statement of financial position reflects a balance of Kshs.30,318,827 in respect of cash in transit as at 30 June, 2020. The balance represents revenue collected by the Kenya Prisons Service (KPS) from sale of manufactured products but not yet deposited to the Fund account. The existence, validity and accuracy of the cash in transit balance of Kshs.30,318,327 as at 30 June, 2020 could not therefore be confirmed.

#### **1076) Committee Observations and Findings**

- (i) The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was issued thereof.**



- (ii) The Accounting Officer had not carried out reconciliation as at 30 June 2020, and the funds said to be in transit had not been paid into the Fund Account.

#### **1077) Committee Recommendations**

**Within three months of tabling and adoption of this report, the Accounting Officer to ensure the funds are deposited into the Fund account and present evidence on the same to the National Assembly and the Auditor-General for further action.**

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

#### **Basis for Conclusion**

#### **268. Stalled Project for Production of Modern Motorized Vehicle Number Plates and Supply and Delivery of Motorized Vehicle Number Plate Blanks**

1078) As previously reported, records at Kamiti Main Prison Industry revealed that machines for producing modern motorized vehicle number plates which were supplied and delivered in the year 2016 at a cost of Kshs.15,295,500 have not been used for the intended purposes and have remained idle to date. In addition, a three-year contract for supply and delivery of motorized vehicle number plate blanks was signed on 7 November, 2017 and the raw material supplied. However, the raw materials (motorized vehicle number plate blanks) are still held at the Kamiti Main Prison Industry stores.

1079) Information available indicates that a case relating to the Supply and Delivery of Motorized Vehicle Number Plate Blanks: Tender No. KPS/T/ICB/10/2014-2017 was filed in the Milimani High Court, Case No. E321 of 2020, between a technology company and the Principal Secretary State Department for Correctional Services seeking specific performance of the contract or in the alternative compensation for the full contract value of Kshs.1,050,000,000.

1080) In the circumstances, the Government may not obtain value for money in respect of the contracts for supply and delivery of machines for producing modern motorized vehicle number plates and related raw materials owing to the delay in implementing the project.

#### **Submission by the Accounting Officer**

1081) As correctly stated by the Auditor the matter is the subject of a civil case no E321 of 2020 filed in the Milimani High Court between Tropical Technologies Ltd and the State Department for Correctional Services and the matter is still pending in court.

#### **1082) Committee observations and findings**

- (i) The Committee observed that the matter was active in court, pending determination; and**
- (ii) The matter remained unresolved.**



### **1083) Committee Recommendation**

**The Committee resolved to await the court determination before making further recommendation.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### **1084) Conclusion**

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

### **PRISON FARMS REVOLVING FUND**

REPORT ON THE FINANCIAL STATEMENTS

#### **Basis for Qualified Opinion**

#### **270. Unsupported and Unreconciled Pay Master General Account Balance**

1085) The statement of financial position reflects a Pay Master General (P.M.G) Account balance of Kshs.56,021,755 as at 30 June, 2020. As disclosed in Note13 to the financial statements, the P.M.G. account represents unspent income from all stations and is held in the Ministry's Deposit Account on behalf of the Fund. However, the Ministry's Deposits Bank Account reflected a balance of Kshs.127,732,298 resulting to a difference of Kshs.71,710,543 which has not been analyzed or explained.

1086) Consequently, the completeness and accuracy of the P.M.G. Account balance of Kshs.56,021,755 reflected in the statement of financial position as at 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

1087) The Accounting Officer admitted that the statement of financial position as at 30th June 2020 reflected a PMG balance of Kshs.56,021,755. This figure has been disclosed in notes 12 & 13 of the financial statements as the unspent amount that is held in the Ministry's Deposits account on behalf of the fund. However, the financial statements have a cash and cash equivalent balance of kshs.144,641,200.32 and not 127,732,298.00 which is exclusive of the PMG balance.

1088) Both Farms and Industries operate one bank account where all the revenues collected are deposited. The PMG balances are as explained in audit query 267.1 and therefore the

above analysis, the completeness and accuracy of the figure of Ksh.56,021,755.00 as at 30th June, 2020 can be confirmed.

1089) During the year, the cash and cash equivalent balance has been derived as analyzed hereunder:

<b>Cash And Cash Equivalent</b>		
	<u>30<sup>th</sup> June 2020</u>	<u>30<sup>th</sup> June 2019</u>
Opening balance	95,825,186.72	2,112,235.72
Add: Sales (cash)	<u>138,443,432.60</u>	<u>120,108,202.00</u>
	234,268,619.32	122,220,527.72
Less: Expenditures/Withdraw	<u>89,627,419.00</u>	<u>26,395,341.00</u>
<b>Closing balance</b>	<b><u>144,641,200.32</u></b>	<b><u>95,825,186.72</u></b>

**1090) Committee observations and findings**

- (i) The observed that the above information needs to be verified by the Office of the Auditor General; and
- (ii) The matter remained unresolved.

**1091) Committee Recommendations**

**The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the auditor general within three months after close of the Financial Year as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**

**Other Matter**

**271. Pending Bills**

1092) As disclosed in Note 14 to the financial statements, the Fund had pending bills totalling Kshs.1,700,000 as at 30 June, 2020. These bills were not settled during the year under review but were instead carried forward to the 2020/2021 financial year. Failure to settle bills during the year to which they are incurred adversely affects the provisions of the subsequent financial year for which they have to be charged and paid.

**Submission by the Accounting Officer**

1093) The Accounting Officer admitted that the failure to settle the bills exposes the State Department to lose of future Government funding for activities. The amount of Ksh1,700,000.00 has since been paid to various creditors as analyzed below.

<b>FARMS CREDITORS ANALYSIS FOR FINANCIAL YEAR 2018/2019</b>	
<b>Firm</b>	<b>Amount Ksh.</b>
KENFRI LPO 304516 dated 10/5/2019	231,000.00
Wajoda Traders	250,000.00
Asili General Merchants	300,000.00
Dry Tree Contractors	98,000.00
KENFRI LPO 3119725 dated 5/11/2018	765,000.00
KEPHIS	56,000.00
<b>TOTAL</b>	<b>1,700,000.00</b>

1094) The amount payable to KENFRI of Ksh.231,000.00, Ksh.765,000.00 and KEPHIS Ksh.56,000.00 were paid in the financial year 2020/2021 while amounts payable to Wajoda Traders Ksh.250,000.00 and Asili General Merchants Ksh.300,000.00 were paid in the 2021/2022 financial year but Dry Tree Contractors for Ksh.98,000.00 is not payable..

**1095) Committee observations and findings**

- (i) **The Committee that a balance of Ksh.98,0000 remains outstanding; and**
- (ii) **The matter remained unresolved.**

**1096) Committee recommendations**

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

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

**Basis for Conclusion**

**272. Unused Tractors**

1097) The statement of financial position reflects an amount of Kshs.28,035,111 under tractors as at 30 June, 2020. As disclosed in Note 20 to the financial statements, the balance includes an amount Kshs.19,965,600 relating to additions during the year under review. However, the additional tractors were acquired without operational accessories and have thus remained unused to date. The required operational accessories includes 6-ton tipping trailers (2), lateral boom sprayers (3), 22-disc harrow (2), 4-row crop planters (2) and 3-disc plough (4).

1098) Under the circumstances, the Kenya Prison Service has not obtained value for money from the acquisition of tractors worth Kshs.19,965,600.

**Submission by the Accounting Officer**

1099) The requisite accessories were not procured at the time due to lack of budgetary resources. The tractors were deployed to various stations and have been operating using the old serviceable equipment which were in the stations. Copies of requisite procurement Documents.

**1100) Committee observations and findings**

- (i) The Committee observed that non-inclusion of essential parts in the main tender could be a reflection of inadequacy of technical capacity in the State Department; and**
- (ii) The matter remained unresolved.**

**1101) Committee Recommendations**

**The Committee recommends that the Accounting Officer should ensure procurements of related items are harmonized to ensure intended service delivery is not adversely affected.**

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

**1102) Conclusion**

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

## 8. STATE DEPARTMENT FOR IMMIGRATION AND CITIZEN SERVICES

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1024

**Dr. Eng. Karanja Kibicho, the Accounting Officer for the State Department Immigration and Citizen Services (Vote 1024) appeared before the Committee on 8<sup>th</sup> November, 2021 to adduce evidence on the audited financial statement for the State Department for Immigration and Citizen Services (Vote 1024) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                            |   |  |
|----------------------------|---|--|
| 1. Ms. Alice Gichu         | – | Senior Chief Financial Officer               |
| 2. Mr. Francis Kooli       | – | County Commander Kisii County                |
| 3. Mr. Henry N. Obara      | – | Principal Supply Chain Mngmnt - Kisii County |
| 4. Mr. Reuben Nyakundi     | – | County Works Officer Kisii County            |
| 5. Mr. Geoffrey Rohoh      | – | Senior Deputy Government Primer              |
| 6. Mr. Steve Wamae         | – | SDD/SCMS Interior                            |
| 7. Mr. Mwenda Njoka        | – | Government Press                             |
| 8. Mr. James K. Karori     | – | Deputy Accountant General                    |
| 9. Mr. David Mutia         | – | Senior Principal Finance Officer             |
| 10. Ms. Janet Mucheru      | – | Secretary Civil Registration                 |
| 11. Ms. Elizabeth W. Kiano | – | DAG head of Internal Audit                   |
| 12. Mr. Harrison Kariuki   | – | Ag. CEO Director Finance – NCIC              |
| 13. Mr. John Kiragu        | – | Security                                     |
| 14. Ms. Catherine Njuki    | – | Head of Accounts - NCIC                      |
| 15. Mr. Joe Mwema          | – | National Cohesion and Integration Commission |
| 16. Mr. Alex Muteshi       | – | Director General Immigration                 |
| 17. Mr. Charles Kimotho    | – | Accountant Interior                          |

And submitted as follows:

#### 1103) **Unqualified Opinion**

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

#### **Other Matter**

#### **275. Pending Bills**

1104) Annex 1 to the financial statements reflects pending bills totalling Kshs.90,611,425 as at 30th June, 2020. The bills are not, however, disclosed in the notes to the financial statements under other important disclosures as required by the Public Sector Accounting Standards Board. Failure to settle bills in the year to which they relate will adversely affect the implementation of the subsequent year's budgeted programmes as the pending bills form a first charge to that year's budget provision.

### **Submission by The Accounting Officer**

1105) The Accounting Officer submitted that a disclosure of the same was done under the 'NOTES TO THE FINANCIAL STATEMENT' as Note No. 17 –Analysis of pending accounts payables on pages 33 to 36. The pending bills were due to lack of exchequer and budget cuts during supplementary budget. The budget cuts were done after the commitments had been done and goods and services delivered. The above pending bills have since been settled.

### **1106) Committee observations and findings**

- (i) The Committee observed that the above pending bill was settled; and
- (ii) The Committee marked the matter as resolved.

### **276. Budgetary Control and Performance - Late Exchequer Releases**

1107) The statement of receipts and payments indicates that the State Department for Immigration and Citizen Services received a total of Kshs.2,531,794,241 in form of Exchequer releases during the year under review. However, Exchequer issues totalling Kshs.572,849,850, comprising of Kshs.349,153,456 and Ksh.223,696,394 for recurrent and development votes respectively, were received by the State Department in June, 2020. The late Exchequer releases resulted in under absorption of the State Department's budget and may have impacted negatively on service delivery to the public.

### **Submission by the Accounting Officer**

1108) The Accounting Officer submitted that the State Department received exchequers late as indicated in the report and this may have impacted negatively on service delivery to the public. The State Department solely relies on the National Treasury for exchequer releases and has no control over the timing. The State Department even after receiving the exchequer late, processed most of the payments.

### **1109) Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regards to Budgetary Control and Performance - Late Exchequer Releases was satisfactory; and**
- (ii) **The Committee marked the matter as resolved.**

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

### **1110) Conclusion**

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

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

1111) **Conclusion**

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

FINAL REPORT 2019/2020



## 9. STATE DEPARTMENT FOR DEVOLUTION

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1032

**Mr. Julius Korir, the Principal Secretary and Accounting Officer for State Department of Devolution (Vote 1032) appeared before the Committee on 2<sup>nd</sup> February, 2022 to adduce evidence on the Audited Financial Statements for State Department of Devolution (Vote 1032) for the Financial Year 2019/2020. He was accompanied by the following officers:**

1. Ms. Kula H. Hache - Secretary Administration
2. Mr. Ngotho Nyathira - Director HRM&D
3. Mr. Nyambati Kenedy - Director CB
4. Mr. Alfonso Munyali - Director – TA
5. Mr. Kerandi Sarah - Chief Finance Officer
6. Ms. Elizabeth Masaku - Head Supply Chain Management
7. Mr. Johnson Njuguna - Deputy Accountant General
8. Mr. Amos Omar - Assistant Accountant General
9. Ms. Jane Kiprop - Deputy Head Accounting Unit
10. Mr. Isaac Githui - Secretary Relief & Rehabilitation
11. Mr. Moses M. Macharia - Principal Accountant

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **282. Unaccounted for District Suspense**

1112) The statement of assets and liabilities reflects an accounts receivable (outstanding imprests, district suspense, salary advance) balance of Kshs.60,178,070 as at 30 June, 2020. As disclosed in Note 9 to the financial statements, the balance comprises of district suspense of Kshs.60,124,820 and salary advances of Kshs.253,250.

1113) Although Management explained that the district suspense of Kshs.60,124,820 balance related to Authority to Incur Expenditure (AIE) issued to various Deputy County Commissioners (DCC) to meet the cost of transporting relief food to various regions across the Country, supporting documents by way of requisitions and evidence of receipt of the funds by the DCCs were not availed for audit review. Further, no explanations were provided for the delays in the surrender of the AIEs.

1114) Under the circumstances, the accuracy, existence and full recoverability of the reported accounts receivables balance of Kshs.60,178,070 as at 30th June, 2020 could not be ascertained.

### **Submission by the Accounting Officer**

1115) The Accounting Officer submitted that it was true that the district suspense for the year under audit totals Kshs.60,124,820. Included in this figure is Kshs.21,964,820 which relates to the year 2018/2019 and the remaining amount of Kshs.38,160,000 relates to the year under review.

1116) The district suspense figure of Kshs.60,124,820 represents AIES issued to various Deputy County commissioners (DCC) to meet the cost of transporting relief food to various regions across the Country. AIE issued is accounted for at the end of the Financial Year by recognizing the resultant expenditure using expenditure returns. The Ministry of Devolution has however not received expenditure returns from the DCCs for the AIEs during the reporting period in spite of several reminders on the same. The deputy county commissioners are under the Ministry of Interior and coordination of National Government.

1117) The Ministry for Devolution has continued to engage with the Ministry of Interior and Coordination of National Government with a view to ensuring that expenditure returns are submitted to facilitate accounting for the AIES and the ultimate clearance of the district suspense account.

1118) It is important to note that the Department of Relief was transferred to the State Department for Public Service in the recent reorganization of Government in the month of October 2021. Prior to these changes the Ministry for Devolution had initiated a cash transfer Program to replace the current purchase and distribution of relief food program. The cash transfer program will eliminate the challenges encountered by the Relief food programme which include challenges of accounting for AIEs issued to other MDAs.

### **1119) Committee Observations and Findings**

- (i) The Committee observed that various Deputy County commissioners (DCC) were issued with AIEs to meet the cost of transporting relief food to various regions across the Country;
- (ii) The Committee further observed that the respective DCCs did not submit expenditure returns on the distribution of Relief Foods at the end of the exercise. The committee noted with concern that Kshs.21,964,820 relating to 2018/2019 Financial year had not yet been accounted for, with an amount of Kshs.38,160,000 being advanced in Financial year 2019/2020. The AIE holders and the Accounting officer are therefore in breach of the provisions of section 71 of the PFM Act 2012.

### **1120) The Committee Recommended that:**

- 1) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

- 2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
- 3) **Within sixty days upon adoption of this report, the DCCs who have long standing AIEs and have not provided returns should avail the respective returns to the Accounting Officer.**
- 4) **Where no returns and documents are provided to the Accounting Officer and Auditor General within the above stipulated time, the erstwhile Accounting Officer for the State Department for Devolution together with the respective DCCs and other members of the Inter-Ministerial Relief Food Distribution Committee should be prosecuted for financial misconduct relating to failure to provide information under the officer's control pursuant to section 198(1)(k) of the Public Finance Management Act, 2012.**

### **283. Unsupported Grants and Transfers to Other Government Entities**

- 1121) The statement of receipts and payments reflects an amount of Kshs.1,858,800,000 in respect of transfers to other government units. As disclosed in Note 5 to the financial statements, the balance includes other grants amounting to Kshs.1,410,000,000 being Kshs.30,000,000 transferred directly by the National Treasury to each of the forty-seven (47) County Governments under the Kenya Devolution Support Program (KDSP).
- 1122) However, only twenty-five (25) Counties confirmed receipt of the funds totaling to Kshs.750,000,000 leaving out transfers to twenty-two (22) Counties amounting to Kshs.660,000,000 unconfirmed. Whereas the requisite conditions for disbursement include commitment letters, approved annual capacity building plans, demonstration of satisfactory implementation of the previous year's disbursements and demonstration of adherence to the capacity building plans, no documentary evidence was availed for audit review to confirm that respective Counties had fulfilled the conditions prior to the disbursements.
- 1123) Consequently, the accuracy and validity of the transfers to other government entities expenditure of Kshs.1,858,800,000 could not be confirmed.

### **Submission by the Accounting Officer**

- 1124) The Accounting Officer submitted that the Kshs.1,410,000,000 are grants transferred directly by the National Treasury to each of the forty-seven (47) County Governments under KDSP, this is to confirm that all the County Governments received each Kshs.30,000,000 specifically earmarked to support county interventions as part of the National Strategy for managing the effects of COVID-19 pandemic. Notification of these disbursements to the Counties was made vide MDP/DD/FIN/44 dated 15th May 2020.
- 1125) The funds are disbursed by the National Treasury to counties directly and the treasury only notifies the Department of the disbursement of the grants. Out of the remaining 22

counties, 11 more have confirmed and the other 11 counties are yet to confirm. However, the Department has written to the remaining counties to confirm. Copies of notice for disbursement letter from the Department to the County Governments and request to send confirmations were availed to the Committee for perusal.

1126) As per the program appraisal documents, the Department hired an independent firm to verify the adequacy and compliance of the county capacity building plans to confirm the adequacy and compliance. The following documents were availed to the Committee for perusal:

- i. A detailed independent verification report on Implementation of the previous disbursements and confirmation that Counties had fulfilled the Program conditions and they qualified for the grant.
- ii. KDSP Technical committee's minutes for approval of the disbursement.

1127) **Committee Observations and Findings**

- (i) The Committee observed that the only 36 out of 47 Counties availed their returns for audit verification;
- (ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
- (iii) The Committee also observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and
- (iv) The matter therefore remained unresolved.

1128) **The Committee Recommended that:**

- 1) **The Accounting Officer must at all times ensure that he prepares and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
- 2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
- 3) **Within sixty days upon adoption of this report, the Counties that had not provided returns under the Kenya Devolution Support Programme (KDSP) should avail the respective returns to the Cabinet Secretary of the National Treasury.**
- 4) **Where no returns and documents are provided to the CS National Treasury and Auditor General within the stipulated time, the erstwhile Accounting Officer for the State Department for Devolution together with members of the the Inter-Ministerial Relief Food Distribution Committee should be prosecuted for financial misconduct relating to failure to provide information under the officer's control pursuant to section 198(1)(k) of the Public Finance Management Act, 2012.**

## 284. Other Grants and Transfers

1129) The statement of receipts and payments reflects other grants and transfers of Kshs.1,363,294,349 which, as disclosed under Note 6 to the financial statements, is in respect of emergency relief and refugee assistance. However, the amount includes Kshs.1,479,210 incurred on printing and stationeries thus overstating the expenditure.

1130) Further, documents provided revealed that relief commodities were delivered to the Deputy County Commissioners but details of the actual beneficiaries were not availed for audit review. It was, therefore, not possible to confirm whether the relief and assistance was received by the intended beneficiaries.

1131) Consequently, the accuracy and validity of other grants and transfers of Kshs.1,363,294,349 could not be confirmed.

### Submission by the Accounting Officer

1132) The Accounting Officer submitted that it was true that in the receipts and payments under other grants and transfers, emergency relief and refugee assistance we reported total expenditure of Kshs.1,363,294, 349. That an expenditure of Kshs.1,479,210 incurred on printing and stationery was inadvertently charged under relief account. The expenditure of Kshs.1,479,210 was subsequently corrected and charged to the appropriate account of printing and stationeries under administrative services using a journal voucher of which a copy was availed to the Committee for perusal.

1133) It was true that the State Department delivered relief commodities to Deputy County Commissioners in the year under review. Relief allocation letters to each receiving Deputy County Commissioner states in part that, “The distribution should jointly be conducted by the Sub County Relief Food Distribution Committees in the concerned Counties to ensure proper targeting of the beneficiaries and are also required to file returns on the distribution and to maintain proper records for audit purpose”.

1134) Deputy County Commissioners who are under the Ministry of Interior and Coordination of National Government and who receive and distribute relief food have not been providing the required information for accountability of the distrusted food. The Cabinet Secretary, Devolution addressed a letter to Cabinet Secretary Interior on failure by Deputy County Commissioners to account for relief food received and requirement that a return should be filed to the State Department for Devolution once relief food has been received and distributed. This however has not been forthcoming. The following Sub Counties where relief food was delivered in the period under review are however the only ones who provided the information on recipients which is available for scrutiny and audit:

1. Taita Taveta – Taveta Sub County
2. Baringo- Baringo Central

3. Laikipia- laikipia Central, Laikipia West
4. Kitui- kyuso, Kathonzweni
5. Embu- Mbeere
6. Kisumu- Kisumu West, Kisumu South
7. Makueni- Nzau
8. Siaya
9. Narok- Narok South
10. Kilifi
11. Mandera- County Commissioner
12. Vihiga- Lwanda

1135) Prior to the transfer of special programs in October the Ministry had issued a letter to the County Commissioners requesting them to document the list of beneficiaries in advance to forestall repeat of the challenges. As a long term measure there is a shift in policy by government to implement cash transfer instead of relief food.

**1136) Committee Observations and Findings**

- (i) The Committee observed that the wrong charging has been adjusted through Journal Voucher JE. However, this was an unauthorized reallocation;
- (ii) The Committee also observed that only twelve counties provided returns for audit verification despite many reminders;
- (iii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
- (iv) In addition, the Committee observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and
- (v) The matter therefore remained unresolved.

**1137) The Committee Recommended that:**

- 1) The Committee reprimands the Accounting Officer, the DCCs and any other officer responsible for making returns for failing to ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
- 2) The Accounting Officer, the DCCs and any other officer responsible must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
- 3) Within sixty days upon adoption of this report, the Inter-Ministerial Relief Food Distribution Committee should provide the documentation for distribution of the relief commodities valued at Ksh.1,363,294,349 .**
- 4) Where no returns and documents are provided to the CS National Treasury and Auditor General within the stipulated time, the erstwhile Accounting Officer for the State department for Devolution and members of the Inter-Ministerial Relief**



**Food Distribution Committee should be prosecuted for financial misconduct relating to failure to provide information under the officer's control pursuant to section 198(1)(k) of the Public Finance Management Act, 2012.**

**Other matter**

**285. Budgetary Control and Performance**

1138) The summary statement of appropriation - recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.5,251,670,662 and Kshs.4,669,339,785 respectively, resulting to an under-funding of Kshs.583,330,877 or 11% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.5,251,670,662 and Kshs.4,599,321,298 respectively, resulting to an under-expenditure of Kshs.653,542,543 which occurred mainly under transfers to other government units. The under-funding and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

1139) The Accounting Officer submitted that it was true there was under expenditure of Kshs.653,542,543 under transfers to other government units. Occurred under transfer to other government units. The transfers were under IDEAS program. The donor –EU could not release the funds as the counties had not fully met the program conditionalities. There was a gap in the procurement and public finance process in the counties. the Ministry carried out capacity building interventions in terms of training and technical assistance. Some of the beneficiary counties had not met the disbursement conditions and hence the funds were not disbursed.

**1140) Committee Observations and Findings**

- i) The Committee observed and noted with concern that the donor –EU could not release the funds as the counties had not fully met the program conditionalities. The Accounting officer breached Section 47 of the PFM Act 2012.
- ii) The Committee also Observed that there was a gap in the procurement and public finance process in the counties but the Ministry carried out capacity building interventions in terms of training and technical assistance.

**1141) The Committee Recommended that:**

- 1) The Committee reprimands the Accounting Officer, for failing to ensure that the grant conditions are adhered to as required by Section 47 of the PFM Act, 2012.**
- 2) The Accounting Officer, must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**



## 286. Pending Bills

1142) Note 17.1 and Note 17.2 to the financial statements reflects pending bills totaling Kshs.6,735,297,709 comprised of pending accounts payables of Kshs.3,467,119,693 and other pending payables of Kshs.3,268,178,016 respectively. Management has not provided an explanation for non-payment of the pending bills. Failure to settle bills during the year to which they relate distorts the financial statements for the year and adversely affects the provisions of the subsequent year to which they have to be charged.

### Submission by the Accounting Officer

1143) The Accounting Officer submitted that the correct amount of pending bills reported in the Financial Statements during the year was Kshs.3,268,178,016 and not Kshs.6,735,297,709 which relate to historical bills. The bills are analyzed as follows:

(i)	CILOR debts	2,929,909,303
(ii)	Kenya Railways Pension Scheme	105,000,000
(iii)	Spenco Kenya Ltd	233,268,713
<b>Total</b>		<b>3,268,178,016</b>

#### (i) Ksh.2,929,909,303 Contribution in lieu of rates

1144) The Pending Bills relate to unpaid contribution in lieu of Rates (CILOR) owed to the defunct Local Authorities before the advent of Devolution in the year 2013.

1145) Though the bill had been appearing in the Ministry's Financial Statements, there were no sufficient documentation to support the claim and hence the bill could not be validated. The National Treasury advised the Ministry to initiate the process of writing off the debt vide letter no.AG3/87/1/VOL.V/(69) dated 27th February 2020.

#### (ii) Ksh.105,000,000 owed to Kenya Railways Corporation

1146) Following advice of the National Treasury, the Ministry requested for additional Funds to settle the bill. The allocation is in the Current Financial Year (2021/2022 F.Y.). Payment to settle the bill is in progress.

#### (iii) Ksh.233,268,713.00 Amount due to Spenco (K) LTD

1147) The bill occurred in 1997 for works done to improve Mombasa sewerage system. The initial cost was 233,268,713.00, however due to non-settlement of the cost over time the contractor billed the government a cost of 3.2Billion Being the initial cost of the contract 233,268,713, the difference of Kshs.2.967 billion being penalties and interest. The case was taken to arbitration where the final settlement amount reduced to Kshs.452,545,180.

1148) The National Treasury has approved budgetary allocation of Kshs.452,545,180 for the settlement of the debt in the FY 2022/2023.

**1149) Committee Observations and Findings**

- (i) The Committee observed that the delay in settling the pending bills relating to Spenco (K) LTD resulted into penalties and interest that could have been avoided thus occasioning Public Funds loss.
- (ii) However, the matter remains unresolved until the pending bills are fully settled in the financial year 2022/2023.

**1150) The Committee Recommended that:**

- 1) The Committee reprimands the Accounting Officer, for failing to settle the bills within reasonable period.**
- 2) Within sixty days upon adoption of this report, the Officers responsible for the delay within the state department and National Treasury should held accountable to bear the costs of penalties and interest.**

**287. Unresolved Prior Year Audit Matters**

1151) As disclosed under progress on follow up of prior years' auditor's recommendation section, some of the audit matters reported in the previous financial years remained unresolved as at 30<sup>th</sup> June, 2020.

**Submission by the Accounting Officer**

1152) The Accounting Officer submitted that the Ministry appeared before the Public Accounts Committee on 12<sup>th</sup> may 2021 for the prior year audit issues for the financial year 2018/2019.

**1153) Committee Observations and Findings**

**The Committee observed that the issues was discussed under the 2018/2019 report and that the Committee marked the matter as resolved.**

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

**Basis for Conclusion**

**288. Use of Goods and Services**

1154) The statement of receipts and payments reflects use of goods and services expenditure of Kshs.1,064,133,915 which, as disclosed under Note 4 to the financial statements, includes other operating expenses of Kshs.917,731,873. The following matters were, however, noted:

**288.1. Consultancy Contracts**

- 1155) This expenditure includes two (2) payments totaling to Kshs.70,786,929 for consultancy services for the development of Kenya Devolution Support Program (KDSP) Management Information System (MIS) and Annual Capacity Building and Performance Assessment (ACPA) at Kshs.24,963,929 and Kshs.45,823,000 during the financial years 2018/19 and 2019/20 respectively. However, the following anomalies were noted:
- 1156) No documentary evidence inform of tender documents and contract were provided to confirm the method used to procure and award the contracts. Consequently, the adherence to the requirements of Article 227(1) of the Constitution of Kenya which provides that when a State organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective could not be confirmed.
- 1157) There is no evidence of terms of reference for the two contracts having been approved by the KDSP Joint Steering Committee as required by the KDSP financing agreement and Part 27 of the program appraisal document of the project documents..
- 1158) KDSP MIS consultancy was for the development of a Management Information System in the forty-seven (47) counties and had a commencement date of 26th February, 2018 and a contract period of twenty-four (24) months to 25th February, 2020. As at the time of audit in December, 2020 which was ten (10) months after the lapse of the contract period, there was no documentary evidence by way of reporting dashboards, certificates of completion as well as inspection and acceptance reports availed for audit verification to confirm completion.
- 1159) From the foregoing, it was not possible to confirm if value for money was obtained from the expenditure of Kshs.70,786,929 on the two (2) consultancies.

#### **Submission by the Accounting Officer**

- 1160) The Accounting Officer submitted that as indicated in the Contract No. MODP/SDD/OT/11/2018-2019 (ACPA), this was an open tender. The tenders for two (2) Consultancy contracts to Prestige Management Solutions Ltd Contract No. MODP/SDD/OT/11/2018-2019 for consultancy services for Annual Capacity Building and Performance Assessment (ACPA) financial year 2019-2020. Contract No. MODP/SDD/KDSP/RFP/3/2017-2018 for consultancy services for the development of Kenya devolution Support program (KDSP) Management Information System (MIS) were administered as per the provisions of the Public Procurement & Asset Disposal Act 2015, Section 91(1), 115 and Section 124 on Open tenders (RFP) using quality and cost based selection method in the evaluation process.
- 1161) The terms of reference for the tenders were both approved by the Accounting Officer as required.

1162) Documentary evidence for procurement of MIS was required as follows:

- Tender advertisement notice
- Minutes of tender opening
- Appointment letter of the tender evaluation committee
- Evaluation report
- Professional Opinion
- Copy of contract for Prestige

1163) Documentary evidence for procurement of ACPA

- Tender advertisement notice
- Appointment letter of the tender evaluation committee
- Evaluation report
- Professional Opinion
- Copy of contract for Prestige

1164) As per the financing agreement, and the program appraisal documents, the terms of reference for the consultancy to evaluate county capacity building plans is required to be approved by the technical committee. On the two consultancies of Development of KDSP Management Information System (MIS) and Annual Capacity and Performance Assessment (ACPA), this is to confirm that the Terms of Reference for both consultancies were approved by the Program's Technical Committee (TC) which is the decision making organ of KDSP. The TC minutes are attached for your reference.

1165) On development of MIS in forty-seven Counties, the System was developed and is alive. However due to budget cuts, the Ministry was not able to roll it to the County Governments who were expected to populate their respective portals. It should be noted that the Consultant has not been paid in full pending completion of the assignment on supporting and training the stated counties in populating the already developed System. The consultant has so far been paid Kshs.22,467,535.90, leaving a balance of Kshs.2,496,392.

1166) **Committee Observations and Findings**

- (i) The Committee observed that the MIS system for Counties was developed and is working. However due to budget cuts, the Ministry was not able to roll it to all the County Governments who were expected to populate their respective portals.
- (ii) The Committee further, observed that the Consultant has not been paid in full pending completion of the assignment on supporting and training the stated counties in populating the already developed System.

1167) **Committee Recommendations**

**Within sixty days upon adoption of this report, the Accounting Officer should provide the Auditor General with the progress report for the system implementation. The**

**Auditor-General shall review and report the extent of implementation and report to the National Assembly.**

### **288.2. Procurements outside the IFMIS e-Procurement Module**

1168) Included in the other operating expenses of Kshs.917,731,873 is expenditure amounting to Kshs.364,246,316 for goods and services procured outside the IFMIS e-procurement module as evidenced by diverse professional opinions availed in support of the quotations. Consequently, the State Department was in breach of the Executive Order No. 6 of 6 March, 2015 that directed all MDAs including State Corporations and Public Universities to immediately migrate their procurement systems to the e-Procurement platform developed by The National Treasury.

1169) In view of the foregoing, it was not possible to confirm fairness in award of tenders and whether the Government received value for money for the expenditure totaling Kshs.364,246,316.

### **Submission by the Accounting Officer**

1170) The Accounting Officer submitted that it was true that services for the provision of chopper services and transportation of food/nonfood items were done outside IFMIS e-procurement module. This happened exceptionally on Relief and Rehabilitation emergency response during flash floods, drought and landslides, the transactions were recorded manually, captured and regularized through IFMIS procurement module.

### **1171) Committee Observations and Findings**

**The Committee observed that the Accounting Officer failed to adhere to the requirements stipulated in the Executive-Order-2 of 2018 by Procuring outside the IFMIS e-Procurement Module.**

### **1172) Committee Recommendations**

- 1) The Committee reprimands the Accounting Officer, for failing to adhere to the requirements stipulated in the Executive-Order-2 of 2018 by Procuring outside the IFMIS e-Procurement Module.**
- 2) Within sixty days upon adoption of this report, the Auditor-General should perform Procurement Audit with a view to establishing the status of implementation of Executive-Order-2 of 2018 on e-Procurement Module within the MDAs.**

### **288.3. Replenishment of Stores**

1173) Included in the other operating expenses of Kshs.917,731,873 are purchases amounting to Kshs.49,863,200 made against a requisition for replenishment of stores originated by the Officer in Charge of stores and approved by the Senior Finance Officer on 21st June, 2019. However, there was no documentary evidence in the form of counterfoil receipts and issue

vouchers availed for audit verification to confirm that the various items of furniture and computers were received and to whom they were issued.

1174) In absence of the delivery and issue documents, it was not possible to confirm the propriety and validity of the expenditure of Kshs.49,863,200.

#### **Submission by the Accounting Officer**

1175) The Accounting Officer submitted that it was true that during the year under review the stores documents for delivery of goods may not have been availed for audit however, the document has been availed for scrutiny and copies are hereby attached for each merchant who supplied the items as follows; -

- i. Store ledger and stock control card (Form S. 3)
- ii. Counter Requisition and issue voucher (Form S.11)
- iii. Delivery notes
- iv. Invoices
- v. Inspection and acceptance Reports
- vi. Counter receipt voucher (Form S. 13)

#### **1176) Committee observations and Findings**

- (i) The Committee observed that failure by the State Department to provide counterfoil receipts and issue vouchers amounts to dereliction of duty; and
- (ii) Further, the Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012.

#### **1177) Committee Recommendations**

**Within three months of tabling and adoption of this report, the Accounting Officer should provide the counterfoil receipts and issue vouchers to the Auditor-General for review.**

#### **288.4. Lack of Budget for Kenya Devolution Support Programme (KDSP)**

1178) The other operating expenditure of Kshs.917,731,873 was spent under Kenya Devolution Support Programme (KDSP) without a budget in contravention to Part 32 and 64 of the program appraisal document and Section 53(2) of the Public Procurement and Asset Disposal Act, 2015. These Sections require the Accounting Officer to prepare an annual procurement plan within the approved budget prior to commencement of each financial year as part of the annual budget preparation process.

#### **Submission by the Accounting Officer**

1179) The Accounting Officer submitted that in the financial year 2019/2020, KDSP had an approved budget of Kshs.832,000,000. An annual procurement plan was prepared and approved by the Accounting Officer during the year. KDSP procurement plan is integrated



in the State Department Procurement Plan and a copy the said Procurement plan and work plan were availed for perusal by the Committee.

**1180) Committee observations and Findings**

- (i) The Committee observed that failure by the State Department to provide the budget for the KDSP which amounts to dereliction of duty; and
- (ii) Further, the Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012.

**1181) Committee Recommendations**

**The Committee reprimands the Accounting Officer, for failing to provide documents during the audit in contravention of the Public Audit Act 2015 on provision of documents to auditors.**

**288.5. Unsupported Expenditure on Air Tickets**

1182) Included in other operating expenses figure of Kshs.917,731,316 are payments for purchase of air tickets amounting to Kshs.60,285,800 made to various suppliers. However, documentary evidence of travel including boarding passes and certificates of inspection and acceptance were not provided for audit verification to confirm receipt of the tickets and also authenticate that the utilization of the funds was for the benefit of the State Department.

1183) In absence of the supporting documentation, it was not possible to confirm the propriety and validity of the expenditure of Kshs.60,285,800 on purchase of air tickets.

**Submission by the Accounting Officer**

1184) The Accounting Officer submitted that it was true that other operating expenses figure of Ksh.917,731,316 include payments for purchase of air tickets amounting Ksh.60,285,800 made to various suppliers. He clarified that boarding passes were provided and were used to support surrender payment vouchers for subsistence allowances for officers that had traveled.

1185) Payments to Suppliers of air ticket were supported by the following documents: -

- i. approved memo authorizing the activity and the travel
- ii. Purchase Requisition from the user department
- iii. Quotations from three firms
- iv. Professional opinion
- v. Purchase Orders (PO)
- vi. Invoices

1186) The air tickets have unique ticket reference numbers as allocated by the airlines. The Inspection and Acceptance Committee is constituted to inspect goods procured by the State Department, such a Committee is not appropriate for services of air travel. Once the tickets have been issued, the department is obliged to pay for the booking.



#### 1187) **Committee Observations and Findings**

- (i) **The Committee observed that the boarding passes were not provided for audit verification to confirm receipt of the tickets and also authenticate that the utilization of the funds was for the benefit of the State Department which amounts to dereliction of duty;**
- (ii) **Further, the Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;**

#### 1188) **Committee Recommendations**

**The Committee reprimands the Accounting Officer for the dereliction of duty.**

#### **289. Irregular Payment of Acting Allowance**

1189) As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.312,215,099 under compensation of employees which include an amount of Kshs.118,423,887 in respect of personal allowance paid as part of salary. The latter balance includes an amount of Kshs.629,602 paid to an officer appointed the Secretary, Relief, Rehabilitation and Mobilization Affairs on 7 November, 2019 in an acting capacity.

1190) However, the appointment was backdated to 5 July, 2017 which was more than two years in contravention of Section C.14(1) of the Public Service Commission Human Resource Policies and Procedures Manual, 2016 which provides that acting allowance will not be payable to an officer for more than six (6) months. The officer has been in acting capacity for a period exceeding four (4) years. To the extent, the State Department was in breach of the Law.

#### **Submission by the Accounting Officer**

1191) The Accounting Officer submitted that the officer was paid Kshs.629,602 as acting allowance for performing the responsibilities of a higher Job Group (Secretary Relief and Rehabilitation, JG 'T') during the financial year 2019/2020. The officer was deployed and took up the responsibility w.e.f 7th July 2017 following the approval by the Public Service Commission via letter Ref. PSP/CP/APPTS/23/(25) dated 5th July, 2017. His substantive appointment then was Senior Assistant Director, Devolution Affairs JG 'Q'. The Commission directed the Ministry to pay the officer the responsibility allowances attached to the higher post (Job Group 'T').

1192) However, the Ministry did not pay but sought clarification from the Public Service Commission on the responsibility allowances to pay the officer (letter Ref. 1984000919(11) dated 28th February, 2018). In letter Ref. PSC/GEN/2/VI (7) dated 7th November, 2019

the Commission rescinded the earlier decision on deployment of the officer and instead appointed him on acting capacity w.e.f 5/7/2017. The acting capacity was approved for six (6) months with subsequent renewals until the post is filled substantively. The officer was therefore paid the acting allowance at the rate of 20% of his basic salary as follows:

<b>From</b>	<b>To</b>	<b>Duration</b>	<b>Amount</b>
5/7/2017	4/1/2018	6 months	130,155.20
5/1/2018	4/7/2018	6 months	131,836.25
5/7/2018	4/1/2019	6 months	135,191.95
5/1/2019	4/7/2019	6 months	135,229.00
5/7/2019	7/11/2019	4 months	97,190.60
<b>TOTAL</b>			<b>629,603.00</b>

- 1193) Further the Accounting Officer clarified the following: -
- i. The officer was entitled to be paid acting allowance for six (6) months with effect from 5/7/2019 with subsequent renewals until the post is filled substantively by the Public Service Commission.
  - ii. Approval of payment of acting allowance for officers on Job Group ‘Q’ and above is normally approved by the Public Service Commission. The payment made to the officer was therefore duly approved and within the provisions of the Public Service Commission Act, 2017 and therefore did not contravene the Human Resource Policies and Procedures Manual (2016)
  - iii. The Ministry had withheld compensation to the officer which he was entitled to w.e.f 5/7/2017 as it sought clarification from the Public Service Commission on the appropriate allowances to pay the officer via letter Ref. 1984000919(11) dated 28th February, 2018. The Public Service Commission instructed he be paid acting allowances with effect from the date he assumed the responsibility for the first six (6) months and also approved subsequent renewals for the same period until the post was filled substantively. The payment made to the officer was therefore legitimate entitlement duly approved by the Public Service Commission.
  - iv. The officer acted in the position for periods of six months from 5th July 2017 to 7th July 2019 an aggregate a period of two (2) years, four (4) months and not four (4) years as indicated in the office of the Auditor General Report. During the duration, the Ministry sought to fill the post by requesting the Commission to confirm the officer to the position (letter Ref. MDP/1/1/10 dated 22nd January 2018).
  - v. The Ministry acted within the provisions of the law.

1194) The various correspondence on the case between the Ministry and public service commission are hereby attached.

#### 1195) **Committee Observations and Findings**

- i) The Committee observed that the Accounting Officer contravened Section C.14(1) of the Public Service Commission Human Resource Policies and Procedures Manual, 2016 which provides that acting allowance will not be payable to an officer for more than six (6) months.
- ii) The Committee further observed that the Public Service Commission acted outside the provisions of the law and in contravention of its own Human Resource Policies and Procedures Manual, 2016.

#### 1196) **Committee Recommendations**

- 1) **The Committee reprimands the Accounting Officer and the Officer in charge of the Public Service Commission at the material time for breach of the Human Resource Policies and Procedures Manual, 2016.**
- 2) **Within sixty days upon adoption of this report, the Accounting Officer National Treasury should compute and recover any amount irregularly paid as acting allowances from the Accounting Officer and the Officer in charge of the Public Service Commission at the material time.**

#### 290. **Routine Maintenance - Vehicles and Other Assets**

1197) The statement of receipts and payments reflects an expenditure of Kshs.1,064,133,914 under use of goods and services which, as disclosed in Note 4 to the financial statements, includes an amount of Kshs.6,535,992 in respect of routine maintenance - vehicles and other transport equipment. However, included in the routine maintenance - vehicles and other transport equipment expenditure is Kshs.1,876,001 issued to an officer as standing imprest of Kshs.100,000 and reimbursed eighteen (18) times.

1198) However, examination of supporting documents revealed use of imprest to make purchases that did not meet the thresholds for low-value procurements, carrying out procurement work that should ordinarily be done by procurement professionals and for activities that had not been included in the approved Procurement Plan.

1199) The State Department was therefore in breach of Regulation 91(1) of the Public Finance Management (National Government) Regulations, 2015 which provides that imprest is issued to officers who in the course of duty are required to make payments which cannot conveniently be made through the cash office of a government entity or bank account.

1200) Under the circumstances, the validity and propriety of the expenditure of Kshs.1,876,001 included in expenditure on routine maintenance - vehicles and other assets of Kshs.6,535,992 could not be confirmed.

#### **Submission by the Accounting Officer**

1201) The Accounting Officer submitted that it was true that the statement of receipts and payments reflects an expenditure of Ksh.1,064,133,914 under use of goods and services,

which include an amount of Ksh.6,535,992 in respect of routine maintenance of vehicles and other transport equipment. It is also true that a Standing Imprest of Ksh.100,000 was issued to an officer to meet minor and unforeseen vehicle repair and maintenance. The State Department for Devolution has a fleet of 56 vehicles. Most of these vehicles were inherited from the defunct Ministry of Local Government. The vehicles are old and require regular repair and maintenance.

1202) The Ministry's mandate includes visits and capacity building in 47 Counties. During the Financial Year, most vehicles frequently broke down while on field assignments. This necessitated urgent and minor repairs which was charged from the Standing Imprest. The Ministry has however complied with the relevant procurement laws on routine and general repair and maintenance of motor vehicles. The samples log books of vehicles held by the Ministry were availed for perusal by the Committee.

**1203) Committee Observations and Findings**

- (i) The Committee observed that Standing Imprest of Ksh.100,000 was issued to an officer to meet minor and unforeseen vehicle repair and maintenance. The Accounting officer was in breach of Regulation 91(1) of the Public Finance Management (National Government) Regulations, 2015 which provides that imprest is issued to officers who in the course of duty are required to make payments which cannot conveniently be made through the cash office of a government entity or bank account
- (ii) The Committee further observed that the purchases that did not meet the thresholds for low-value procurements.

**1204) Committee Recommendations**

- 1) The Committee recommends that the Accounting Officer initiate proper accountability procedures and stop the imprest irregularities.**
- 2) The Committee reprimands the Accounting Officer for breach of Regulation 91(1) of the Public Finance Management (National Government) Regulations, 2015.**

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

**1205) Conclusion**

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

**DONOR FUNDED PROJECT**

**INSTRUMENTS FOR DEVOLUTION ADVICE AND SUPPORT PROJECT- GRANT NO.KE/FED/024/230**

**REPORT ON THE FINANCIAL STATEMENTS**

## **Basis for Qualified Opinion**

### **292. Inaccuracies in the Financial Statements**

1206) The financial statements contain the following anomalies:

1207) The statement of receipts and payments reflects other grants and transfers and payments cumulative to date balance totaling Kshs.938,849,773 which however differs with the audited comparative balance totaling Kshs.987,669,026 reflected in the financial statements for the year ended 30th June, 2018. The variance amounting to Kshs.48,819,253 between the two sets of records has not been reconciled.

1208) Note 8.4 to the financial statements reflects comparative proceeds from domestic and foreign grants balance totaling to Kshs.1,043,810,965 instead of the audited and balance amounting to Kshs.977,503,313 reflected in the audited financial statements for the previous year. The difference amounting to Kshs.66,307,652 has not been explained.

1209) The financial statements presented for audit namely, statement of financial assets, statement of receipts and payments, statement of cash flows and statement of comparative budget and actual amounts for the year ended 30th June, 2020, are labeled as relating to the year 2018/19 even though the balances reflected therein are for the year 2019/20.

1210) The statement of receipts and payments reflects receipts for the year under review totaling Kshs.28,484,747 whereas the statement of comparative budget and actual amounts reflects a total of Kshs.85,035,540. No explanation has been provided for the difference amounting to Kshs.56,550,793 between the two balances. In view of these anomalies, the financial statements for the financial year ended 30th June, 2020 are inaccurate.

### **Submission by the Accounting Officer**

1211) The Accounting Officer submitted as follows:

(i) That total grants and transfer to various counties under the IDEAS (Instruments for Devolution Advice and Support) project cumulative to date as at reporting date for FY 2019-2020 was Kshs.987,669,026 and not Kshs.938,849,773. The difference of Kshs.48,819,253 was grant to Makueni County that was transferred in the audited financial statement of FY 2018-2019. Copies of supporting documents were availed to the Committee for perusal.

(ii) It was true that Note 8.4 to the financial statements reflects comparative proceeds from domestic and foreign grants balance totaling to Kshs.1,043,810,965 instead of the audited and balance amounting to Kshs.977,503,313 reflected in the audited financial statements for the previous year. This error was corrected in the revised and amended set of financial statement submitted on 19<sup>th</sup> December 2020.

(iii) It was true that the financial statements presented for audit namely, statement of financial assets, statement of receipts and payments, statement of cash flows and statement of comparative budget and actual amounts for the year ended 30 June, 2020, are labeled as relating to the year 2018/19. This typographical error was corrected in the revised financial statements submitted on 19<sup>th</sup> December 2020.

(iv) It was true that in the submitted financial statement The statement of receipts and payments reflects receipts for the year under review totaling Kshs.28,484,747 whereas the statement of comparative budget and actual amounts reflects a total of Kshs.85,035,540. This error was corrected and the revised financial statement re submitted on 19<sup>th</sup> December 2020.

#### 1212) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not ensure that correct financial statements are completed and submitted to the Auditor General at the time of audit in accordance with Section 9 (1) (e) of the Public Audit Act, 2015. Further, the corrected financial statements were not availed after the audit which constitutes dereliction of duty.

#### 1213) **Committee recommendations**

- 1) **The Accounting Officer should ensure that correct financial statements are completed and submitted to the Auditor General within sixty days upon adoption of this report.**
- 2) **The Committee reprimands the Accounting Officer and the officer(s) responsible for preparing financial statements at the material time for failure failing to uphold professional standards.**

#### 293. **Variations between the Financial Statements and IFMIS Ledger Balances**

1214) Several of the balances reflected in the financial statements differ from identical account balances reflected in the Integrated Financial Information System (IFMIS) ledgers presented for audit. In other instances, the IFMIS ledgers do not indicate the balances for some of the accounts reflected in the financial statements. These anomalies are summarized in the table below:

Account name	Financial statement(kshs)	Balance (kshs)	Variance (kshs)
Bank balances	13,595,445	13,694,323	(98,898)
Domestic travel and substance	7,347,226	3,042,600	4,304,626
Compensation of employees	5,632,312	8,751,220	(3,118,908)
Purchase of goods and services	72,000		72,000
Hospitality	1,681,764		1,681,764
Stationery	80,000		80,000

1215) As a result of the anomalies, the accuracy and validity of the financial statements has not been confirmed.



### **Submission by the Accounting Officer**

1216) The Accounting Officer submitted that the variances was caused by using old reporting framework. This was however corrected and the revised reporting framework adopted that resulted in the revision of the financial statement that was submitted on 19th December 2020.

#### **1217) Committee Observations and Findings**

- i) The Committee observed that the explanation given by the Accounting Officer that the variances was caused by using old reporting framework which was then revised and a revised financial statement submitted on 19th December 2020 constitutes dereliction of duty.
- ii) The Accounting Officer did not adhere to the guidelines issued by the Accounting Standards Board pursuant to the provisions of section 80(1) of the Public Finance Management Act, 2012.

#### **1218) Committee recommendations**

**The Committee reprimand the Accounting Officers and other officers involved in the preparation of financial statements at the material time for dereliction of duty and failure to adhere to the guidelines issued by the Accounting Standards Board pursuant to the provisions of section 80(1) of the Public Finance Management Act, 2012.**

### **294. Unconfirmed Cash and Cash Equivalents Balance**

1219) The Statement of financial assets reflects cash and cash equivalents balance totaling Kshs.13,595,445 as further disclosed in Note 8.8 to the financial statements. However, the bank reconciliation statement as at 30 June, 2020 reflects a cash book balance amounting to Kshs.13,124,323 resulting to a difference of Kshs.471,122 which has not been reconciled.

1220) Further, the bank reconciliation statement reflects payments in cashbook not recorded in the bank statement totaling Kshs.633,104 which sum consists of long outstanding items dating back to October, 2019. Management has not explained why the payees failed to present the cheques for payment, and why the stale ones among these have not been written back into the cash book.

1221) As a result of these anomalies, the accuracy of the reported bank balances totaling Kshs.13,595,445 as at 30th June, 2019 has not been confirmed.

### **Submission by the Accounting Officer**

1222) The Accounting Officer submitted that the differences as noted above between the Bank statement and the cash book were reconciling items due to timing differences and have now



been adjusted in the cash book and in the Bank reconciliation statements for the period July-September 2020 attached for your action.

1223) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to the Unconfirmed Cash and Cash Equivalents Balance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

1224) **Committee Recommendations**

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

**295. Unconfirmed Compensation of Employees Expenditure Balance**

1225) The statement of receipts and payments reflects compensation of employee's payments totaling Kshs.5,632,312, as further disclosed in Note 8.6 to the financial statements. However, examination of salary payment vouchers indicated that compensation of employee's payments made by the Project during the year under review totaled Kshs.6,630,000. No explanation has been provided for the difference amounting to Kshs.997,688 between the two sets of records.

1226) In view of the anomaly, the accuracy and completeness of the compensation of employee's payments totaling Kshs.5,632,312 reflected in the statement of receipts and payments for the year ended 30th June, 2020 has not been confirmed.

**Submission by the Accounting Officer**

1227) The Accounting Officer submitted that it was true there was a difference between the payment vouchers for compensation of employees and the figure reported in the financial statement. The difference came about because some vouchers processed in the FY 2019/2020 were processed but were not paid, hence carried to the next financial year as pending bills. The Ministry therefore only reported the actual amount of money paid as compensation of employees totaling to Kshs.5,632,500.

1228) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to the Unconfirmed Compensation of Employees Expenditure Balance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

1229) **Committee Recommendations**

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

## Other Matter

### 296. Budgetary Control and Performance

1230) The statement of comparative budget and actual amounts reflects budgeted and actual receipts on a comparable basis totaling Kshs.708,711,733 and Kshs.85,035,540 respectively, resulting to underfunding of Kshs.623,076,193 equivalent to 12% of the budget. Contrary to the reporting requirement set by the Public Sector Accounting Standards Board, Management has not explained the underperformance

### Submission by the Accounting Officer

1231) The Accounting Officer submitted that it was true that the statement of comparative budget and actual amounts reflects budgeted receipts of Kshs.708,711,733 and actual receipts of Ksh.85,035,540 during the FY 2019-2020. This resulted in underfunding of Ksh.623,076,193.

1232) He stated that the underfunding in the receipt of AIA under the IDEAS project was due to various counties under the LED (Local Economic Development) programme had not fully complied with the conditionalities of the contract. However, various capacity building programmes were developed and undertaken by the State Department for Devolution to bridge the gaps in procurement and public finance. This exercise enabled the counties access the grants in FY 2020-2021.

1233) However, the note explaining the underfunding of the budget was included in the revised financial statement.

### 1234) Committee Observations and Findings

The Committee observed and noted with concern that various counties under the LED (Local Economic Development) programme had not fully complied with the conditionalities of the contract. The Accounting officer breached Section 47 of the PFM Act 2012.

### 1235) The Committee Recommended that:

**The Committee reprimands the Accounting Officer for failing to ensure that the contract conditions are adhered to as required by Section 47 of the PFM Act, 2012.**

### 297. Unresolved Prior Year Issues

1236) The statements for the year ended 30th June, 2018 reflected several unsatisfactory matters that were highlighted in the Audit Report for the year then ended. These included unsupported expenditures on transfers to other Government Agencies and unconfirmed training and payments reportedly made to third parties on behalf of the project. The Report, in addition, highlighted unauthorized purchases of promotional merchandize. Management has indicated that transfers made to Government Agencies have since been acknowledged by the parties. However, the evidence to confirm the assertion was not availed.

1237) Nonetheless, contrary to the reporting requirement set by the Public Sector Accounting Standards Board, Management has not disclosed the progress made in resolving the rest of the issues.

#### **Submission by the Accounting Officer**

1238) The Accounting Officer submitted that the Ministry appeared before the parliamentary accounts committee on 12th May 2021 for the audit issues for the financial year 2018/2019.

#### **1239) Committee Observations and Findings**

**The Committee observed that the issues was discussed under the 2018/2019 report and that the Committee marked the matter as resolved.**

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

#### **Basis for Conclusion**

#### **298. Failure to achieve project mandate.**

1240) The key objective of the Project is to contribute to the implementation of the devolution process as outlined in the Constitution of Kenya, 2010. The project is expected to provide the following interventions:

- a) Support The National Treasury and other public financial management entities to establish integrated planning and budgeting guidelines at County Level.
- b) Design and test county performance and assessment tools based on service delivery of quality of service.
- c) Facilitate establishment of Local Economic Development (LED) units within selected counties.

1241) However, during the year under review, the project reported expenditures totaling only Kshs.14,889,302. Further, the expenditures were not supported with an approved work plan for the year. Consequently, the activities carried out during the year may not have been on target. Should the low activity trend continue in coming years, the Project is unlikely to attain its goals and objectives before its closing date?

#### **Submission by the Accounting Officer**

1242) The Accounting Officer submitted that The slow implementation pace was caused by delays in procurement due to the stringent procurement conditions of the EU grant agreement.in addition the process of processing contracts for the 15 counties took longer than anticipated.

1243) In order to ensure completion of the planned projects and achievement of project objectives the Ministry negotiated with the EU and the project was extended from

September 2019 to September 2023. The 15 counties with technical support from the Ministry have since then up scaled speed of the implementation; currently the construction works in all the counties is at 90% complete and most counties are installing equipment. Kwale County has completed and operationalized the Kombani fresh produce wholesale market project.

1244) The IDEAS program operates under work plan and activities developed and approved by the EU in the program estimate whose copy of the work plan was availed to the Committee for perusal.

1245) **Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Failure to achieve project mandate was satisfactory; and
- (ii) The Committee marked the matter as resolved.

1246) **Committee Recommendations**

**The National Treasury should ensure that the revenue targets for Donor Funding, Kenya Revenue Authority (KRA) and the Appropriations In Aid (AIA) factored by the Accounting Officers in annual budgets are realistic and achievable.**

**299. Irregular Procurement of Hospitality Services**

1247) Procurement records indicated that Kshs.360,190 was spent on hire of conference facilities procured directly through imprests issued to Officers contrary to the requirements of Section 107(b) of the Public Procurement and Asset Disposal Act, 2015.

1248) Further, other conference facilities hired at Kshs.1,326,900 were not properly sourced as the procurement committee that evaluated the bids was not formally appointed. In addition, minutes of the meetings of the Committee were not presented for audit verification and further, the invoices were paid without withholding statutory Value Added Tax (VAT) deductions. As a result of these anomalies, the validity and propriety of the expenditures amounting to Kshs.360,190 and Kshs.1,326,900 incurred on hospitality services has not been confirmed.

**Submission by the Accounting Officer**

1249) The Accounting Officer submitted that the IDEAS program operates under a program agreement signed between EU and the national treasury. The financial guidelines used by the program are guidelines issued by the EU as per the financing agreement. the financial guidelines allow direct purchase of up to EUR 2500. The Ministry applied the EU guidelines to procure the hotel as the program being undertaken was urgent. Extract of the service contract page 90 paragraph 3.3.4 was availed to the Committee for perusal.

1250) The program agreement signed between the EU and the government states that the program donor funds are tax exempt and that's why the invoices were paid without deducting VAT and other taxes.

**1251) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Irregular Procurement of Hospitality Services was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**300. Unsatisfactory Implementation of Projects**

1252) The following observations were made during sampled audit inspections conducted on in Taita Taveta and Kwale Counties during the months of September and October, 2020.

**300.1. Taita Taveta County Construction of Factory for Banana Value Addition**

1253) The observations were as follows:

- i. The contractor was not on site at the time of field inspection;
- ii. The newly built factory building had cracked walls which indicated that the workmanship was of low quality;
- iii. The audit could not establish that the Project owned the land on which the building was built as the land titles were not made available for audit review;
- iv. The works were one year behind the original completion date of 31 October, 2019, which had since been extended to October, 2020; and
- v. Structural plans and Bills of Quantities to confirm that the works execute conformed to specifications were not presented for audit.

1254) In addition, procurement records for the works indicated that:

- The Company contracted to execute the works was incorporated in July, 2014 and was, therefore, five (5) years old at the time of tendering. The tender qualification criteria had specified that bidders were required to have operated for at least six years at the time of tendering. The statement of directors in the audited financial statements for the winning bidder were not signed by the Chairman and were therefore invalid.
- No proper explanation was provided for the variation of the contract sum by Kshs.6,408,420 from Kshs.39,740,573 to Kshs.46,148,993. The variation was made on request by the Project Engineer.
- The extension of the completion period by one year to October, 2020 was not authorized in writing.
- Further, examination of the payment vouchers revealed that payments totaling Kshs.36,036,480 were not authorized, dated and serialized as financial regulations require.

1255) In view of these anomalies, the execution of the Banana Value Addition Project did not follow public procurement regulations and as a result, value for the money on cost may not be achieved.

**1256) Committee Observations and Findings**

The Committee observed that there were serious anomalies in the project implementation and the state department did not respond to this issue.

**1257) Committee recommendations**

- 1) **The Committee reprimands the Accounting Officer for failing to respond on the audit query by the Auditor General;**
- 2) **The Accounting Officer must ensure that the project is undertaken following the right standards and any poor workmanship corrected to avoid possible loss of Public Funds.**
- 3) **The Ministry of Public Works should inspect the project and table their report to Parliament within a period of three (3) months of the adoption of this report.**

**300.2. Kwale County Construction of Kombani Fresh Produce Wholesale Market:**

1258) The observations were as follows:

- i. The contractor was not on site at the time of the field inspection;
- ii. Available records indicated that the design of the building was changed from the original plan - the cereals store was swapped with the meat center but no explanations or approvals were provided for the change;
- iii. Work on the refuse bin costed at Kshs.327,700 had not started in spite payment of Kshs.314,442 made to the contractor;
- iv. Cabro works at the parking area were at 50% level of completion against payments made to the contractor totaling Kshs.12,434,166 equivalent to 86% of the budget;
- v. Payments for construction of the septic tank totaled Kshs.1,799,118 against the item budget amounting to Kshs.2,058,050 even though only the pit had been dug and no concrete works had been initiated; and
- vi. Gate C provided for in the in the design of the market, was blocked off by an adjacent building. No remedial measures had been taken to redeem the space and as a result the Gate was not of any use.

1259) No plausible explanations have been provided for these anomalies that are likely to result in the works not meeting the needs of the residents of Kwale County who were the intended beneficiaries.

**Submission by the Accounting Officer**

1260) The Accounting Officer submitted that the counties are fully responsible and accountable for the implementation of the grant LED projects. The Ministry has since shared the report and supported the county through technical assistance to address the issues

raised. Through the EU GoK expenditure verification, the Ministry determines the expenditure that is eligible and requires counties to refund ineligible expenditure.

1261) The progress report for the for Taita Taveta project and Kwale county project as at December, 2021 and the report on expenditure verification conducted by external auditors commissioned by EU on the two counties to allow 2nd pre financing attached annex 300. The Kwale county project was completed and commissioned by the Ministry in December 2021 and is currently operational.

**1262) Committee Observations and Findings**

The Committee observed that there were anomalies in the project implementation despite the Accounting Officer submission that the counties are fully responsible and accountable for the implementation of the grant LED projects.

**1263) Committee recommendations**

- 1) **The Accounting Officer must ensure that the project is undertaken following the right standards and any poor workmanship corrected to avoid possible loss of Public Funds.**
- 2) **The Ministry of Public Works and other Technical departments responsible for technical support in Government projects should inspect the project and table their report to Parliament within a period of three (3) months of the adoption of this report.**



## 10. STATE DEPARTMENT FOR DEVELOPMENT OF ARID AND SEMI-ARID LANDS (ASALS)

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1035

**Mr. Micah Pkopus Powon, the Principal Secretary and Accounting Officer for State Department for Development of Arid and Semi-Arid Lands (ASALS) (Vote 1035) appeared before the Committee on 24<sup>th</sup> February, 202 to adduce evidence on the Audited Financial Statements for State Department for Development of Arid and Semi-Arid Lands (ASALS) (Vote 1035) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                          |   |                        |
|--------------------------|---|------------------------|
| 1. Mr. Paul W. Masinde   | - | Chief Finance Officer  |
| 2. Ms. Irene Mbogo       | - | Head Accounting Unit   |
| 3. Mr. Kennedy Kimuyu    | - | Deputy Accountant      |
| 4. Mr. Hashim Ali        | - | DCS-NDMA.              |
| 5. Mr. Naftal N. Wambugu | - | Director Research      |
| 6. Ms. Catherine Muiru   | - | Assistant Director SCM |

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **311. Unsupported and Long Outstanding Accounts Payable**

1264) The statement of assets and liabilities reflects a balance of Kshs.10,174,387 under accounts payables-deposits. However, the supporting schedule and the analysis provided under Annex 9 to the financial statements did not provide details of the construction projects undertaken by the various contractors. Further, the retention amounts related to payments made in the period March, 2014 to March, 2016. Management did not explain why the retention amounts remained unpaid despite the liability period having lapsed.

1265) Consequently, the accuracy and validity of the deposits and retentions balance of Kshs.10,174,387 as at 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

1266) The Accounting Officer submitted that it was true that the deposits have not been supported by the details of the constructions that were carried out as indicated in the list of the claimants availed. This is because the payments for the construction work were done by state department for devolution and the payment vouchers are still kept there for their documentation and accountability. The retention money was transferred to state department for Special programmes and later to state department of ASAL for payment to the contractors under Western Kenya Community Driven development/Flood Mitigation

Project, when they fall due. All the source documents indicating the nature of the works are with the State Department for Devolution for verification.

1267) This figure has been outstanding because the contractors have not submitted their claims and supporting documents. A list of these companies was provided to the Committee.

1268) **The Committee observed that matter was deliberated in 2018/2019 report, observed and recommended as follows**

- i) The Committee observed that, the deposits had not been supported by the details of the constructions carried out and that the payment vouchers were kept in devolution department for their documentation and accountability.
- ii) The Committee further observed that the retention money was transferred to state department for Special programmes and later to state department of ASAL for payment to the contractors under Western Kenya Community Driven development/Flood Mitigation Project, when they fell due.
- iii) In addition, the Committee observed that the Accounting officer did not provide any evidence of payment of the retention money.

1269) **Committee Recommendations**

- 1) **Within three (3) months upon adoption of this report, the Accounting Officer should submit for audit review the status report of the contracts and Deposit and Retentions.**
- 2) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
- 3) **Further, the Accounting Officer should ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

### **312. Unauthorized Reallocation of Funds - Acquisition of Assets**

1270) The statement of receipts and payments reflects an expenditure of Kshs.21 under acquisition of assets which, as disclosed in Note 7 to the financial statements, includes an amount of Kshs.17,222,079 incurred on purchase of certified seeds, breeding stock and live animals. However, examination of documents presented in support of these payments revealed that the amounts related to daily subsistence allowance paid to officers for undertaking various activities under the ECORAD II project. No explanation was provided as to why the amount was included and reported under acquisition of assets expenditure under intangible assets in the summary of Fixed Assets Register at Annex 4 to the financial statements.

1271) Consequently, the validity and accuracy of the reported acquisition of assets expenditure of Kshs.21,572,277 could not be confirmed.

#### **Submission by the Accounting Officer**

1272) The Accounting Officer submitted that it was true that Financial Statements have been prepared based on the Government Financial statistics classification GFS where the class of expenditure 3111001 to 3111400 are captioned as Acquisition of fixed capital assets by the Integrated Financial Management system.

1273) Note 7 to the financial statements reflects Kshs.21,572,277.00 as acquisition of assets and included in this amount is Ksh.17,222,079.00 presented as purchase of certified seeds, breeding stock and live animals. The expenditure of Kshs.17,222,079.00 was charged under 3111400- Research, feasibility studies, project preparation and Design, project supervision and automatically capitalized by the IFIMIS System.

1274) This expenditure under ECORAD II project formed part of the input costs for the capital projects to enhance the community's resilience against drought and supported projects including diversification, improvement of livestock value chain, and pasture improvement.

#### **1275) Committee Observations and Findings**

- (i) The Committee observed that the Accounting Officer breached section 68 (2) (k) of the PFM Act 2012 by failing to provide supporting documents for audit verification;
- (ii) The Committee further observed that the Program Based Budget (PBB) in which the budget sub-items/activities were factored in was not provided to support expenditure charge to the unrelated accounts.
- (iii) The Committee also observed that the authority to reallocate funds was not provided to support expenditure charge to the unrelated accounts.

#### **1276) Committee Recommendation**

- 1) The Cabinet Secretary for the National Treasury & Planning should within three (3) months of tabling and adoption of this report, issue a written reprimand to the Accounting Officer at the particular time of breach for failure to comply with Section 43 of Public Finance Management Act, 2012 which prohibits reallocation of funds appropriated for capital expenditure to recurrent expenditure and Regulation 43 (b) of Public Finance Management (National Government) Regulations, 2015.**
- 2) The Accounting Officer should ensure compliance with Section 43 of Public Finance Management Act, 2012 which prohibits reallocation of funds appropriated for capital expenditure to recurrent expenditure and Regulation 43 (b) of Public Finance Management (National Government) Regulations, 2015.**

#### **Other Matters**

### 313. Pending Bills

1277) Note 16.1 to the financial statements reflects pending bills amounting to Kshs.6,599,322 that were not settled in the year under review but were carried forward to 2020/2021 financial year. Failure to settle bills in the year to which they relate adversely affects the implementation of the subsequent year's budgeted programmes as the pending bills form a first & large to that year's budget provision.

#### Submission by the Accounting Officer

1278) The Accounting Officer submitted that it was true that the financial statements under note 16.1 reflect pending Accounts payable owed to various service providers amounting to Kshs.6,599,322.00. The pending bills were occasioned by non-release of requested exchequer by the National Treasury, to clear the invoices presented for payment, as at the closure of the FY 2019/20. This was beyond our control.

1279) During the FY 2020/21, the state department treated the pending bills as a first charge to the years' budgetary allocation and they were fully paid by the month of January 2021. Detailed list of the Pending Bills were availed to the Committee for perusal.

#### 1280) Committee Observations and Findings

- i. The Committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the contingency measures put in place to address the problem.
- ii. The Committee further observed that the Pending Bills were settled in January 2021; and marked the matter as resolved.

#### 1281) The Committee recommended that:

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

### 314. Unresolved Prior Year Matters

1282) Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues. Further, the unresolved prior year issues were not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

#### Submission by the Accounting Officer

1283) The Accounting Officer submitted on the various prior year matters as follows:

## **1.0 Other Grants and Transfers - Emergency Relief and Refugee Assistance**

1284) As previously reported, the statement of receipts and payments reflects KSh.3,401,423,681 (2016/2017 – KSh.7,097,995,969) in relation to Other Grants and Transfers as at 30 June 2018. The amount includes KSh.3,289,532,111 (2016/2017 – KSh.7,097,393,359) in respect of Emergency Relief and Refugee Assistance. However, although the documentation in respect of procurement of the relief commodities were made available, the documentation for distribution to beneficiaries and the basis of selection of beneficiaries were not provided for audit scrutiny. Consequently, the validity of the expenditure and value for money to the citizens could not be confirmed.

### **Response:**

1285) It was true that the documentation in respect of procurement of the relief commodities were made available, the documentation for distribution to beneficiaries and the basis of selection of beneficiaries were not provided for audit scrutiny.

1286) However, the Ministry had two-stage processes for the Identification of beneficiaries described below;

#### **a) Identification of beneficiary Counties/Sub-Counties and estimated aggregate numbers of individuals at the Ministry Headquarters**

1287) Relief food beneficiaries for each county/sub county were done by a multi-Agency stakeholders chaired by the National Drought Management Authority on the Long and Short Rains Assessments. The stakeholders undertake two assessments in Arid and Semi-Arid Counties to determine the performance of the short and long rains and how it predisposes populations to the consequences of drought. After the assessment, they come up with needy population in each sub county. It was the identified needy population that Ministerial Relief Food Distribution Committee recommends the quantities of relief food to be availed. Relief and Rehabilitation consequently issues out relief food quantities as recommended by the Committee. Leaders including Members of Parliament also make requests for relief food depending on disasters that have affected the counties and sub counties. Copy of the long rains and short rains assessment reports for the year 2017/2018 were availed to the Committee for perusal.

#### **b) Relief food distribution committee**

1288) The Ministry had the Ministerial Relief Food Distribution Committee with members drawn from the ministries of: Interior and Coordination of National Government, Planning,

Agriculture, National Drought Management Authority and officers of the State Department.

1289) The committee met every month or when necessary to receive, analyze and recommend to the Principal Secretary for approval of allocation of relief food requests from Counties and Sub Counties. Approval of distribution plans was done through minutes indicating the amount of food allocated to counties, sub counties for needy population and amounts allocated for logistics of the same.

1290) Minutes of Relief Food Distribution Committee done in 2017/2018 were availed to the Committee for perusal.

**c) Food quantities to counties and sub counties**

1291) The Ministry allocated food to counties based on the vulnerable populations assessed and identified during the long and the short rains assessments as provided in the reports. It is worth noting that, as per the World Food Programme, Kenya Guidelines person in a family of five (5) is supposed to be given 12 Kgs. of cereals (maize or rice), 4kgs of legumes (beans or ndengu) and 0.75 liters of oil each month as relief food in situations of severe drought. However, due to little resources allocated, it was not possible to attain this standard. Therefore, utilizing the little resources available, the Ministry allocated uniform quantities of relief food to ASAL counties just to ameliorate the suffering of those affected by the drought.

**d) Identification of Individual beneficiaries.**

1292) The Ministry send relief food to County Commissioners/Deputy County Commissioners who then coordinated the targeting of individual beneficiaries and further distributed the food. The County Commissioners/Deputy County Commissioners were expected to file in returns after distribution at any given point. This is indicated in the Ministry's relief food allocation letter which is also copied to Principal Secretary Interior, County Commissioner, Governor, Women Representative, and the Member of Parliament.

1293) Further documentation for the distribution of relief foodstuff to beneficiaries and relief foodstuff returns from Counties/Sub-Counties, is further explained under paragraph 2.2 below, since this paragraph 2.1 and paragraph 2.2 are intertwined.

**1294) The Committee in the report for 2018/2019 observed and found that:**

i) The committee observed that the documentation for distribution to beneficiaries and the basis of selection of beneficiaries were not provided for audit scrutiny thus the validity of the expenditure and value for money to the citizens could not be confirmed;



- ii) The Cabinet Secretary Ministry of Devolution and ASALs and, the Accounting Officer for State Department for ASALs had however written to the Cabinet Secretary of Interior and Coordination of National Government vide letters Ref: MDP/DD/ADM/6/77 dated 13th August 2019 and Ref:MDP/DSP/5/1 Vol.III dated 3rd June 2019 respectively over, accounting for food and funds under relief programme for the year ended 30th June 2018, and no response has been given to date; and the matter was therefore unresolved.
- iii) The Accounting Officer has taken too long to provide the necessary documentation and therefore validity of the expenditure and value for money to the citizens could not be confirmed.
- iv) The committee now observes that the State Department is unable to account for public funds and has continuously failed to support its transaction that amounts to dereliction of duty.

1295) **The Committee recommended that:**

- 1) **The Committee reprimands the Accounting Officers for failing to ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also failure to ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015 that amounts to dereliction of duty.**
- 2) **Within three (3) months of tabling and adoption of this report, the DCI should institute investigations on possible conspiracy to defraud the Government in the whole transaction by the Accounting Officer in charge then and other public officers involved together with the purported vendors. Upon establishment of criminal culpability, the DPP should proceed and initiate prosecutions.**
- 3) **Further, the Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

## **2.0 Discrepancies in Relief Foodstuff Receipts and Distribution to Beneficiaries**

1296) As reported previously, an audit inspection in five (5) Sub Counties namely Mwatate, Kilifi North, Baringo Central, Kitui Central and Makueni revealed the following anomalies in relief receipts and distribution to vulnerable populations:

- i) The state department of Special Programmes did not follow up to ensure whether relief food stuff sent to the Counties was received by the intended beneficiaries. This was evident from the discrepancies in the dispatch records and the receiving records by the Sub-Counties.
- ii) The distribution of the relief food is undertaken by the State Department for Interior who made no report of the quantities received and quantities distributed to the State Department of Special Programmes and therefore there is no evidence that the foodstuff was received by the beneficiaries.



- iii) In all the Sub-Counties visited, there were no comprehensive distribution records to indicate how the foodstuff received was distributed.
- iv) There were no documentation on how the needy persons were identified and hence no support of how the quantities of various destinations were determined.
- v) The management at the State Department of Special Programmes is not involved in ensuring smooth logistics for transportation and distribution of the relief support to the beneficiaries.
- vi) There was no accountability for AIEs sent to the County Commissioners for transport as evidenced in the Counties which did not fully account for KSh.1,700,000 AIEs sent to them.
- vii) Although the Department had no vehicles at the Sub-Counties, the AIEs disbursed to Sub-Counties were being used for motor vehicles repairs.

1297) In view of the foregoing, the accuracy, completeness, validity and accountability of Other Grants and Transfers balance of KSh.3,401,423,681 could not be confirmed as at 30 June 2018.

**Response:**

1298) The distribution of relief food was done by State Department of Interior because the State Department of Special Programmes had no field officers in any of the 133 sub counties in the ASALs.

1299) In our last engagement with this Committee regarding this very same matter, we submitted that the State Department distributed emergency relief food up to County or Sub-County Commissioners level, after which they distributed to targeted beneficiaries. We therefore relied on the staff of the Ministry of Interior and Coordination of National Government to oversee distribution of food to targeted beneficiaries due to lack of our personnel in the regions.

1300) The State Department further submitted that we requested the Ministry of Interior and Coordination of National Government to provide us with returns with respect to the emergency relief food distributed to them for FY 2017/18 without success.

1301) The Committee therefore requested for the relevant correspondences, after which the Committee was to further follow up with the State Department of Interior. We submitted copies of the above letters, the same day, via our letter Ref. MDA/ASAL/2/10/ (86) dated 10th June, 2020. Copies the said letter are hereby again resubmit as described below:

- a) Letter by the Cabinet Secretary/Devolution & ASALs to Cabinet Secretary/Interior & Coordination of National Government, Ref MDP/DD/ADM/6/77 dated 13<sup>th</sup> August 2019 on accounting for food relief and funds under relief programme.

- b) Letter by the Principal Secretary/Devolution & ASALs to County Commissioners, Ref MDP/DSP/5/1 Vol. III dated 3rd June, 2019 on returns on relief food distribution for the FY 2017/18.

- 1302) As explained in audit issue 2.1, quantities of various destinations were based on the long and short rains assessment reports. The assessment was undertaken by the Multi Agency stakeholders who determined the number of vulnerable persons in each sub county who required relief food assistance. Based on such reports, the Ministerial Relief Food Distribution Committee recommended the quantities to be sent to each sub county. However, due to limited resources it was not possible to provide enough food per person per month as per the best practice. Therefore, some small ratios were sent to sub counties to ensure that populations affected by drought can at least survive.
- 1303) Relief food beneficiaries for each county/sub county were done by a multi-Agency stakeholder chaired by the National Drought Management Authority on the Long and Short Rains Assessments undertakes. The stakeholders undertook two assessments in Arid and Semi-Arid Counties to determine the performance of the short and long rains and how it predisposes populations to the consequences of drought. After the assessment, they come up with needy population in each sub county. It is the identified needy population that Ministerial Relief Food Distribution Committee recommended the quantities of relief food to be availed. Relief and Rehabilitation consequently issued out relief food quantities as recommended by the Committee.
- 1304) The Management of Special programmes involved itself in the logistics of transportation of relief food from one central store in Nairobi up to Counties and Sub Counties headquarters. There were four transporters who were being assigned to transport food from Nairobi where our stores were based to sub counties. The Ministry also availed AIEs to Deputy County Commissioners for distribution logistics in the regions. Each Sub County in ASAL Area was allocated ksh.200, 000, Semi-Arid Sub Counties were allocated kshs.100,000 and none ASAL Counties were allocated ksh70,000 for relief food transportation logistics. These included; (1) hire of secondary transport to ferry food from sub county headquarters to food distribution points, (2) payment of persons tasked with loading and offloading of food, (3) fueling and repair of GK Lorries used in food transportation in the sub counties. .
- 1305) Accounting for the AIEs issued to County Commissioners/Sub-County Commissioners totaling to Kshs.1,700,000 was done at the Counties/Sub-County district Treasury where the expenditure was incurred and where public financial management field officers of the National Treasury are domiciled. This matter was affirmed by the representative of the National Treasury during the previous hearing of this Committee.

1306) And due to lack of officers on the ground to undertake food distribution logistics, AIEs were disbursed to the County/Sub-County Commissioners to cater for relief foodstuff distribution transport and logistics. These included; (1) hire of secondary transport to ferry food from sub county headquarters to food distribution points, (2) payment of persons tasked with loading and offloading of food, (3) fueling and repair of GK Lorries used in food transportation in the sub counties.

1307) The unresolved prior year issues were not disclosed under the progress on follow up of auditor's recommendations section because the related activities are under the mandate of the State Department of Devolution. It is my humble request that these matters be treated as resolved and the recommendations be transferred to the State Department of Devolution.

**1308) The Committee deliberated on the matter in the report for 2018/2019, observed and found that:**

- i) The committee observed that the documentation for distribution to beneficiaries and the basis of selection of beneficiaries were not provided for audit scrutiny thus the validity of the expenditure and value for money to the citizens could not be confirmed;
- ii) The Cabinet Secretary Ministry of Devolution and ASALs and, the Accounting Officer for State Department for ASALs had however written to the Cabinet Secretary of Interior and Coordination of National Government vide letters Ref: MDP/DD/ADM/6/77 dated 13th August 2019 and Ref:MDP/DSP/5/1 Vol.III dated 3rd June 2019 respectively over, accounting for food and funds under relief programme for the year ended 30th June 2018, and no response has been given to date;
- iii)The Accounting Officer has taken too long to provide the necessary documentation and therefore validity of the expenditure and value for money to the citizens could not be confirmed; and
- iv)The committee now observes that the State Department is unable to account for public funds and has continuously failed to support its transaction that amounts to dereliction of duty.

**1309) The Committee recommended that:**

- 1) The Committee reprimands the Accounting Officers for failing to ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also failure to ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015 that amounts to dereliction of duty.**
- 2) Within three (3) months of tabling and adoption of this report, the DCI should institute investigations on possible conspiracy to defraud the Government in the whole transaction by the Accounting Officer in charge then and other public officers involved together with the purported vendors. Upon establishment of criminal culpability, the DPP should proceed and initiate prosecutions.**

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

### **315. Budgetary Control and Performance**

1310) The summary statement of appropriation- recurrent and development combined reflects actual receipts of against a budget of resulting into a receipts shortfall of or 13% of the budgeted receipts. Similarly, actual expenditure amounted to Kshs.5,785,133,560 against the approved budget of Kshs.6,646,655,032 resulting to an under-expenditure of Kshs.861,521,472 or 13% which occurred mainly under transfers to other government units. The under-collection affected the planned activities and may have impacted negatively on service delivery to the public.

#### **Submission by the Accounting Officer**

1311) The Accounting Officer submitted that his Department of Accounts was checking the reason for not releasing this amount to destination and give a narrative.

#### **1312) Committee Observations and Findings**

**The Committee observed that the Accounting Officer was unable to address the issues raised by the Auditor-General on the shortfall in receipts and under-absorption of Budget seeking more time and therefore did not resolve the matter.**

#### **1313) Committee Recommendations**

- 1) The National Treasury should ensure that the revenue collection targets and desire expenditure levels factored in the Budget by the Accounting Officers in annual budgets are realistic and achievable.**
- 2) The Accounting Officers must at all times adhere to their annual work plans, procurement plans and cash disbursement schedule to increase their level of exchequer requests from the National Treasury.**

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

### **Basis for Conclusion**

### **316. Incomplete Fixed Assets Register**

1314) Annex 4 to the financial statements — Summary of Fixed Assets Register reflects assets with a cumulative historical cost of Kshs.70,138,139 as at 30 June, 2020. However, the summary did not reflect any values for motor vehicles and ICT equipment and yet these assets existed at the State Department. In addition, the assets register provided for audit

was not comprehensive as required under Regulation 143 of the Public Finance Management (National Government) Regulations, 2015 and The National Treasury guidelines as per Circular No. 5/2020 dated 25 February, 2020 which required all public entities to keep a comprehensive register to protect public assets.

1315) Consequently, the State Department was in breach of the Regulations and it could not be confirmed that the assets had been properly safeguarded.

#### **Submission by the Accounting Officer**

1316) The Accounting Officer submitted that it was true that the total fixed assets reported in the financial statement for the year ended 30th June 2020 was Ksh.70,138,138. The corresponding asset register provided was incomplete and did not have all the details such as depreciation rate, Net Book Value and Tag Number among others.

1317) As a State Department we are in the process of establishing a task force to carry out verification of the status of all assets and consolidating the same with a view to ascertain the present value of serviceable items. However, this activity will require budgetary allocation given that some of the assets are spread across several county offices formally under the Ministry of Northern Kenya and Special program.

1318) The taskforce will also explore the possibilities of using State agencies in expediting the valuation assets such as ministry of housing. He state that an updated register of fixed assets comprising of motor vehicles, ICT equipment, office equipment and furniture and fittings prepared in accordance with the National Treasury guidelines is now provided for your review.

#### **1319) Committee Observations and Findings**

- (i) The Committee observed that the State Department is in the process of establishing a task force to carry out verification of the status of all assets and consolidating the same with a view to ascertain the present value of serviceable items.**
- (ii) The Committee further, observed that the taskforce will explore the possibilities of using State agencies in expediting the valuation assets such as ministry of housing.**
- (iii) In addition, the Accounting Officer indicated that an updated register of fixed assets comprising of motor vehicles, ICT equipment, office equipment and furniture and fittings prepared in accordance with the National Treasury guidelines is available review. However, in view of the deliverables by the taskforce formed, the register of fixed assets could not be up to date considering the process of identification, tagging and valuation were incomplete.**

#### **1320) Committee recommendations**

**The Committee reprimands the Accounting Officer for the delay in updating the Fixed Asset register and breach of Regulation 143 of the Public Finance Management (National**

Government) Regulations, 2015 and The National Treasury guidelines as per Circular No. 5/2020 dated 25 February, 2020 which required all public entities to keep a comprehensive register to protect public assets.

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

**Basis for Conclusion**

**317. Failure to Establish an Audit Committee**

1321) The State Department did not have an independent Audit Committee as required under Section 73 (5) of the Public Finance Management Act, 2012, which provides that every national government public entity shall establish an Audit Committee whose composition and functions shall be as prescribed by the Regulations. The Audit Committee forms a key component in the governance process by providing an independent expert assessment of the activities of top management, the quality of the risk management, financial reporting, financial management and internal audit to the top management.

1322) In the circumstances, the effectiveness of the internal controls, risk management and overall governance for the State Department could not be confirmed

**Submission by the Accounting Officer**

1323) The Accounting Officer submitted that it was true that during the period under audit review for FY 2019/2020 the State Department of ASALS did not have an Audit Committee as required by law. The Ministry is in the process of advertising for the recruitment of members of the committee. The Ministry will also ensure that necessary budgetary provision is secured to facilitate smooth operation of the committee.

1324) As a State Department under the Ministry of Devolution and ASALS, we are collaborating with the State Department for Devolution on the establishment of the Ministerial Audit Committee to serve both State Departments.

**1325) Committee Observations and Findings**

- (i) **The Committee observed that the State Department for ASALS did not have an Audit Committee as required by law. However, the Ministry is in the process of advertising for the recruitment of members of the committee. ;**
- (ii) **The Committee further observed that according to the National Treasury Circular No. NT/IAG/GEN/055(163) of 26 April, 2016 which states that each government entity is supposed establish an Internal Audit Committee; and**

(iii) **The Committee further observed that the Accounting Officer was in breach of Regulation 174 (1) of the Public Finance Management (National Government) Regulations, 2015. However, the audit Committee is now in place and working.**

1326) **Committee recommendations**

**The Committee reprimands the Accounting Officer for the delay in setting up of the Audit Committee and breach of Regulation 174 (1) of the Public Finance Management (National Government) Regulations, 2015.**

FINAL REPORT 2019/2020



## 11. MINISTRY OF DEFENCE

### REPORT ON THE FINANCIAL STATEMENTS – VOTE 1041

**Dr. Ibrahim M. Mohamed, the Principal Secretary and Accounting Officer Ministry of Defence (Vote 1041) appeared before the Committee 15<sup>th</sup> July, 2021 to adduce evidence on the audited financial statement for the Ministry of Defence (Vote 1041) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                             |   |                              |
|-----------------------------|---|------------------------------|
| 1. Mr. Lt. Gen. Levi Mgalu  | - | Vice Chief of Defence Forces |
| 2. Mr. C. K. Muhia          | - | Senior Chief Finance Officer |
| 3. Mr. Electinia W. Wamumii | - | Deputy Accountant General    |
| 4. Mr. Col J.M. Ngatia      | - | Chief of Legal Service       |
| 5. Maj. A. T. Naija         | - | Legal Officer                |

And submitted as follows:

#### 1327) **Unqualified Opinion**

**318.** There were no material issues noted during the audit of the financial statements of the Ministry.

#### **Other Matter**

#### **319. Pending Bills**

1328) Disclosed under Note 19.1 to the financial statements are pending bills totaling Kshs.8,166,532,367 as at 30 June, 2020. Further, as disclosed under Note 19.3 to the financial statements, the Ministry has contingent liabilities of Kshs.1,071,137,645 arising from a court award of Kshs.1,421,137,645 on a disputed contract. During the year, the Ministry paid an amount of Kshs.350,000,000 as part payment for the court award. The remaining balance of Kshs.1,071,137,645 is still outstanding subject to an outcome of a court determination of a Civil Case 39 of 2014 on the same matter. The above amount has not been included as part of the pending bills during the year.

1329) Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form the first expenditure to be charged.

#### **Submission by the Accounting Officer**

The Accounting Officer admitted as follows:

1330) **Pending Bills KShs. 8,166,532,367**

a. The Ministry of Defence had an approved budget of KShs. 107,076,516,495 under the Recurrent Vote R1014

b. The Ministry requested for and received Recurrent exchequer as detailed below:

Exchequer Requisitioned	-	KShs. 107,023,515,900.80
Less: Exchequer Issued	-	<u>KShs. 99,668,077,295.10</u>
<b>Exchequer shortfall</b>	-	<b><u>KShs. 7,355,438,605.70</u></b>

The Ministry therefore suffered an exchequer under-issue of **KShs. 7,355,438,605.70** as at 30.06.2020.

c. The Ministry of Defence also had an approved budget of KShs. 3,000,000,000 under the Development Vote D1014

d. The Ministry requested for and received Development exchequer as detailed below:

Exchequer Requisitioned	-	KShs. 2,994,174,045.40
Less: Exchequer Issued	-	<u>KShs. 2,183,080,282.45</u>
<b>Exchequer shortfall</b>	-	<b><u>KShs. 811,093,762.95</u></b>

The Ministry therefore suffered an exchequer under-issue of **KShs. 811,093,762.95** as at 30.06.2020.

e. The summary of exchequer status for the Ministry as at 30.06.2020 can therefore be summarised as follows:

VOTE	APPROVED BUDGET, KSHS.	EXCHEQUER REQUISITIONED, KSHS.	EXCHEQUER ISSUED, KSHS.	UNDER/(OVER) ISSUE, KSHS.
A	B	C	D	e
Recurrent R1041	107,076,516,495.00	107,023,515,900	99,668,077,296	7,355,438,604
Development D1041	<u>3,000,000,000.00</u>	<u>2,994,174,045</u>	<u>2,183,080,282</u>	<u>811,093,763</u>
Total	<b><u>110,076,516,495.00</u></b>	<b><u>110,017,689,945</u></b>	<b><u>101,851,157,578</u></b>	<b><u>8,166,532,367</u></b>

f. Due to exchequer under-issue reflected in column (e) above, the Ministry could not meet the financial obligations that had already been committed to as at the closure of the financial year 2019/2020. Had the exchequer of KShs. 8,166,532,367 been availed, the Ministry could not have reflected the pending bills in question.

g. The Ministry would however wish to confirm that this pending bills amounting to KShs. 8,166,532,367 were treated as **'first charge'** in the subsequent Financial Year and

settled in full despite the resultant adverse effect of distorting the budget for the year in which they are paid.

We further wish to state that details of the payees have been availed to the auditors for scrutiny and verification.

- h. The correct position therefore is that the pending bills amounting to **KShs. 8,166,532,367** incurred by the Ministry during the financial year 2019/2020 were valid, and have been settled in full.

1331) **Messrs. Kay Construction Ltd - KShs. 1,071,137,645**

- a. The Accounting Officer submitted that this bill arises from an old matter Misc. Civil Application No. 39 of 2014 Kay Construction Ltd. Vs. The Attorney General (sued on behalf of the Ministry of Defence) that has been pending before the High Court.
- b. He further submitted that the Ministry notifies the National Treasury of each and every pecuniary judicial awards after exhausting the judicial process. It is only upon conclusion of this process and upon getting advice to settle the judgement from the office of the Attorney General that the Ministry notifies the National Treasury of the judgment due as well as requesting for additional funding in order to settle the award.
- c. In this case, the Ministry had a bill of **KShs. 1,421,137,645.08** due to Messrs. Kay Construction Ltd. However, there was no budgetary provision for this amount in the approved budget for the financial year 2019/2020. The Ministry made an appeal to the National Treasury for additional funding to settle this outstanding judgement debt, and it is upon receiving additional budgetary provision of **KShs. 350M** vide the National Treasury letter **Ref. No: DV/ES.1041/19/01'A' (13)** of 29<sup>th</sup> May, 2020 that the Ministry was able to process payment for this amount towards reducing the debt. The funds were remitted to the firm on 26<sup>th</sup> June, 2020 upon receipt of exchequer for the same.
- d. The Ministry was not able to pay the balance of **KShs. 1,071,137,645.08** to Messrs. Kay Construction Ltd. As there was no budgetary provision for the same in the financial year 2019/2020.
- e. The Ministry disclosed this amount in the Ministry's Financial Statements for the Financial Year 2019/2020 under Note 19 Other Important Disclosure (19.3 **Contingent Liability**).

1332) **Committee Observations and Findings**

- (i) The Committee observed that the financial statement was signed on behalf of the then Assistant Account General contrary to National Treasury Circular on Revised Annual Financial Reporting Templates for National and County Government Entities of June 2020 of 24<sup>th</sup> June 2020 which required that the Principal Accounts Controller has to sign the financial statement and duly indicate their ICPAK number.

- (ii) The Committee was concerned that the State Department had allowed the accrual of interest seven years down the line; and
- (iii) The matter remained unresolved.

**1333) Committee Recommendation**

- 1) The Accounting Officer should ensure that financial statements are signed in accordance with National Treasury guidelines.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer, in consultation with the Attorney General, should present to Parliament information on measures taken to settle the matter and to stop further escalation of interest.**

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES**

**1334) Conclusion**

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

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

**1335) Conclusion**

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

**STATEMENTS OF REVENUE - MINISTRY OF DEFENCE**

**REPORT ON THE REVENUE STATEMENTS**

**1336) Unqualified Opinion**

- 322.** There were no material issues noted during the audit of the revenue statements of the Ministry.

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

**1337) Conclusion**

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

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

**1338) Conclusion**

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

## 12. MINISTRY OF FOREIGN AFFAIRS

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1052

**Amb. Macharia Kamau, the Principal Secretary and Accounting Officer for the Ministry of Foreign Affairs (Vote 1052), appeared before the Committee on 21<sup>st</sup> July 2021 to adduce evidence on the Audited Financial Statements for the Ministry of Foreign Affairs (Vote 1052) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                         |   |                                     |
|-------------------------|---|-------------------------------------|
| 1. Mr. Chimwaga Mungo   | – | Director General- management        |
| 2. Mr. Vincent L. Kirwa | – | Senior Deputy Accountant General    |
| 3. Mr. Kenneth Mwangi   | – | Senior Deputy Director Supply Chain |
| 4. Mr. John Guru        | – | Director HRM                        |
| 5. Mr. James H. Aloyo   | – | Head of Finance                     |
| 6. Mr. Solomon Nyangeua | – | Finance Officer                     |
| 7. Mr. Abel Njuguna.    | – | PS Office                           |

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **325. Cash and Cash Equivalent**

1339) The statement of assets and Liabilities as at 30 June, 2020 reflects cash and cash equivalents balance of Kshs.2,177,798,670 which includes Bank balances of Kshs.2,177,403,861. As disclosed in note 10 A to the Financial Statements, the bank balance of Kshs.2,177,403,861 includes recurrent and development account balances of Ksh.524, 746 and Kshs.134,300 in Accounts No.1000302337 and No.1000302356 respectively at the Central Bank of Kenya.

1340) However, the Central Bank of Kenya certificate of Balances reflects recurrent account and development account balances of Kshs.21,848,532.61 and Kshs.299,128.85 while the bank reconciliation statements for 30<sup>th</sup> June, 2020 reflect balances of Kshs.65,580,230.56 and Kshs.667,436.10 under recurrent and development accounts, respectively resulting in differences between the three sets of records.

1341) Under the circumstances, the accuracy of the bank balance of Kshs.2,177,403,861 as at 30<sup>th</sup> June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

1342) The Accounting Officer admitted that the statement of assets and Liabilities as at 30<sup>th</sup> June, 2020 reflects cash and cash equivalents balance of Kshs.2,177,798,670 which includes bank balances of Kshs.2,177,403,861. As disclosed in note 10 A to the Financial Statements, the bank balance of Kshs.2,177,403,861 includes recurrent and development accounts balances of Kshs.524,746 and Kshs.134,300 in Accounts No.1000302337 and No.1000302356 respectively at the Central Bank of Kenya.

1343) Further, the Accounting Officer admitted that the Central Bank of Kenya certificate of balances reflects recurrent account and development account balances of Kshs.21,848,532.61 and Kshs.299,128.85 while the bank reconciliation statements for 30<sup>th</sup> June, 2020 reflect balances of Kshs.65,580,230.56 and Kshs.667,436.10 under recurrent and development accounts, respectively resulting in differences between the three sets of records.

1344) The Ministry provided initial reconciliation statements with balances as above which had not incorporated items on transit. The Ministry has since prepared revised reconciliation statements and availed the same for audit review.

#### 1345) **Committee Observations and Findings**

- (i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
- (ii) The Committee further observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
- (iii) However, the Committee observed that the explanation given by the Accounting Officer with regard to cash and cash equivalent was satisfactory; and
- (iv) The Committee marked the matter as resolved.

#### 1346) **Committee Recommendations**

- 1) **The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**
- 2) **The Accounting Officer should always ensure that the records are reconciled and analyzed with necessary supporting documents and submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.**

#### **Other Matter**

#### **326. Pending Bills**

1347) As disclosed under Annex 1 to the financial statements, the Ministry had Pending Bills of Kshs.244, 616,266 as at 30 June 2020. The bills were not paid during the year under review but were instead carried forward to the 2020/2021 financial year. Failure to settle bills during the year to which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

### **Submission by the Accounting officer**

1348) The Accounting Officer admitted that outstanding claims from the Ministry (pending bills) stood at Kshs.244,616,266 as at 30th June, 2020. These bills were processed in IFMIS and loaded into Internet Banking platform awaiting exchequer release. The National Treasury did not release the exchequer by closure of year 2019/2020 Financial Year, thus forcing the Ministry to carry forward the bills to the next financial year 2020/2021.

1349) The Ministry, at the commencement of the 2020/2021 Financial Year, verified the bills and settled them as 1st charge on the 2020/2021 Financial Year's budget in accordance with the financial regulations. The verified pending bills report and the payment status for the same has been availed for audit review.

### **1350) Committee Observations and Findings**

- (iii) The Committee observed that the explanation given by the Accounting Officer with regard to pending bills was satisfactory; and
- (iv) The Committee marked the matter as resolved.

### **1351) Committee Recommendations**

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

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES Basis for Conclusion**

### **327. Irregular Procurement of ICT Equipment**

1352) Examination of records revealed that the Ministry purchased twenty-seven (27) laptops, two (2) desktop computers and twenty-eight (28) printers at a total cost of Kshs.10,047,119 in the year under review. It was observed that the ICT equipment was delivered before Local Purchase Order were issued.

### **Submission by the Accounting Officer**

1353) The Accounting Officer that the during the year under review the Ministry purchased twenty-seven (27) laptops, two (2) desktop computers and twenty-eight (28) printers at a total cost of Ksh.10,047,119 for business continuity during the Covid-19 pandemic. The Ministry continued to work at minimum effective capacity and therefore there was need to address work related challenges that could be brought about by a possible lockdown.

1354) The procurement of these items was done under certificate of emergency as provided for under the Public Procurement and Asset Disposal Act, 2015 section 103 (1)(b) under the environment created by the outbreak of Covid-19 Pandemic.

1355) Tender document No. MFA/DP/005.2019-2020 was issued to the suppliers and the bids were opened on 20th April, 2020. The tenders were then evaluated and the Professional opinion approved by the Accounting Officer soon thereafter, thereby permitting the issuance of the Purchase Orders to the awarded companies.



1356) Due to the Covid-19 pandemic, there was a lot of anxiety as the pandemic had already been declared a global crisis that required emergency response to combat the spread within and outside the Ministry and some officers were required to work from home. To continue the Ministry's operations seamlessly, there was urgent need for immediate delivery of the equipment as the PO's were being processed.

**1357) Committee Observations and Findings**

- (i) The procurement of these items was done in accordance with the Public Procurement and Asset Disposal Act, 2015.
- (ii) The Committee matter was marked as resolved.

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

**1358) Conclusion**

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

### 13. STATE DEPARTMENT FOR VOCATIONAL AND TECHNICAL TRAINING

#### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1064

**Dr. Margaret W. Mwakima, the Principal Secretary and Accounting Officer for State Department for Vocational and Technical Training appeared before the Committee on 31<sup>st</sup> March, 2022 to adduce evidence on the Audited Financial Statements for the State Department for Vocational and Technical Training (Vote 1064) for the Financial Year 2019/20. She was accompanied by the following officers:**

- |                          |   |   |
|--------------------------|---|---|
| 1. Mr. Anthony Masinde   | - | Chief Finance Officer                       |
| 2. Mr. Joseph M. Kiraita | - | Deputy Accountant General                   |
| 3. Mr. Tom W. Mulayi     | - | Director Technical Training                 |
| 4. Eng. Mwala Mutinda    | - | Director Vocational Training                |
| 5. Mr. Elkanah Mosiori   | - | Director Human Resource Management & Dev.   |
| 6. Ms. Evelyn Anupi      | - | Director Planning                           |
| 7. Mr. Nelson Gitau      | - | Deputy Director Technical Training          |
| 8. Ms. Catherine Kelonye | - | Principal – The Kisumu National Polytechnic |
| 9. Mr. Paul Maher        | - | FM – Kisumu Polytechnic                     |
| 10. Mr. David Gacheche   | - | Accountant                                  |
| 11. Ms. Lizar Mwangi     | - | Accountant                                  |
| 12. Mr. John Macharia    | - | Accountant                                  |

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **329. Unreconciled Bank Balance Variances**

1359) The statement of assets and liabilities reflects bank balances of Kshs.187,133,948 which as disclosed under Note 11A to the financial statements comprised balances held in various bank accounts including bank accounts for donor funded projects. However, the balances for the project bank accounts differed with the balance reflected in the respective financial statements of the projects as follows:

<b>Project</b>	<b>Bank Balance as per the Financial Statements of the State Department (Kshs.)</b>	<b>Bank Balance as per the Financial Statements of the Project (Kshs.)</b>	<b>Variance (Kshs.)</b>
ADB	3,354,258	Nil	3,354,258
KIDDP	26,342,444	26,159,554	182,890
EASTRIP	72,009,480	71,945,910	63,570

1360) Management has not explained or reconciled the variances, casting doubt on the accuracy of the reported bank balances of Kshs.187,133,948 as at 30 June, 2020.

**Submission by the Accounting Officer**

1361) The Accounting Officer submitted that during the process of preparation of the State Department's financial reports, the bank balances had reflected the amount of 3,354,258 being bank balances. However, during the preparation of the ADB project accounts the ADB bank accounts had been closed by the National Treasury. The amount have since been reconciled as shown in the Central Bank of Kenya Certificate availed for perusal by the Committee.

1362) KIDDP-The variance was as a result of funds returned for unspent imprests. The imprest has been surrendered and reconciliation done. In reference to EASTRIP the transaction was reversed and the cashbook was adjusted.

**1363) Committee Observation and Findings**

**The explanation by the Accounting Officer regarding Unreconciled Bank Balance Variances was satisfactory. The matter was marked as resolved.**

**1364) Committee Recommendation**

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

**330. Non-Disclosure of Pending Bills**

1365) Note 17 to the financial statements on pending accounts payables reflects pending bills amounting to Kshs.4,188,368. Information available, however, indicates that the State Department had pending bills amounting to Kshs.1,146,714,979 as at 30 June, 2020. Consequently, pending bills amounting to Kshs.1,142,526,611 were not disclosed. Failure to disclose and settle bills during the year to which they relate, distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

**Submission by the Accounting Officer**

1366) The Accounting Officer submitted that the State Department discloses all its pending bills. However the above mentioned amount of Ksh.1,142,526,611 relates to financial year 2018/2019 which were all settled.

**1367) Committee Observations and Findings**

**(i) The Committee observed that the explanation given by the Accounting Officer with regards to Pending Bills was satisfactory;**

- (ii) **The Committee further observed that the said Pending Bills has since been settled in full; and**
- (iii) **The Committee marked the matter as resolved.**

### **331. Accounts Receivables**

#### **331.1 Unsupported District Suspense**

1368) The statement of assets and liabilities reflects a receivables balance of Kshs.1,355,512 which as disclosed at Note 12 to the financial statements includes district suspense of Kshs.945,112 which was not adequately supported with the relevant supporting documents or schedules. In addition, no evidence was provided that Management had carried out investigations on the cause of the suspense account balance.

#### **Submission by the Accounting Officer**

1369) The Accounting Officer submitted that this relates to district suspense where some of the county directors were not able to send their returns on time due to Covid-19 because they were forced to work from home. Now all returns have been received and affected in the revised financial reports. It was confirmed that this returns have been received, reconciliation done and reflected in the financial statement.

#### **1370) Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regards to Unsupported District Suspense was satisfactory; and**
- (ii) **The Committee marked the matter as resolved.**

#### **331.2 Undisclosed Outstanding Imprests**

1371) The reported accounts receivables balance of Kshs.1,355,512 did not include outstanding imprests as at 30 June, 2020. The manual Imprest Register reflected outstanding imprest of Kshs.494,800 as at 30 June, 2020 while the Integrated Financial Management Information Systems (IFMIS) Imprest Register reflected an outstanding temporary imprest balance of Kshs.1,654,520 as at the same date, resulting into an unexplained variance of Kshs.1,159,720 between the two sets of records. Further, the imprests were outstanding contrary to Regulation 93(5) of the Public Finance Management (National Government) Regulation, 2015, which requires temporary imprest holders to account or surrender the imprest within 7 working days after returning to duty station.

1372) In the circumstances, the recoverability and accuracy of the receivables balance of Kshs.1,355,512 as at 30 June, 2020 could not be confirmed.

### **Submission by the Accounting Officer**

1373) The Accounting Officer submitted that the receivables and accuracy of balances has now been corrected because all the officers have since surrendered the imprests. Copies of the surrender vouchers were availed to the Committee for perusal.

### **1374) Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regards to Unsupported District Suspense was satisfactory; and**
- (ii) **Further, the Committee observed that the Accounting Officer did not take any action in line with Regulation 92 (5), (6) and (8) of the PFM (National Government) Regulations, 2015 for the failure to account for or surrender the imprest on the due date.**

### **1375) Committee Recommendations**

- 1) **The Accounting Officer must at all times ensure that the holder of a temporary imprest accounts or surrenders the imprest within 7 working days after returning to duty station.**
- 2) **Where the imprest holder fails to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.**

### **Other Matter**

### **332. Budgetary Control and Performance**

1376) As reflected in the summary statement of appropriation-recurrent and development combined, the State Department's actual receipts amounted to Kshs.17,847,414,199 against budgeted receipts of Kshs.26,105,171,972 resulting in a shortfall of Kshs.8,257,757,773 or 32% of the budget.

1377) Similarly, the State Department's actual expenditure for the year amounted to Kshs.17,847,485,026 against budgeted expenditure of Kshs.31,095,310,078 resulting in an overall under absorption of Kshs.13,247,825,052 or 57% efficiency. Management attributed the under expenditure to delayed Exchequer releases.

### **Submission by the Accounting Officer**

1378) The Accounting Officer submitted that the State Department through our letter requested for exchequer which was done in time but there was lack of exchequer release on time.

### **1379) Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regards to Budgetary Control and Performance was satisfactory; and**
- (ii) **The Committee marked the matter as resolved.**

### **333. Delay of Exchequer Releases**

1380) Review of records maintained by the State Department revealed that the State Department received Kshs.2,887,044,148 Exchequer releases from The National Treasury in the month of June 2020, as detailed below:

<b>Date Funds Received in the Bank Account</b>	<b>Amount Received (Kshs.)</b>
02 June, 2020	171,714,588
04 June, 2020	1,550,127,430
25 June, 2020	495,889,488
30 June, 2020	669,312,642
<b>Total</b>	<b>2,887,044,148</b>

1381) The above delay in release of Exchequer may have resulted in low absorption of the budget thus negatively affecting timely implementation of programmes of the State Department and provision of services to the public.

#### **Submission by the Accounting Officer**

1382) The Accounting Officer submitted that the delay in release of exchequer was experienced. However, the exchequer was received in time before the closure of financial year.

#### **1383) Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regards to Delay of Exchequer Releases was satisfactory; and**
- (ii) **The Committee marked the matter as resolved.**

### **334. Prior Year Audit Matters**

1384) Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues.

#### **1385) Committee Observations and Findings**

The Committee observed the prior year audit issues were discussed and recommendation made therein in the report for financial year 2018/19.

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

### Basis for Conclusion

#### 335. Non-Compliance to the Two Thirds Rule on Salary Deductions

1386) Analysis of the payroll data for the year ended 30 June, 2020 revealed that payroll deductions for fifty (50) and twenty-one (21) employees in the months of March and June respectively were earning less than two thirds of their gross pay. Further, sixteen (16) employees had negative net pays in the month of June, 2020. This contravenes Section 19(3) of the Employment Act, 2007 which states that the total amount of all deductions made by an employer from the wages of his employees at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry.

1387) In the circumstance, the State Department was in breach of the Law.

#### Submission by the Accounting Officer

1388) The Accounting Officer submitted that the under listed sixteen (16) employees had negative net pays in the months of June 2020. However, it is worth noting that the IPPD system is configured in such a way that employees do not get salary below the two-thirds of such pay. However, in cases where the employee has any of the following the rule does not apply because the deductions are statutory and/or in compliance with court rulings:-

- i. Departmental Deductions such as Imprest recovery and overpayments;
- ii. Surcharges against the officer;
- iii. HELB Loans recovery; and
- iv. Court attachments.

1389) These deductions are given priority by the system before any other recovery is done.

1390) Consequently, where such deductions are introduced to officer whose pay is at the minimum point, the officer will fall under this category of non-compliance to the two-thirds rule. However, the Department is always committed to ensure that the two-thirds rule is not flouted at any given time.

S/No.	P/No.	Surname	First Name	Other Names	Reasons for Non-Compliance
1.	1984143120	Odikre	Paul	Odhiambo	Departmental deductions
2.	1986129568	Egesah	Aggrey	Musi	Departmental deductions
3.	1993077604	Mwongela	Milcah	Mutindi	Tax exemption expired



4.	2014240330	Muindi	Samuel	Wambua	Tax exemption expired
5.	1989150201	Akech	Sebastian	Nengoh	officer on interdiction
6.	2005064662	Suja	Michael	Ochieng	Departmental deductions - training levy
7.	1983000131	Mkanyika	Mary	Mkanyika	Contract expiry (partial salary)
8.	1996123603	Sangiriaki	Stephen	Muchiri	Hardship allowance dropped and it ought to have been paid
9.	2010631739	Mukonyi	Rachael	Vakhoya	Departmental deductions - HELB
10.	1993077337	Dickson	Benson	Muriithi	KUPPET deductions
11.	2001065998	Atuti	Stella	Kemunto	KUPPET deductions
12.	2010632138	Koskey	Cherono	Linner	KUPPET deductions
13.	1995088498	Ombwayo	Rebecca	Aidi	KUPPET deductions
14.	2010187176	Dhoye	Grace	Adoyo	Departmental deductions - GOK house rent
15.	2005064857	Mogere	Denis	Mogoi	KUPPET deductions
16.	1996122317	Makori	Paul	Geteni	KUPPET deductions

### 1391) Committee Observations and Findings

- (i) **The Committee observed that the explanation given by the Accounting Officer with regards to Non-Compliance to the Two Thirds Rule on Salary Deductions was satisfactory; and**
- (ii) **The Committee marked the matter as resolved.**

### 336. Continued Retention of Retired Public Officers

1392) A review of sample personnel files for staff revealed that the State Department had appointed forty-one (41) officers who had attained the mandatory retirement age of sixty (60) years and were not registered as persons living with disability on local contract terms. In addition, two (2) of the forty-one (41) officers have had their contracts extended severally. This is contrary to Section B.20(1) subsection (ii) and (iv) of the Public Service Commission-Human Resource Policies and Procedures Manual, 2016 which outlines circumstances for appointment on contract terms.

1393) The Public Service Commission while authorizing the contract extensions advised the State Department to plan on building capacity by competitively filling the positions. Although the Management provided explanations for the extensions, the affected officers had been heading their respective Departments for significantly long durations prior to their

retirement. The multiple contract extensions might have resulted from poor or lack of succession planning on the key positions at the State Department.

#### **Submission by the Accounting Officer**

1394) The Accounting Officer submitted that following the Transfer of Trainers from TSC in 2018, the Public Service Commission vide PSC/13/(19), PSC/5/ST/25(24) dated 20th December, 2018 noted as follows: -

- i). There was serious shortage of trainers in TVET Institutions;
- ii). Observed that recruitment of new trainers and inducting them, would take a long time while institutions continued to suffer from acute shortage;
- iii). There were students/Trainees in session who could be disadvantaged in syllabus coverage and other training programs; and
- iv). As a stop gap measure the Commission approved appointment of 289 retired trainers to their former posts on local agreements terms for a period of one (1) year.

1395) The Commission later approved the recruitment of 3000 new trainers who are currently in the stations working. The officers on contract have since exited after expiry of their one (1) year contract.

#### **1396) Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regards to Continued Retention of Retired Public Officers was satisfactory;**
- (ii) **The Committee further observed that the Public Service Commission eventually approved the recruitment of 3000 new trainers who are currently in the stations working and the officers on contract have since exited after expiry of their one (1) year contract; and**
- (iii) **The Committee marked the matter as resolved.**

#### **337. Incomplete Technical Training Institutes**

1397) As previously reported, records maintained by the State Department revealed that construction of eight (8) Technical Training Institutes that started as early as June, 2014 and which ought to have been completed within one year were still at varying stages of completion and no extension of the contract periods had been granted. Although Management attributed the delayed completion to various challenges ranging from insecurity to disputes over land, completion of the projects was not achieved as at the time the audit was finalized and solutions for the challenges were not indicated.

#### **Submission by the Accounting Officer**

1398) The Accounting Officer submitted that the Contractor of Ebukanga TTI has since completed and handed over to the Ministry has posted a principal and trainers. The Ministry

has also posted principals and trainers to Merti, Kakrao and Lamu East TTIs and trainees have been enrolled. The table below show a summary status of the eight institutions:

No.	Proposed name of the institution	Status (% work done)	Reason	Action taken by Ministry
1.	Ebukanga TVC	100	Had slow contractor	Principal and trainers have been posted. 65 trainees already enrolled as per the attached 4 <sup>th</sup> quarter students enrolment
2.	Lamu East TVC	90	The contractor is claiming some variation	Principal and a trainer have been posted.
3.	Merti TVC	95	NG-CDF has not contributed Ksh3 Million	Principal and trainers have been posted. Trainees already enrolled. Written a reminder letter to MP (Ref. No. MOE/VTT/ADM/2/80(62))
4.	Saku	87	First contractor was terminated due to non-performance	Written a reminder letter to MP (Ref. No. MOE/VTT/ADM/2/80(56))
5.	Sigor	88	Insecurity in the area and was affected by floods in March 2020	Written a letter to the Chairperson, National Development Implementation Technical Committee requesting for financial assistance to remove the flood deposits from the building Ref. No. MST/DTE/16/6(14).
6.	Samburu West	70	NG-CDF has not contributed Ksh10 Million despite many reminders from the Principal, Meru National Polytechnic	Written a reminder letter to MP (Ref. No. MOE/VTT/ADM/2/80(59))
7.	Balambala	80	NG-CDF has not contributed Ksh10 Million	Written a reminder letter to MP (Ref. No. MOE/VTT/ADM/2/80(51))

8.	Kakrao	85	NG-CDF has not contributed Ksh10 Million	Principal and trainers have been posted. Written a reminder letter to MP (Ref. No. MOE/VTT/ADM/2/80(73)) Trainees already enrolled
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1399) The State Department has submitted a comprehensive report on the status of all projects as recommended by PAC in its Report of 2017/2018.

#### **1400) Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regards to Incomplete Technical Training Institutes was satisfactory;**
- (ii) **The Committee further observed that the Accounting Officer was progressively implementing the Committee recommendations as contained in its Report for the year 2017/2018; and**
- (iii) **The Committee marked the matter as resolved.**

#### **338. Collapse of Chepareria Technical Training Institute**

1401) The contract for the construction of Chepareria Technical Training Institute was awarded to a local contractor at a contract sum of Kshs.48,743,504. However, the building collapsed while under construction and after more than Kshs.26,700,000 had been disbursed to the Institution and paid to the contractor. The collapse was attributed to poor workmanship by the contractor who seemed not to have been familiar with the site and who is since demanding for a new site and Bills of Quantities among other conditions in order to redo the work. The State Department had not taken any action against the contractor - over five (5) years after the collapse of the building and abandonment of the site by the contractor. An update of the situation was not provided for audit review.

#### **Submission by the Accounting Officer**

1402) The Accounting Officer submitted that M/s Thenge-ini General Contractors was awarded the contract for the construction of Chepareria TTI at a contract sum of Ksh.48,743,504.20 for the construction of Automotive Workshop.

1403) The Ministry appointed Kitale National Polytechnic (then TTI) as a mentoring Institution to Chepareria TTI. The date of commencement and expected completion dates were 2nd February, 2015 and 2nd February, 2016 respectively; however, the building collapsed before completion. By the time the building collapsed the ground floor slab and floor columns were completed which was at 44.0 percentage work done. The contractor had been paid a total of Kenya shillings Twenty six million, six hundred and eleven thousand two hundred and fifty one and eighty three cents (Ksh.26,611,251.83) while

Kenya shillings twenty six million seven hundred and twenty seven thousand one hundred and thirty five was still in the Kitale NP account (Ksh.26,727,135.00).

1404) The Ministry is in the process of requesting for a legal opinion from the Attorney General's office so that the termination process can start. Copies of requests made to the Attorney General were availed for perusal by the Committee.

**1405) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Collapse of Chepareria Technical Training Institute was not satisfactory as the matter had remained unresolved for over five years;
- (ii) The Committee, however, observed that the Accounting Officer had requested for a legal opinion from the Attorney General's office to terminate the contracts; and
- (iii) The matter remains unresolved.

**1406) Committee Recommendations**

**Within sixty (60) days of adoption of this report, the Accounting Officer should liaise with Attorney General's Office to expedite the process provide information to Parliament on action taken to complete the project.**

**339. Non-Operational Institutions**

1407) As previously reported, the State Department completed sixteen (16) Technical Training Institutes in fifteen (15) Counties. The institutions though completed, were not operational as at the time of audit casting doubt on their viability and whether proper feasibility studies were conducted. In addition, the non-operational Institutions continued to draw Kshs.2,000,000 annually for operational costs from the Government.

1408) Under the circumstances, value for money may not have been realized.

**Submission by the Accounting Officer**

1409) The Accounting Officer submitted that all other institutions are now complete and operational. At the time most of the institutions were still on construction while others had requested for extension of time to complete them. The details included in the project comprehensive report by the State Department and were also availed to the Committee for perusal.

**1410) Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regards to Non-Operational Institutions was satisfactory;**
- (ii) **The Committee further observed that the time most of the institutions were still on construction while others had requested for extension of time to complete construction which is now complete and all are operational; and**

(iii) **The Committee marked the matter as resolved.**

### **340. Proposed Kakrao Technical Training Institute**

1411) As previously reported, the contract for the construction of the Proposed Kakrao Technical Training Institute was awarded at a contract sum of Kshs.53,720,833. The contract commenced on 1 November, 2014 with an expected completion date of 1 November, 2015 for a period of 52 weeks. The contract was terminated on 4 July, 2017. According to the termination letter, the contractor had already been paid Kshs.46,214,053 being 86% of the contract sum. The level of completion at the time of termination was 73% and the contractor, therefore, ought to have been paid Kshs.33,844,125 or 63% of the contract sum given 10% portion requirement. The contractor was therefore overpaid by Kshs.12,369,928 which may constitute loss of public funds. In addition, the incomplete Institution with no learners was fitted with furniture and donor funded equipment which are now subject to wear and tear without being put to any economical use.

1412) In the circumstances, the objectives of the project may not have been attained and value-for-money may not be realized on the expenditure.

#### **Submission by the Accounting Officer**

1413) The Accounting Officer submitted that the Ministry of Education through Rongo University started the construction of Kakrao Technical and Vocational College at a contract sum of Ksh.53,720,833.00. The first contract was awarded to Many Ltd but was terminated on 17th March, 2017 at 68% work done due to non-performance by the contractor (see copies of minutes of a meeting that recommended for the termination of the contract). A second contract was awarded to Mbingo Enterprises Limited to complete the remaining works.

1414) The building was partially handed over and training is ongoing in the ground floor of the institution (attached is the status report from the Principal, Kakrao TVC). Suna East National Government Constituency Development Fund (NG-CDF) has not contributed the Kenya Shillings ten million as per the agreement. The Ministry has written a letter to Suna East Member of Parliament reminding him on the contribution of Kenya Shillings Ten Million by Suna East NG-CDF. Copies of the correspondence were availed for perusal by the Committee.

#### **1415) Committee Observations and Findings**

The Committee observed that the matter was discussed in the report of financial year 2018/19 and following recommendations made;

- 1) The Committee recommends that the Accounting Officer should within three months of the adoption of the report, ensure that they fast track the completion of**

**the remaining works in the Technical Training Institute and forward completion certificate to the Auditor General for audit verification.**

- 2) The Committee further recommends that the Accounting Officer should provide details on the legal status of all terminated contracts and be held personally liable for any financial losses arising from overpayment to contractors.**

#### **1416) Committee Recommendations**

**In addition to committee recommendations made in financial 2018/19, the Committee recommends that the Fund Account Manager of Suna East NG-CDF to ensure the NG-CDF contribution is made promptly to support complete the project.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

#### **1417) Conclusion**

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

#### **DONOR FUNDED PROJECTS**

##### **KENYA ITALY DEBT FOR DEVELOPMENT PROGRAM (KIDDP)**

REPORT ON THE FINANCIAL STATEMENTS

#### **1418) Unqualified Opinion**

- 342.** There were no material issues noted during the audit of the financial statements of the Program.

#### **Other Matter**

##### **343. Budgetary Control and Performance**

- 1419)** The statement of comparative budget and actual amounts reflects nil receipts and nil actual on comparable basis. However, the project spent an amount of Kshs.17,077,694 against the approved budget of Kshs.46,641,000 resulting to an under expenditure of Kshs.29,563,306. Management has explained that the Project utilized past savings and attributed the under expenditure to late uploading of the Project's budget into Integrated Financial Management Information System (IFMIS), and challenges of the Covid-19 pandemic.



1420) In the circumstances, the citizens have not received services as planned as a result of the slow implementation of the Project.

#### **Submission by the Accounting Officer**

1421) The Accounting Officer submitted that the under expenditure was due to late uploading of the Project's budget into Integrated Financial Management Information System (IFMIS) as the program needed to be extended by the donor before the budget could be expended and the challenges of the Covid-19 restrictions on movement.

#### **1422) Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regards to Budgetary Control and Performance was satisfactory; and**
- (ii) **The Committee marked the matter as resolved.**

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

#### **Basis for Conclusion**

#### **344. Delay in Completion of Construction**

1423) The statement of receipts and payments reflects an expenditure of Kshs.10,262,746 under acquisition of non-financial assets which includes an amount of Kshs.3,083,317 in respect to works at Ebusiralo Vocational Training Center in Vihiga County and Mfangano Vocational Training Center in Homabay County. The contracts were awarded in January and March, 2017 respectively for a contract period of ten (10) weeks at a combined contract sum of Kshs.30,074,140. Examination of the contract documents and Program Progress Reports as at the time of audit in the month of November, 2020 revealed that the two projects were incomplete and that the contract periods expired in the month of April and March, 2020. No further contract period extensions had been approved. Although Management has explained that the projects were practically complete, hand over certificates and certificates of completion were not availed for audit review.

1424) In the circumstances, stakeholders may not get value for money, if the projects are not completed and put into their intended purposes.

#### **Submission by the Accounting Officer**

1425) The Accounting Officer submitted that by the time some of this institutions were not complete because of challenges relating to rains and Covid restrictions. The projects were completed and handed over to the beneficiary institutions as per the Certificates of practical completion and handover provided for audit review.

#### **1426) Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regards to Delay in Completion of Construction was satisfactory;**
- (ii) **The Committee further observed that the projects were completed and handed over to the beneficiary institutions as per the Certificates of practical completion and handover provided for audit review; and**
- (iii) **The Committee marked the matter as resolved.**

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

### **1427) Conclusion**

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

## **SUPPORT TO TECHNICAL VOCATIONAL EDUCATION AND TRAINING FOR RELEVANT SKILLS DEVELOPMENT PROJECT - PHASE II (LOAN NO.2100150033295)**

### REPORT ON THE FINANCIAL STATEMENTS

### **1428) Unqualified Opinion**

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

### **Other Matter**

### **347. Budgetary Control and Performance**

1429) The statement of comparative budget and actual amounts reflects an actual expenditure of Kshs.642,954,865 against the approved budget of Kshs.614,408,265 under acquisition of non-financial assets resulting to an over expenditure of Kshs.28,546,600 or 5%. Management has explained that the over expenditure was caused by supplementary budget cuts which were effected after the expenditures had been incurred and captured in the Integrated Financial Management Information System (IFMIS).

### **Submission by the Accounting Officer**

1430) The Accounting Officer submitted that the over expenditure was caused by supplementary budget cuts which were effected after the expenditures had been incurred

and captured in the Integrated Financial Management Information System (IFMIS). This has so far been corrected.

**1431) Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regards to Budgetary Control and Performance was satisfactory; and**
- (ii) **The Committee marked the matter as resolved.**

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

**1432) Conclusion**

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

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

**1433) Conclusion**

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

**EAST AFRICA SKILLS FOR TRANSFORMATION AND REGIONAL INTEGRATION PROJECT (EASTRIP) IDA LOAN CREDIT NO.6334-KE**

**REPORT ON THE FINANCIAL STATEMENTS**

**1434) Unqualified Opinion**

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

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

**1435) Conclusion**

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

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

#### **1436) Conclusion**

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

### **OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR VOCATIONAL AND TECHNICAL TRAINING**

#### **EAST AFRICA SKILLS FOR TRANSFORMATION AND REGIONAL INTEGRATION PROJECT (IDA LOAN NO. 6334-KE) – MERU NATIONAL POLYTECHNIC**

##### **REPORT ON THE FINANCIAL STATEMENTS**

#### **1437) Unqualified Opinion**

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

#### **Other Matter**

**354.** The statement of comparative budget and actual amounts reflects nil payments against an approved budget of Kshs.200,000,000 resulting to an under-expenditure of Kshs.200,000,000 or 100% of the budget. Management has attributed the under-expenditure to lengthy procurement processes which had not been concluded by the end of the financial year. The delay affected the planned activities and may have impacted negatively on service delivery to the public.

#### **Submission by the Accounting Officer**

1438) The Accounting Officer submitted that the under-expenditure was due to lengthy procurement processes which had not been concluded by the end of the financial year. Which were caused by the outbreak of COVID-19 hence no payment could be affected before the provision of goods and services. Further, some goods sourced from outside the country delivery became a challenge.

#### **1439) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to the statement of comparative budget and actual amounts was satisfactory; and**
- (ii) The Committee marked the matter as resolved.**

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

#### 1440) **Conclusion**

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

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

#### **Basis for Conclusion**

#### **356. Lack of Segregation of Duties**

1441) Review of the internal control procedures for the Project revealed that there was no proper segregation of duties in the accounting function since the roles of maintaining of the cashbook, preparation of bank reconciliation statements and drawing of cheques were all performed by one officer who was also a signatory to the Project bank account.

1442) In the circumstances, it could not be ascertained that the internal controls were functioning properly.

#### **Submission by the Accounting Officer**

1443) The Accounting Officer submitted that the segregation has been implemented through recruitment of more staff in the project. List of recruited staff was provided for perusal by the Committee.

#### **1444) Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regards to Lack of Segregation of Duties was satisfactory;**
- (ii) **The Committee further observed that more staff have been recruited thereby helping iron out the issues of segregation of duties.; and**
- (iii) **The Committee marked the matter as resolved.**

#### **357. Audit Committee**

1445) Although the Project had an Audit Committee in place, the Committee met only once on 19 September, 2019 in the year under review. This is contrary to Regulation 179(1) of the Public Finance Management (National Government) Regulations, 2015 which requires Audit Committees to meet at least once in every three months.

1446) In the circumstances, the Project Management is in breach of law.

#### **Submission by the Accounting Officer**

1447) The Accounting Officer submitted that the former audit and risk committee mandate lapsed when the council term expired in September 2019 and a new committee was formed in July 2020 by the newly appointed council hence the reason the committee did not meet in the nine months period under review. The first audit and risk committee met on 9th July 2020.

**1448) Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regards to Audit Committee was satisfactory;**
- (ii) **The Committee further observed that the Audit Committee was formed in July 2020 and is now operational; and**
- (iii) **The Committee marked the matter as resolved.**

**EAST AFRICA SKILLS TRANSFORMATION AND REGIONAL INTEGRATION PROJECT (EASTRIP) – GRANT/CREDIT NO. IDA 6334-KE – KISUMU NATIONAL POLYTECHNIC**

**REPORT ON THE FINANCIAL STATEMENTS**

**1449) Unqualified Opinion**

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

**Other Matter**

**359. Budgetary Control and Performance**

1450) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.258,350,000 and Kshs.200,000,000 respectively resulting to an under-funding of Kshs.58,350,000 or 23% of the budget. Similarly, the Project expended Kshs.17,766,663 against an approved budget of Kshs.258,350,000 resulting to an under-expenditure of Kshs.240,583,337 or 93% of the budget. The underfunding and under expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

1451) The Accounting Officer submitted that the disbursement of Ksh.200,000,000 was received by the National Polytechnic on 20.02.2020 and in March 2020 Covid-19 hit the country bringing to a hold some of the intended activities. However, these activities are so far being fast-tracked.

#### **1452) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Budgetary Control and Performance was satisfactory; and**
- (ii) The Committee marked the matter as resolved.**

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

#### **Basis for Conclusion**

#### **360. Approval of the Strategic Investment Plan**

1453) The Kisumu National Polytechnic had provided in its annual work plan for the period 2019-2020 to spend US Dollars.2,583,500 equivalent to Kshs.258,350,000 out of which Kshs.200,000,000 was disbursed to the project during the period. However, the annual work programs implemented by the project during the period had not been approved as required under the terms of the Financing Agreement at Schedule 2, Section I A (2) which states that the National Steering Committee shall be responsible for providing overall guidance and oversight for the project at National level and approving the annual work programs and implementation planning.

1454) Consequently, the Management is in breach of the law.

#### **Submission by the Accounting Officer**

1455) The Accounting Officer submitted that the management prepared annual programmes as required under schedule 2, section 1A (2) of the project financing agreement. The National Steering Committee had not been put in place. However, the National Steering Committee is now in place and will be providing the approvals.

#### **1456) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Approval of the Strategic Investment Plan was satisfactory;**
- (ii) The Committee further observed that the National Steering Committee was now in place and will be providing the approvals on works plans; and**
- (iii) The Committee marked the matter as resolved.**

#### **361. Procurement of Conference Facilities**

1457) As disclosed in Note 10.4 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.6,361,543 under purchase of goods and services which includes expenditure on conference facilities amounting to Kshs.690,400. However, the conference facilities were procured through direct procurement even though no evidence



was provided that the conditions for use of the method as provided under Section 103(2) of the Public Procurement and Asset Disposal Act, 2015 had been met.

1458) The Management of the Project was therefore in breach of the law and it has not been possible to ascertain if the stakeholders obtained value for money on the expenditure.

#### **Submission by the Accounting Officer**

1459) The Accounting Officer submitted that due to the Covid-19 pandemic most hotels were not operational having not met the Ministry of Health Protocols. Due to the urgency of the activity, direct procurement option was applied which is provided under section 103(2) Act 2015.

<b>PV.NO</b>	<b>FACILITY PROVIDER</b>	<b>AMOUNTS</b>
4202	SOSSA COTTAGES LTD	100,000
4118	SOSSA COTTAGES LTD	75,000
4091	SOSSA COTTAGES LTD	120,000
4329	SOSSA COTTAGES LTD	67,500
4588	SIAYA COUNTY CLUB	70,400
4639	SIAYA COUNTY CLUB	55,000
4589	SOSSA COTTAGES LTD	112,500
4748	SOSSA COTTAGES LTD	90,000
<b>TOTAL</b>		<b>690,400</b>

#### **1460) Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regards to Procurement of Conference Facilities was satisfactory;**
- (ii) **The Committee further observed that the stakeholders obtained value for money on the expenditure amounting to Kshs.690,400; and**
- (iii) **The Committee marked the matter as resolved.**

#### **362. Unsupported Daily Subsistence Allowances and Consultancy Services**

1461) Included in the balance of Kshs.6,361,543 under purchase of goods and services is an amount of Kshs.3,453,300 for staff allowances. The amount includes an amount of Kshs.1,917,100 paid to Project Management for attending a workshop for finalizing Information Security Management System (ISMS) policies and procedures, evaluation of technical proposal for consultancy services and development of terms of reference for stakeholder analysis and project design scope. However, the expenditure was not supported by documents such as motor vehicle work tickets and attendance registers as required for accountability purposes. The payment vouchers were also not duly authorized.

1462) Consequently, the propriety of the amount totaling to Kshs.1,917,100 could not be confirmed.

### **Submission by the Accounting Officer**

1463) The Accounting Officer submitted that the supporting documents which were not attached on payment vouchers have been attached. This includes details of attendance forms, work tickets, bus tickets and rectified with auditors.

### **1464) Committee Observations and Findings**

- (i) **The Committee observed that the explanation and documents given by the Accounting Officer with regards to Unsupported Daily Subsistence Allowances and Consultancy Services was satisfactory; and**
- (ii) **The Committee marked the matter as resolved.**

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

### **1465) Conclusion**

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

## **EAST AFRICA SKILLS TRANSFORMATION AND REGIONAL INTEGRATION PROJECT (CREDIT NUMBER: IDA 6334-KE) – KENYA COAST NATIONAL POLYTECHNIC**

## **REPORT ON THE FINANCIAL STATEMENTS**

### **1466) Unqualified Opinion**

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

### **Other Matter**

### **365. Budgetary Control and Performance**

1467) The statement of comparative budget and actual amounts reflects total actual receipts of Kshs.200,000,000 against actual expenditure of Kshs.1,794,517 resulting to an overall under absorption of Kshs.198,205,483 or 99%. The under absorption is attributed to late disbursement of funds and the outbreak of Covid-19 pandemic. This implies that the funds were lying idle impacting negatively on service delivery to the public.

### **Submission by the Accounting Officer**

1468) The Accounting Officer submitted that the under absorption was attributed by late disbursement of funds and the outbreak of Covid-19 pandemic. However, this is being fast tracked.

**1469) Committee Observations and Findings**

- (i) **The Committee observed that the explanation and documents given by the Accounting Officer with regards to Budgetary Control and Performance was satisfactory; and**
- (ii) **The Committee marked the matter as resolved.**

**366. Project Implementation**

1470) According to the statement of performance against the project’s predetermined objectives, the project aims to achieve eight (8) thematic objectives. However, audit review of the approved work plan for the year under audit revealed that the following planned activities had not been implemented as at 30 June, 2020:

No.	Component	Activity
1.	Strengthening Governance and Management	Conduct training for council and administration & key staff on project operation
		Sensitization on project expectations
		Review and revise the strategic plan and master plan
		Conduct international benchmarking for top management and key staff
		Formulate project management measures/regulations (Guidelines)
		Conduct monitoring and inspection of the project
		Provide students scholarship
2.	Institutionalizing Industry Linkages	Organize stakeholder forums
		Industry Advisory Committee in operation
		Establish collaboration with local industries
		Establish students` attachment with industries
		Arrange graduate internship
		Establish Alumni Association
		Conduct tracer study
		Engage part time trainers from industries
		Establish linkage with overseas industries and intuitions
3.	Developing Market Relevant and Competency-Based Training Programs	Carry out training needs assessment
		Train staff on CBET curriculum development
		Develop CBET curriculum
		Train assessors

		Develop digital programmes/online courses
4.	Training of School Managers and Teachers	Conduct training needs assessment
		Long term professional training abroad and locally for new programs
		Train managers to build capacity (domestic and abroad)
		Train staff to improve the capacity of profession, pedagogy, IT and entrepreneurship (abroad)
		Train staff to improve the capacity of profession, pedagogy, IT and entrepreneurship (domestic)
		Improve research and innovation capacity
5.	Upgrading Key Training Facilities and Equipment	Conduct extension, repair and rehabilitation of existing facilities with support of expert services
		Construct hostel facilities with consultancy of expert services
		Construct training restaurant and staff quarters with consultancy from expert services
		Construct academic, administration, workshops and labs complex with consultancy of expert services
		Upgrade sewerage, water, electrical and ICT infrastructure and establish E-learning platform and expert services
		Procure training equipment with consultancy of expert services
		Procure project vehicles
6.	Outreaching and Support for Non-Project National TVET	Conduct marketing and rebranding to attract local & regional students

1471) Although the Management has attributed the state of affairs to late disbursement of funds and the outbreak of Covid-19 Pandemic, the project is clearly behind schedule. Delayed implementation of planned activities could adversely affect achievement of intended project activities within the set time limit.

#### **Submission by the Accounting Officer**

1472) The Accounting Officer submitted that the under absorption was attributed by late disbursement of funds and the outbreak of Covid-19 pandemic. The Regional Flagship Marine Transport and Port logistics required a vast land which was not available at Kenya Coast National Polytechnic and the process to get alternative land took some time. However now land has been donated by Kwale County and the project has commenced.

#### **1473) Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regards to Project Implementation was satisfactory;**
- (ii) **The Committee further observed that the land has been donated by Kwale County and the construction of the Kenya Coast National Polytechnic project has commenced; and**
- (iii) **The Committee marked the matter as resolved.**

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

### Basis for Conclusion

#### 367. Staff Secondment

1474) The Kenya Coast National Polytechnic Management redeployed key personnel to various key roles in the management of the project as detailed below:

No.	Name	Current Position in the Polytechnic	Project Position
1	Rosalia Dzombo	Procurement Officer	Procurement Specialist
2	Paul Omolo	Department, Medical Service	Environment and Social Safeguards Officer
3	Magdelene Kituku	Department, Secretarial and Liberal Studies	Project Industrial Liaison Officer
4	Kevin Ochieng	Centre Leader – Maritime transport and Port Logistics	Centre leader
5	Elphas Muge	Business and Media Studies	Monitoring and Evaluation Officer
6	Clerkson Bolo	Financial Controller	Finance Officer

1475) However, the appointment letters did not clearly indicate how the man hours would be shared between the Institution and the Project. According to the Polytechnic's staff establishment structure, the Institution is grossly understaffed thus casting doubt on the ability of the staff to deliver on additional roles. The staff capacity might therefore, affect the effectiveness of implementing the project to achieve the set objectives.

#### Submission by the Accounting Officer

1476) The Accounting Officer submitted that the appointment followed the laid down guidelines and procedures and received all the approvals. The appointments letters have now been reviewed to show how man hour will be shared. Additional staff have been provided to deputize for proper implementation of the project.

#### 1477) Committee Observations and Findings

- (i) **The Committee observed that the explanation given by the Accounting Officer with regards to Staff Secondment was satisfactory;**
- (ii) **The Committee further observed that the appointment letters have now been reviewed to show how man hours will be shared and additional staff have also been provided to deputize for proper implementation of the project.; and**
- (iii) **The Committee marked the matter as resolved.**

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

**1478) Conclusion**

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

## 14. STATE DEPARTMENT OF UNIVERSITY EDUCATION

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1065

**Amb. Simon Nabukwesi, the Principal Secretary and Accounting Officer for the State Department of University Education (Vote 1065) appeared before the Committee on 13<sup>th</sup> October, 2021 to adduce evidence on the Audited Financial Statements for the State Department of University Education (Vote 1065) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                          |                                  |
|--------------------------|----------------------------------|
| 1. Prof. D. Kosgey       | - Vice Chancellor Moi University |
| 2. Prof Stephen G. Agong | - Vice Chancellor JEOUST         |
| 3. Mr. Geoffrey Monari   | - Chief Executive Officer UFB    |
| 4. Mr. Fredrick Ndambuki | - Secretary Administration       |
| 5. Mr. Darini Andika     | - Director NSC Foods             |
| 6. Mr. Disma Ogeto       | - Senior Chief Finance Officer   |
| 7. Mr. Robert A. Samuel  | - Assistant Accountant General   |
| 8. Mr. Geoffrey V Adunda | - Chief Finance Officer          |
| 9. Mr. James M. Kiburi   | - DDE SDUER                      |
| 10. Prof. Ambrose Kiprop | - Center Leader Moi University   |

And submitted as follows:

#### **Basis for Qualified Opinion**

#### **369. Capital Grants to Government Agencies and Other Levels of Government**

1479) The statement of receipt and payments for the year ended 30 June, 2020 reflects an expenditure of Kshs.91,852,932,337 under transfers to other Government units which as disclosed in Note 7 to the financial statements, includes Kshs.5,790,399,475 in respect of capital grants to Government Agencies and other levels of Government. However, a review of the records maintained by the state department revealed the following unsatisfactory matters:

#### **369.1 Capital Grants to Universities**

1480) As per the circular Ref: MST/FIN/11/4/Vol.XIX/66 dated 6 September 2016, by the Principal Secretary, State Department for University Education, development budgets to all Public Universities was dependent on specific project completion certificates submitted to the Ministry for consideration and concurrence. However, examination of payment vouchers for the Financial Year 2019/2020 revealed that an amount of Kshs.5,580,848,844 was disbursed to Universities for various projects. No contract documents, valuation certificates or projects status reports were availed by the state Department in support of the



disbursements. In addition, Multi-Media University received an amount of Ksh.619,514 above the approved budget.

1481) It is therefore not possible to confirm the validity and propriety of capital disbursements totaling Kshs.5,580,848,844 for the year ended 30 June 2020.

#### **Submission by the Accounting Officer**

1482) The Circular under reference MST/FIN/11/4/VOL.XIX/66 dated 6 September, 2016 was meant to streamline disbursement of capital grants for approved budget for the financial year 2016/2017. The projects funded in subsequent years were uploaded into e-promise and IFMIS system as specific projects and funds could therefore only be applied to approve projects. The Circular was therefore essentially meant to guide the implementation of FY 2016/2017 development budget because previously development budget was not disaggregated by project to ensure funds were well utilized and monitoring could be carried out.

1483) The State Department is currently implementing 61 projects that have been approved by the National Treasury and have been uploaded into the e-promise and IFMIS. These projects are at various stages of completion. The contracts, valuation certificates and the status reports of these projects have since been verified by Auditors.

1484) The allocation to Multimedia University Budget of Kshs.250 million was revised by Kshs.619,513 under supplementary 2, 2019/2020 FY Budget. The revision was effected in the month of June 2020 after the funds had already been transferred to multimedia University and paid to the contractor in the months of November 2019 and March 2020.

#### **1485) Committee observations and findings**

- (i) **The Committee pended the query awaiting further audit clarification by the Auditor general; and**
- (ii) **The matter remained unresolved.**

#### **369.2 Capital Grants with no specific projects**

1486) A review of the development appropriation account for the financial year 2019/2020 revealed that Kshs.834,817,364 was disbursed to various Universities as analyzed below:

<b>University</b>	<b>Amount Kshs.</b>
Koitalel Samoei University College	79,982,744.00
Gatundu University College	82,693,639.00
Bomet University College	275,000,000.00
Tom Mboya University College	105,870,989.00

Alupe University College	150,215,378.00
Kaimosi University College	141,054,614.00
<b>Total</b>	<b>834,817,364.00</b>

1487) However, the disbursements were not linked to specific projects yet review of the monitoring and evaluation for the year ended December, 2019 indicated ongoing projects in the respective institutions. In the circumstances the funds disbursed are prone to misuse.

1488) Consequently, it has not been possible to ascertain the propriety of the disbursements totaling Ksh.834,817,364 for the year ended 30 June, 2020.

#### **Submission by the Accounting Officer**

1489) The amount of Kshs.834,817,364 was disbursed to support specific on-going projects in the respective universities. Copies of contracts for these projects have since been verified by auditors.

The table below indicates the specific projects to which the above amounts were disbursed.

University	Projects implemented	Amount - Kshs.
Koitalel Samoei University College	Administration Block & Lecture Theatre	79,982,744.00
Gatundu University College	Administration Block & Lecture Theatre	82,693,639.00
Bomet University College	Library, Hostels, Dining & Multipurpose Hall, & Lecture Halls	275,000,000.00
Tom Mboya University College	Administration Block & Lecture Theatre	105,870,989.00
Alupe University College	Library Phase 1	150,215,378.00
Kaimosi University College	Tuition Block and Associated Works	141,054,614.00
<b>Total</b>		<b>834,817,364.00</b>

#### **1490) Committee observations and findings**

- (i) The Committee took note of the submission by the Accounting Officer and found the explanation to be satisfactory; and
- (ii) The matter was marked resolved.

#### **1491) Further Committee Observations and Findings on Capital Grants to Government Agencies and Other Levels of Government**

- (i) The Committee observed that the explanation provided by the Accounting Officer was satisfactory; and
- (ii) The matter was marked resolved.

### 369.3 Current Grants to Government Agencies and Other Levels of Government

1492) The transfers to other Government Units balance of Kshs.91,852,932,337, also includes an amount of Ksh.83,562,532,863 in respect of current grants to Government Agencies and other levels of Government. However, a review of the monthly capitation for the year, in comparison to the prior year indicated that eleven (11) out of 41 Universities had their capitations amounts increased by 20% and above while the capitation for Koitalel Samoei University College was reduced by 17% as analyzed below:

INSTITUTION	Capitation 2019/2020	Capitation 2018/2019	Variance	%
Koitalel Samoei-UON	7,916,667	9,512,366	(1,595,699)	-17%
Embu University	48,348,805	39,244,522	9,104,283	23%
Egerton University.	173,379,125	124,154,055	49,225,070	40%
Co-operative University College	19,934,509	16,627,931	3,306,578	20%
Tom Mboya University College	31,832,509	14,204,506	17,628,003	124%
Bomet University College	25,586,129	6,341,577	19,244,552	303%
Garissa University College	33,913,804	18,738,424	15,175,380	81%
Kaimosi University College	36,945,599	13,016,316	23,929,283	184%
Turkana University College	15,285,505	9,512,366	5,773,139	61%
South Eastern Kenya University	75,697,821	58,615,825	17,081,996	29%
Dedan Kimathi University	72,982,944	54,263,876	18,719,068	34%
Multi Media University	48,014,677	32,098,637	15,916,040	59%
	<b>589,838,094,00</b>	<b>396,330,401</b>	<b>193,507,693</b>	

1493) The basis of the significant increase of capitation to the respective institutions and the reduction of capitation to Koitalel Samoei University College was not explained.

#### Submission by the Accounting Officer

1494) The number of students placed by Kenya Universities and colleges central Placement Services Board under various programmes each year, is a key determinant of how much funds are allocated to respective universities. This number keeps on varying from year to year. A schedule from universities Funding Board showing the number of student's

admissions in the affected universities for the financial years 2018/2019 and 2019/2020 justifying the allocations has been verified by auditors.

1495) Reduction of capitation to Koitalel Samoei University College was as a result of a fact that students and not been placed in the institution by Kenya Universities and Colleges Central Placement Services. (KUCCPS). The allocation of capitation to the institution was to enable it put in place structures that could facilitate admission of new KUCCPS students.

1496) The Committee requested for the following additional documentation in two weeks' time:

1. Names of students placed both in private and public Universities by KUCCP for the Financial Year 208/19 & 2019/2020
2. A copy of the policy guideline on placement of students to tertiary institutions.

1497) **All the above documents were subsequently presented to the Committee.**

1498) **Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regard to Current Grants to Government Agencies and Other Levels of Government was satisfactory; and**
- (ii) **The Committee marked the matter as resolved.**

**Other Matter**

### **370. Budget Control and Performance**

1499) The Summary statement of Appropriation-Recurrent and Development combined reflects a final receipts budget and actual on comparable basis of Kshs.123,555,085,531 and Kshs.103,141,485,134 respectively resulting to an underfunding of Kshs.20,413,600,397 or 17% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.123,555,085,531 and Kshs.103,141,485,134 respectively resulting to an under-expenditure of Kshs.20,414,999,583 or 17% of the budget which occurred mainly under transfers to other government units. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public

#### **Submission by the Accounting Officer**

1500) The Accounting Officer submitted that the under-funding was as of result of under-collection of AIA, caused by the decline in number of students' enrollment under module II (self-sponsored students) in Public Universities. Additionally, the closure of universities in March 2020 due the outbreak of COVID-19 pandemic further led to decline in AIA collection. Since the students were not in session, little amount of tuition fees which

constitute a larger percentage of AIA was collected during the 3rd and 4th quarters of the Financial Year under review.

### **371. Delay of Exchequer Release**

1501) Review of records maintained by the State Department in relation to Exchequer releases revealed that the State Department received Kshs.15,456,203,902 Exchequer releases from The National Treasury in the month of June, 2020, as detailed below:

<b>Date funds received in the Bank Account</b>	<b>Amount received (KSHS)</b>
02 June, 2020	3,532,108,755
05 June, 2020	26,115,666
24 June, 2020	1,847,136,000
25 June, 2020	3,450,843,481
30 June, 2020	3,300,000,000
30 June, 2020	3,300,000,000
<b>TOTAL</b>	<b>15,456,203,902</b>

1502) The above delay in release of exchequer may have negatively affected timely implementation of the programs of the state department and provision of services to the public.

### **Submission by the Accounting Officer**

1503) The Accounting Officer submitted that the State Department processed and requested for exchequer from The National Treasury on time. It is worth noting that release of exchequer is the responsibility of The National Treasury. From our end we appreciate the effort made by The National Treasury in honouring our exchequer requests in the financial year under review.

### **372. Pending Bills**

1504) Annex 1 to the financial statements indicates that the State Department had pending bills of Kshs.1,390,300 which were not paid during the year under review but were instead carried forward to the 2020/2021 financial year. Failure to settle bills in the year to which they relate adversely affects the subsequent year's provisions, since the bills form the First charge to that year's budget provisions.

### **Submission by the Accounting Officer**

1505) The Accounting Officer submitted that it was true the State Department carried over pending bills of Kshs.1, 390,300 in the financial year 2019/2020. The bills were not settled due to lack of exchequer. We wish to confirm to the committee that the bills have since been settled and the schedule of the settled bills was availed to the Committee for perusal.

**1506) The Committee observed and found that:**

The Committee observed that the Accounting Officer gave the underlying reasons for not settling the pending bills and the bills were subsequently settled.

**1507) The Committee recommended that:**

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

**373. Unresolved Prior Year Matters**

1508) Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues.

**Submission by the Accounting Officer**

1509) The Accounting Officer submitted that these matters were responded to in our response to the report of the Auditor General on the financial statements of the Financial Year ended 30 June, 2019 tabled before the Public Accounts Committee in its sitting of June 3, 2021. The State Department is awaiting for the recommendation of the committee for implementation.

**1510) Committee Observations and Findings**

The Committee observed that the matter was discussed in its report of the financial year 2018/19 and made appropriate recommendations.

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

**1511) Conclusion**

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

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

**1512) Conclusion**

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

**DONOR FUNDED PROJECTS**

**SUPPORT TO ENHANCEMENT OF QUALITY AND RELEVANCE IN HIGHER EDUCATION, SCIENCE AND TECHNOLOGY PROJECT (ID NO. P-KE-IAD-001 - LOAN AGREEMENT NO.2100150027993)**

## REPORT ON THE FINANCIAL STATEMENTS

### **376. Defects and Delays in Plant and Equipment Supplies to Universities**

1513) As disclosed in Note 8.6 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.26,912,063 under acquisition of non-financial assets which relates to purchase of specialized plant, equipment and machinery.

1514) As previously reported, the Project entered into supply contracts with various vendors for supply of specialized science and engineering equipment to selected public universities. Under the terms of the contracts, the vendors were to receive advance payments of 20% of their respective contract values upon submission of bank guarantees of equivalent amounts. A further 60% of the contract sum was to be paid after the equipment was shipped and relevant documents submitted to Management. The remaining 20% was to be paid upon receipt and acceptance of the items supplied.

1515) As at 30 June, 2020, the project's cumulative expenditure on procurement of specialized plant, equipment and machinery totaled Kshs.2,751,344,354 from 2013/2014 financial year. However, records availed for audit revealed that the Project was expected to end by 31 December, 2020 and that equipment worth Kshs.119,572,617 was rejected by the respective Inspection and Acceptance Committees.

1516) The Management explained that as a result of the delays by the suppliers in addressing the anomalies noted by the Inspection and Acceptance Committees, the Project Management through the State Department for University Education terminated the contracts and recalled the performance securities of eight (8) contracts from which Kshs.138,568,038 was recovered. This enabled the State Department to recover all the amounts that had been paid to suppliers as advance payments.

1517) In view of the defective and unfulfilled supplies, it is not possible to confirm the accuracy of the cumulative expenditure of Kshs.2,751,344,354 reported under purchase of specialized plant, equipment and machinery as at 30 June, 2020. In addition, the Project may not be completed by the expected end date of 31 December, 2020 delaying service delivery to the citizens.

#### **Submission by the Accounting Officer**

1518) The Accounting Officer submitted that this matter was discussed by the Public Accounts Committee and marked as resolved in the Committee's recommendations in the report of the financial year 2017/2018.

#### **1519) Committee Observations and Findings**



**The Committee observed that the matter was discussed in its report of the financial year 2017/2018 and marked as resolved.**

#### **Other Matter**

#### **377. Budgetary Control and Performance**

1520) The statement of comparative budget and actual amounts reflects similar figures for final budgeted and actual receipts and expenditure on comparable basis of Kshs.370,256,964 and Kshs.293,604,656 respectively resulting to under collection and under-expenditure of Kshs.76,652,308 or 21% of the budget for the year. The Project activities may not have been implemented as planned delaying service delivery to the citizens.

#### **Submission by the Accounting Officer**

1521) The Accounting Officer submitted that the COVID -19 pandemic significantly slowed down implementation of some of the project activities which led to under collection and under expenditure. The Ministry is however, continuously working with the relevant stakeholders to fast track implementation of the activities.

#### **1522) Committee Observations and Findings**

- (i) The explanation given by the Accounting Officer with regard to the Budget Control and Performance was satisfactory;**
- (ii) The Committee therefore marked the matter as resolved.**

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

#### **1523) Conclusion**

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

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

#### **1524) Conclusion**

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

#### **ESTABLISHMENT OF KENYA ADVANCED INSTITUTE OF SCIENCE AND TECHNOLOGY (KAIST) PROJECT NO. KEN-4**

#### **REPORT ON THE FINANCIAL STATEMENTS**

1525) **Unqualified Opinion**

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1526) **Conclusion**

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1527) **Conclusion**

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

**EASTERN AND SOUTHERN AFRICA HIGHER EDUCATION CENTERS OF EXCELLENCE (ACE II) PROJECT (CREDIT NO. 5798-KE)**

REPORT ON THE FINANCIAL STATEMENTS

1528) **Unqualified Opinion**

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

**Other Matter**

**384. Budgetary Control and Performance**

1529) The statement of comparative budget and actual amounts reflects budgeted receipts of Kshs.352,329,600 and actual receipts on comparable basis of Kshs.187,058,131 only, resulting to a shortfall of Kshs.165,271,469 or 47% of the budgeted receipts. Similarly, Management had budgeted to spend Kshs.352,329,600 but only Kshs.187,058,131 or 53% was actually expended. Management has attributed the low realization of receipts and low absorption to the effects on the COVID 19 pandemic which culminated to the closure of universities as the focal implementing agencies.

1530) The under-utilization of funds implies that the Project may not be achieving its planned goals and objectives.

### **Submission by the Accounting Officer**

1531) The Accounting Officer submitted that Due to the Covid-19 (Coronavirus) pandemic and the measures put in place by the Government of Kenya to curb the spread of the pandemic, Public universities among other learning institutions in the country were closed. The activities in the implementing Agencies (Universities) therefore slowed down and this caused the under absorption of the budget.

### **1532) Committee Observations and Findings**

- (i) The explanation given by the Accounting Officer with regard to the Budget Control and Performance was satisfactory;**
- (ii) The Committee therefore marked the matter as resolved.**

### **385. Loss of Project Vehicle**

1533) As previously reported, disclosed under Note 8.6 to the financial statements, the statement of receipts and payment reflects a comparative balance of Kshs.24,285,013 in respect of acquisition of non-financial assets, out of which Kshs.22,180,900 relates to purchase of vehicles and other transport equipment. Available information indicated that the Management acquired a vehicle at a cost of Kshs.8,355,900 in May, 2019. However, Management explained that the vehicle was stolen, within days after purchase, in a carjacking incident and this was reported to the police. By the time of concluding the audit exercise the matter was still under police investigation.

### **Submission by the Accounting Officer**

1534) The Accounting Officer submitted that this matter was responded to in our response to the report of the Auditor General on the financial statements of the Financial Year ended 30 June, 2019, tabled before the Public Accounts Committee in its sitting of June 3, 2021. The State Department is awaiting for the recommendation of the committee for implementation.

### **1535) Committee Observations and Findings**

The Committee observed that the matter of loss of a project vehicle was discussed in the financial year 2018/19 made following recommendations;

### **1536) Committee Recommendation**

**Within three (3) months upon tabling and adoption of this report, the Accounting Officer should provide a report to both the National Assembly and the Auditor General on the status of status of investigations regarding the lost Motor Vehicle registration number GKB 193V whose cost was Kshs. 8,355,900.**

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

1537) **Conclusion**

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

1538) **Conclusion**

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

FINAL REPORT 2019/2020

## 15. STATE DEPARTMENT FOR EARLY LEARNING AND BASIC EDUCATION

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1066

**Dr. Julius Juan, the Accounting Officer for the State Department of Early Learning and Basic Education (Vote 1066), appeared before the Committee on 2<sup>nd</sup> November, 2021 to adduce evidence on the Audited Financial Statements for the State Department Basic Education (Vote 1066) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                          |                                       |
|--------------------------|---------------------------------------|
| 1. Mr. Emilio M. Gichigo | - Head Accounting Unit                |
| 2. Mr. Robert Osano      | - Senior Finance Officer              |
| 3. Mr. Olick Neimeah     | - Director Primary Education          |
| 4. Mr. Jeremiah Mwangi   | - Senior Director Secondary Education |
| 5. Mr. Wekesa Khaoya     | - Chief Finance Officer               |
| 6. Mr. Paul Kibet        | - Director of Secondary Education     |
| 7. Mr. Mujumba Obwoyere  | - Deputy Director Education           |
| 8. Mr. Moses Kigen       | - Financial Officer II                |
| 9. Mr. George K. Kwenya  | - Personal Assistant/ PS              |
| 10. Mr. Fredrick Aoku    | - Principal Accountant                |
| 11. Mr. Elijah Mungai    | - Ag. DPCAD                           |

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **401. Undisclosed Bank Accounts**

1539) As disclosed in Note 12A to the financial statements, the statement of assets and liabilities reflects bank balances amounting to Kshs.1,527,776,487 as at 30 June, 2020. However, the State Department maintained fifteen (15) holding or suspense accounts with various commercial banks for disbursement of subsidies, grants and transfers to other government entities and in which unspent and unreconciled balances amounting to Kshs.130,604,529 were held as at 30 June, 2020. The balances were not included in the reported bank balances of Kshs.1,527,776,487. In addition, Management was in breach of Regulation 107(2)(a) and (b) of the Public Finance Management (National Government) Regulations, 2015 which provides for the clearing of suspense accounts to relevant cost centers on a monthly basis as well as conducting monthly reconciliations to confirm the balance of each account.

1540) In view of the foregoing, the accuracy and completeness of the bank balances of Kshs.1,527,776,487 as at 30 June, 2020 could not be ascertained.

#### **Submission by the Accounting Officer**

1541) The suspense bank balances were Kshs.130,604,529 as at 30<sup>th</sup> June 2020, however, part of this was applied in the month of July 2020. These bank accounts were disclosed in note 12 A of the State Departments' Financial Statement, an extract of the Financial Statement was availed for perusal by the Committee.

**1542) Committee Observations and Findings**

- (i) The Committee observed that suspense accounts with various commercial banks for disbursement of subsidies, grants and transfers to other government entities which held unspent and unreconciled balances amounting to Kshs.130,604,529 as at 30 June, 2020 were disclosed in note 12 A of the State Department's Financial Statement.**
- (ii) The Committee further observed that the explanation given by the Accounting Officer with regard to Undisclosed Bank Accounts was satisfactory; and**
- (iii) The Committee marked the matter as resolved.**

**402. Accounts Receivables and Suspense Account**

1543) The statement of assets and liabilities reflects a balance of Kshs.70,099,009 in respect of accounts receivables which, as disclosed in Note 13 to the financial statements, includes district suspense of Kshs.68,962,383 which was not adequately supported with the relevant supporting documents or schedules. In addition, Management had not carried out any investigations on the cause of the suspense account.

1544) In the circumstances, the correctness and accuracy of accounts receivables balance of Kshs.70,099,009 as at 30 June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

1545) The suspense account was Kshs.68,962,383. The same was analyzed and supported as per the attached schedules. A schedule analyzing the figure was availed for perusal by the Committee.

**1546) Committee Observations and Findings**

- (i) The Committee observed that district suspense of Kshs.68,962,383 was analyzed and supported with schedules.**
- (ii) The Committee further observed that the explanation given by the Accounting Officer with regard to Accounts Receivables and Suspense Account was satisfactory; and**
- (iii) The Committee marked the matter as resolved.**

**403. Payment of Rent without Valid Lease Agreements**

1547) The statement of receipts and payments reflects an expenditure of Kshs.4,572,964,454 under use of goods and services which, as disclosed in Note 6 to the financial statements, includes payments totalling to Kshs.150,490,607 in respect of rentals of produced assets.

1548) The latter balance includes an amount of Kshs.86,109,234 being rental charges for office space for various State Department's offices in the counties. However, valid lease

agreements and approvals for the procurement of the offices were not provided for audit verification.

1549) In the circumstances, the accuracy and validity of the payments amounting to Kshs.86,109,234 included in the reported expenditure of Kshs.150,490,609 for rentals of produced assets could not be confirmed.

#### **Submission by the Accounting Officer**

1550) Some of the leases had expired and the department could not access records on time due to the Corona pandemic and for those that had expired, it took long for the process of renewal to be completed. The State Department has since provided the missing and updated leases agreement for the field stations stated.

COUNTY0 102.3	MONTHLY RATE CHARGED	AMOUNT PER YR	DETAILS OF LEASE	START DATE	REMARKS
KISUMU WEST	12,000.00	144,000.00	5 YRS	01/07/2016	Expired 20/02/2021
SAMETA -KISII	6,800.00	78,000.00	5 YRS	01/07/2016	Expired 01/07/2021
MANDERA(Banisa)	9,000.00	108,000.00	6 YRS	01/07/2016	Expired July 2021
WAJIR	25,000.00	300,000.00	5 YRS	07/07/2019	Valid to Jul 2024
MWINGI EAST	3,000.00	48,000.00	5 YRS	Jan-17	Expired Jan 2022
MOYALE	24,000.00	288,000.00	5YRS	01/01/2018	Valid to 01/01/2023
LAMU EAST	20,000.00	240,000.00	5YRS	01/07/2017	Valid to 01/07/2022
BOMET	6,624.00	79,488.00	5YRS	01/04/2018	Valid to April 2023
KALOLENI	12,000.00	144,000.00	5YRS	Jul-17	Expired July 2022
LAMU WEST	35,000.00	420,000.00	5YRS	27-07-2017	Expired 27/01/2022

#### **1551) Committee Observations and Findings**

- (i) **The Committee observed that lease agreements and approvals for the procurement of the offices for an amount of Kshs.86,109,234 being rental charges for office space for various State Department's offices in the counties were not provided for audit verification at the time of the audit**
- (ii) **The Committee further observed that the explanation given by the Accounting Officer with regard to Payment of Rent without Valid Lease Agreements was satisfactory.**

#### **1552) Committee Recommendations**

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

### **404. Subsidies**

1553) The statement of assets and liabilities reflects subsidies totaling Kshs.58,778,993,798 for the year ended 30 June, 2020. The following observations were made with regard to the expenditure:

#### **404.1 Subsidy Over-payments**



1554) The subsidies balance includes an amount of Kshs.1,815,126,548 being overpayment of subsidies to two thousand six hundred and ten (2610) public secondary schools in different counties. The overpayment arose from erroneous computations of July and September, 2019 disbursements, inflation of enrolment numbers in January, 2020 and double payments to some schools.

**Submission by the Accounting Officer**

1555) The State Department would wish to state as follows: -

Schools operate within an academic year that is different from the financial year. The academic year starts in January and ends in December of every year. The part payments made in January, March, May, July and September 2019 therefore fall within one academic year of the school and in two different financial years.

1556) The overpayment of Ksh.703,089,935.86, noted by the auditor in July and September 2019 was due to reconciliation. In January 2019, disbursement was done with an estimated number of form ones. This allowed schools to have funds in time to run the school operations even before form ones reported. This resulted in overpayment and underpayments to some schools. Over the academic year, reconciliation was necessary to ensure schools received the right amounts due to them. An analysis was done to determine if the overpayment noticed by the auditors could have been due to underpayment that could have occurred in the earlier disbursement. This analysis revealed that: -

- a) Ninety-six (96) schools had been overpaid an amount totaling Ksh.23,813,076.26 in July disbursement
- b) Ninety-one (91) schools had been overpaid an amount totaling Ksh.12,436,822.95 in September disbursement.
- c) Two hundred and sixteen (216) schools had been overpaid an amount totaling Ksh.33,355,473.48 by the end of academic year 2019. Of this amount the State Department retained Ksh.8,195,837.49 from 36 schools in January 2020. Retaining the remainder of Ksh.25,159,635.99 to fully reconcile the figures was interrupted by the COVID 19 Pandemic.
- d) The State Department has stopped using the estimated number of form ones and only uses the students available in the NEMIS system at the time of disbursement. The disbursement of January 2020 was based on enrolment on NEMIS as at 20<sup>th</sup> December 2019 while that of July 2021 is based on enrolment found on NEMIS as at June 2021.

1557) In regard to Ksh.453,766,478.00 indicated as overpayment due to erroneous computation of enrolment, the State Department used figures available on NEMIS as at 20<sup>th</sup> December 2019 for the disbursement made in January 2020 as per the guidelines. The auditor used data from the CDEs obtained in December 2020 as a basis of comparison. It should be noted that the State department made the decision to use enrolment data obtained on NEMIS in January 2019 because of the following reasons: -

- a. Variation in data provided mainly due to differences in interpretations of circulars that requested for these data whereas the NEMIS system has standardized procedures that reduce misinterpretation of requests for data.
- b. When fully operational the NEMIS system has the ability to be integrated with the IFMIS system hence enhances timeliness and accountability in administration of FDSE funds.
- c. Our circulars on implementation of Free Day Secondary Education for the years 2018, 2019 and 2020 clearly stipulated that the data to be used is that found on NEMIS. It also stipulates that it is the role of School Principals to ensure the right data is available for use at all times. Our analysis has established that the figures used for disbursement in January 2020 capitation were the actual figures on NEMIS as at 20<sup>th</sup> December 2019.
- d. The State Department is therefore not able to ascertain the over-payment Ksh.453,766,478.00 attributed to data from CDEs differing from that of the state department's NEMIS system.

1558) In regard to the Ksh.102,576,318.00 outlined as unverified disbursement by the Auditor. This amount was paid to (a) schools where the State Department had retained more funds from them than expected due to reconciling allude to earlier; (ii) schools that had a large increase in enrolment since the disbursement made in May 2019 therefore grossly underfunded and (iii) those for various reasons had not been funded since January 2019.

1559) The errors resulting in disbursement not being clear are attributed to the use of NEMIS for the first time. The system was subject to dynamic changes due to the design and has now stabilized. Besides ensuring that the errors will not recur, reconciliation will be done to correct the errors noted.

#### 1560) **Committee Observations and Findings**

- (i) **The Committee observed that the recoveries of the over-payments of subsidies to schools is ongoing;**
- (ii) **The Committee Further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;**
- (iii) **The Committee also observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;**
- (iv) **The matter remained unresolved.**

#### 1561) **The Committee Recommends that:**

- 1) **The Accounting Officer should put in place measures (including systems upgrade) to ensure that there is no recurrence of Subsidy Over-payments in future pursuant to**

paragraph 23 (c) of Public Finance Management (National Government) Regulations, 2015.

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

#### **404.2 Disbursements to Schools whose Existence is Doubtful**

1562) Included in the subsidies balance is an expenditure of Kshs.26,835,700 disbursed to five (5) schools whose existence was in doubt since registration certificates, Teachers Service Commission (TSC) appointment letters and posting of the Principals, Boards of Management minutes approving opening of bank accounts and other documents required under the State Department for Early Learning and Basic Education annual guidelines on disbursement of Free Day Secondary Education Funds (FDSE) were not provided.

1563) In the circumstances, it is not possible to confirm the accuracy and validity of the reported subsidies of Kshs.58,778,993,798 for the year ended 30 June, 2020.

#### **Submission by the Accounting Officer**

1564) The five doubtful schools, whose existence is in doubt, are schools that were registered by the Ministry of Education. These schools have been in existence for some time now. Table 1 shows the particulars of these schools.

**Table 1: Particulars of Schools whose Existence is in Doubt**

S/No	Name of school	County	Sub County	UIC	Date of Registration
1	St Micheal Embubut	Elgeyo Marakwet	Marakwet East	HBAU	17 <sup>th</sup> February 2015
2	Sahajanand Special inclusive Technical school	Kilifi	Kilifi South	NRB5	6 <sup>th</sup> September 2013
3	St Patrick's Kamgungho	Migori	Rongo	L7D6	25 <sup>th</sup> July 2000
4	Ramude secondary	Siaya	Ugenya	9VAZ	17 <sup>th</sup> august 2015
5	Sergoit Girls	Elgeyo Marakwet	Keiyo	P3C6	28 <sup>th</sup> January 2014

1565) Documentation showing the existence of the five doubtful schools is attached was availed for perusal by the Committee.

#### **1566) Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regard to Disbursements to Schools whose Existence is Doubtful was satisfactory; and**
- (ii) **The Committee marked the matter as resolved.**

#### **404.3 Unsupported Transfers to Moiben Teachers Training College**

1567) As disclosed in Note 8 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.20,387,731,550 in respect of transfers to other government units which include an amount of Kshs.25,000,000 disbursed to Moiben Teachers Training College. Construction of the institution commenced in the financial year 2014/2015 under the mentorship of Tambach Teachers Training for the training of diploma science teachers.

1568) Although the bills of quantities indicated that the contract sum for the construction was Kshs.121,050,383, the State Department had disbursed Kshs.261,500,000 to the institution as at the time of audit and no explanation was provided for the excess disbursements. Further, the progress status for the construction could not be confirmed as complete architectural drawings and the signed contract(s) were not provided for audit scrutiny.

1569) Consequently, it was not possible to confirm the validity of the Kshs.25,000,000 included in the total reported transfer to other government units and the value for money on the cumulative transfers of Kshs.261,500,000 to Moiben Teachers Training College.

#### **Submission by the Accounting Officer**

1570) The Accounting Officer submitted that the project sum was Ksh.894,000,000. The project was to be done in phases. Architectural drawings and the signed contracts were availed for perusal by the Committee. However, the State Department regret not providing comprehensive information at the time of audit. Architectural drawings are available for audit and verification.

#### **1571) Committee Observations and Findings**

- (i) The Committee observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and**
- (ii) The Committee further observed that the Accounting Officer later provided the supporting documents for audit verification and the matter was therefore marked as resolved.**

#### **Other Matter**

#### **405. Pending Bills**

1572) Note 20.1 and Note 20.2 to the financial statements indicates that the State Department had pending bills totalling Kshs.91,853,036 as at 30 June, 2020. Management has not explained why the bills were not settled during the year when they occurred. Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

#### **Submission by the Accounting Officer**

1573) The Accounting Officer submitted that it was true that the State Department had pending bills to the tune of Kshs.91,853,036. This arose due to budgetary cuts of SEQIP Project funds during the supplementary budget and therefore making it difficult to settle the bills. The same was treated as a first charge in the 2020-2021 financial year.

**1574) Committee Observations and Findings**

- (i) The Committee observed that the State Department had pending bills totalling Kshs.91,853,036 as at 30 June, 2020.**
- (ii) The Committee further observed that the pending bills were treated as a first charge in the 2020-2021 financial year.**
- (iii) The Committee marked the matter as resolved.**

**406. Delay of Exchequer Releases**

1575) Exchequer issues totalling Kshs.540,406,486 were received in the bank account of the State Department during the month of June, 2020 as detailed below:

<b>Date Funds Received in the Bank Account</b>	<b>Amount Received (Kshs.)</b>
15 June, 2020	213,100,663
25 June, 2020	314,640,943
30 June, 2020	12,664,880
<b>Total</b>	<b>540,406,486</b>

1576) The delay in Exchequer release may have resulted in low absorption of the budget thus negatively affecting timely implementation of the programmes of the State Department and provision of services to the public.

**Submission by the Accounting Officer**

1577) The Accounting Officer submitted that as you are all aware the country was under lock down from March and this really affected the revenue collection at the National Treasury. Consequently, disbursements to schools and SAGAs were not funded in time. Exchequer for this was received in June.

**1578) Committee Observations and Findings**

- (i) The committee observed that the delay in exchequer release was caused by poor performance of the economy that affected the revenue collection during the Covid-19 pandemic.**
- (ii) The Committee marked the matter as resolved.**

**407. Unresolved Prior Year Matters**

1579) Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues. Further, the status of the unresolved issues and the time-frame within which Management expected to resolve the issues was not indicated under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

#### **Submission by the Accounting Officer**

1580) The Accounting Officer submitted that the prior year audit issues remain unresolved as at 30th June 2020 since PAC report recommendations had not been relayed for implementation.

#### **1581) 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.**

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

#### **1582) Conclusion**

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

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

#### **1583) Conclusion**

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

### **DONOR FUNDED PROJECTS**

#### **KENYA PRIMARY EDUCATION DEVELOPMENT PROJECT (GRANT NO. TFO18863)**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

#### **410. Unexplained Variances in Transfers to Other Government Entities**



1584) The statement of receipts and payments reflects transfers to other government entities totaling Kshs.130,955,840. Included in the balance are expenditures incurred by County Directors of Education totalling Kshs.24,672,162. However, aggregate balances derived from records maintained by the respective County Governments and submitted to the State Department for Early Learning and Basic Education amount to Kshs.63,543,005 which differs from the sum of Kshs.95,453,747 derived from the expenditure schedules availed for audit. The difference, amounting to Kshs.31,910,742, between the two sets of records has not been explained.

1585) Consequently, the accuracy and completeness of transfers to other government entities totalling Kshs.130,955,840 reflected in the statement of receipts and payments for the year ended 30 June, 2020 has not been confirmed.

#### **Submission by the Accounting Officer**

1586) The Accounting Officer submitted that our counties opening balance as at 1st July 2020 was Kshs.95,453,747 which differed with counties closing balances as at 30th June 2019. At as per our records, Kshs.95,453,747 is the correct counties opening balance and this is evidenced by what was received from counties in form of unspent AIE balances of Kshs.93,233,047.95 in the first and second quarter of the financial year 2019/2020. The variance between our balances and the counties balances was caused by the following;

1587) Failure by some counties to capture all the disbursed AIEs in their vote book management systems during the financial year resulting to declaration of wrong closing balances at 30th June 2019.

1588) Receipt of counties unspent AIE balances in the first quarter of 2019/2020 financial year. Whereas counties cashbooks as at 30th June 2019 had nil and lesser balances, our counties reconciliation statements had higher balances because of the unspent AIE balances which remained as unrepresented cheques in the various counties bank reconciliations statements as at 30th June 2019. The unrepresented cheques however, cleared in the first and second quarter of the subsequent financial year 2019/2020 and the balances reconciled. Analysis of the unspent AIEs balances received, bank transfer RTGS and bank statements are available for audit review.

#### **1589) Committee Observations and Findings**

**(i) The Committee further observed that the explanation given by the Accounting Officer with regard to Unexplained Variances in Transfers to Other Government Entities was satisfactory.**

**(ii) The Committee marked the matter as resolved.**

#### **Emphasis of Matter**



#### **411. Unreconciled Special Account Statement**

1590) The statement of receipts and payments for the year ended 30 June, 2020 reflects proceeds from domestic and foreign grants totalling Kshs.576,810,278 as further disclosed under Note 11.4 to the financial statements. However, the identical account balance reflected in the special accounts statement as at 30 June, 2020 amounted to Kshs.540,216,072 resulting to a variance of Kshs.36,594,206 which, however, had not been reconciled at the time of audit.

1591) My Opinion is not qualified in respect to this matter.

#### **Submission by the Accounting Officer**

1592) The Accounting Officer submitted that during the financial year 2019/2020, the project received an exchequer release of Kshs.39,676,875 from the national treasury and further made direct pay to MFI Solution Ltd through world bank of Kshs.37,133,403. This gives a total of Kshs.576,810,278 which is the total foreign grant received in this financial year. The variance of Kshs.36,594,206 is caused by direct payment Kshs.37,133,403 and loss in Kenya shillings against the dollar of Kshs.539,197 which were never factored in the special accounts statement during the year. Copies of exchequer notification and payment voucher of the direct payment made to MFI Solution Ltd are available for audit review.

#### **1593) Committee Observations and Findings**

- (i) The Committee further observed that the explanation given by the Accounting Officer with regard to Unreconciled Special Account Statement was satisfactory.**
- (ii) The Committee marked the matter as resolved.**

#### **Other Matter**

#### **412. Budgetary Control and Performance**

1594) The Project's final budget for the year under review totalled Kshs.562,417,338 and actual expenditure totalled Kshs.325,686,592 resulting to an under-expenditure of Kshs.236,730,746 equivalent to 58% of the budget. The high under-absorption of the approved budget meant that many of the Project's activities planned for the year were not implemented. As a result, attainment of the Project's goals and objectives was hampered.

1595) No plausible explanation has been provided by Management for the underperformance.

#### **Submission by the Accounting Officer**

1596) The Accounting Officer submitted that the high under-absorption of the approved budget was caused by the emergence of Covid 19 pandemic in March 2020 resulting to closure of schools for the entire year and lock down of movement of people from Nairobi County to other counties. We were therefore not able to implement most of our planned

activities since most of them targeted schools and teachers. This resulted to cancellation of the activities and recalling back of the funds which had been sent to the counties. The recalled funds were later used to finance the cancelled activities in the 2020/2021 budget.

**1597) Committee Observations and Findings**

- (i) The Committee further observed that the explanation given by the Accounting Officer with regard to Budgetary Control and Performance was satisfactory.**
- (ii) The Committee marked the matter as resolved.**

**413. Unresolved Prior Year Matters**

1598) The audit report for the year ended 30 June, 2019 highlighted unreconciled differences totalling Kshs.5,259,898 between balances reflected in the financial statements and those reflected in the Integrated Financial Management Information System (IFMIS). Contrary to the reporting requirements set by the Public Sector Accounting Standard Board (PSASB). Management has not reported on the progress made in resolving the differences.

**Submission by the Accounting Officer**

1599) The Accounting Officer submitted that PAC deliberated on this matter in its reports of the 2018/2019 and recommended that the matter was resolved.

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

**1600) Conclusion**

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

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

**1601) Conclusion**

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

**GOK/UNICEF EDUCATION FOR YOUNG PEOPLE PROGRAMME**

**REPORT ON THE FINANCIAL STATEMENTS**

**Basis for Qualified Opinion**

**416. Inaccuracies in Cash and Cash Equivalents**

1602) The statement of financial assets reflects cash and cash equivalents balance of Kshs.1,078,280. However, the bank reconciliation statement as at 30 June, 2020 reflected payments in bank statements not recorded in cash book amounting to Kshs.503,350 in respect of outward payment and whose nature has not been disclosed.

1603) In view of the above, the completeness and accuracy of the cash and cash equivalents of Kshs.1,078,280 reflected in the statement of financial assets as at 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

1604) The Accounting Officer submitted that the outward payment of Kshs.503,350 in the bank reconciliation statement relates to the period ended June 2016. The details of the outward payment could not be traced.

#### **1605) Committee Observations and Findings**

(i) **The Committee further observed that the explanation given by the Accounting Officer with regard to Inaccuracies in Cash and Cash Equivalents was satisfactory.**

(ii) **The Committee marked the matter as resolved.**

#### **Other Matter**

#### **417. Prior Year Matters**

1606) Several issues were raised in the audit report of the previous year. However, Management has not resolved the issues nor given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circulars.

#### **Submission by the Accounting Officer**

1607) The Accounting Officer submitted that PAC deliberated on this matter in its reports of the 2018/2019 and recommended that the matter was resolved.

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

#### **1608) Conclusion**

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

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

#### **Basis for Conclusion**

#### **419. Lack of Key Programme Information**

1609) As previously reported, the management did not avail for audit review the design report, implementation manual, GOK/UNICEF policies, annual work plan and activities report. In the forgoing, it has not been possible to ascertain if the Programme met the expectations of the citizens as outlined in the GOK/UNICEF Country Programme Action Plan, 2014-2016.

#### **Submission by the Accounting Officer**

1610) The Accounting Officer submitted that PAC deliberated on this matter in its reports of the 2018/2019 and recommended that the matter was resolved.

### **SECONDARY EDUCATION QUALITY IMPROVEMENT PROJECT (CREDIT NO.6138 – KE)**

#### **REPORT ON THE FINANCIAL STATEMENTS**

#### **1611) Unqualified Opinion**

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

#### **Emphasis of Matter**

#### **421. Unreconciled Special Account Statement**

1612) The special account statement for the year ended June, 2020 reflects proceeds from external development partners totaling Kshs.350,207,487. However, the statement of receipts and payments for the year reflects proceeds from loans from external development partners totaling Kshs.345,520,825 resulting to variance of Kshs.4,686,662 between the two set of records. No reconciliation has been provided for the variance.

1613) My opinion is not modified in respect to this matter.

#### **Submission by the Accounting Officer**

1614) The Accounting Officer submitted that the variance in the special account balances is as a result of foreign exchange losses.

#### **1615) Committee Observations and Findings**

- (i) The Committee further observed that the explanation given by the Accounting Officer with regard to Unreconciled Special Account Statement was satisfactory.**
- (ii) The Committee marked the matter as resolved.**

#### **Other Matter**

## **422. Over-Expenditure and Insufficient Budgetary Disclosures**

1616) The Project's total budget for the year under review was Kshs.611,669,353 against which expenditure totaling Kshs.1,432,603,439 was incurred resulting to over-expenditure of Kshs.820,934,086 or 234% of the budget. Management has not disclosed the source of the additional funds or the reason for the over-expenditure, and whether it was authorized.

1617) In addition, the expenditure budget disclosed only one item, namely purchase of goods and services, at Kshs.611,669,353 even though the funds were spent on various items.

### **Submission by the Accounting Officer**

1618) The Accounting Officer submitted that Kenya Secondary Education Quality Improvement Project (SEQIP) had a final budget of Kshs.611, 669,353 and actual expenditure of Kshs.1,432,603,439.

1619) The project had opening balances of 1,066,566,689 in the proposed account and 766,034,024 in the DLI account which were carried forward from the previous financial year. During the financial year ended 30 June 2020, the project received an exchequer receipt of 345,520,825. Therefore, the project had total revenue revenue amounting to Kshs.2,178,121,538. Additionally, the budget for the project is usually a one line item. However a breakdown of the expenditure is given as per the financial statements for the financial year ended 30th June, 2020.

### **1620) Committee Observations and Findings**

(i) **The Committee further observed that the explanation given by the Accounting Officer with regard to Over Expenditure and Insufficient Budgetary Disclosures was satisfactory.**

(ii) **The Committee marked the matter as resolved.**

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

### **Basis for Conclusion**

#### **423. Delayed Completion of Contracted Architectural Designs - Kshs.43,515,500**

1621) The statement of receipts and payments reflects purchase of goods and services payments totaling Kshs.158,193,485 which include Kshs.109,176,796 incurred by the Project on payments for consultancy services. Out of the payments for consultancy services, is a contract valued at Kshs.43,515,500 awarded to an engineering firm for design and supervision of construction of education facilities in various schools in the Project's area of activities designated as Region 2. The contract commenced on 18 October, 2018 and was due to end after 15(fifteen) months on 18 January, 2020. However, audit inspection in November, 2020 indicated that the consultant had not submitted the designs, more than

eight (8) months after the contract period ended. Payments made to the contractor at the time totaled Kshs.24,866,000 equivalent to 57% of the value of the contract. No plausible explanation was provided by Management for the delay. Further, there was no evidence to confirm whether approval for extension of the contract period was granted.

1622) In view of the delay, there is no certainty that the designs will be completed and the education facilities built as planned. Further, there is risk that value for money may not be obtained on public resources invested in the contract.

#### **Submission by the Accounting Officer**

1623) The Accounting Officer submitted that the Design and Construction Supervision Consultancy services in Region 2 was to be undertaken in Schools within 11 counties (22 sub-counties) and also the Ultra- Modern National Training Centre for Education Official and School Manager in Centre for Mathematics Science and Technology in Africa (CEMASTE).

1624) Phase 1-5 of the contract for designs of schools in 11 counties had been completed and paid Kshs.43,515,500 by the time of the Audit. Designs for the Ultra- Modern National Training Centre which is stage 6 of the contract delayed due to the Ministry of Health restrictions on public gatherings as a result of Covid-19 pandemic since they had to hold local community public forums as part of requirements by National Environment Management Authority (NEMA).

1625) The Designs are however complete and approved by NEMA vide license No. NEMA/EIA/PSL/10232 which was provided for verification. Also provided were the approval by public works, Approved drawings and Approval of the extension of the contract and Contract Addendum 1&2.

#### **1626) Committee Observations and Findings**

**(i) The Committee further observed that the explanation given by the Accounting Officer with regard to Delayed Completion of Contracted Architectural Designs was satisfactory.**

**(ii) The Committee marked the matter as resolved.**

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

#### **Basis for Conclusion**

#### **424. Outstanding Imprests**

1627) Examination of imprest records revealed that contrary to Regulation 4(b) of the Public Finance Management (National Government) Regulations, 2015 which prohibit issue of

new imprests to officers with outstanding imprests, several officers held multiple imprests totalling Kshs.1,169,618 during the year under review. Further, the records indicated imprests totaling Kshs.220,858 were past their due dates of surrender as at 30 June, 2019.

1628) No plausible explanation was provided by Management for these anomalies.

#### Submission by the Accounting Officer

1629) The Accounting Officer submitted that the statements of Financial Asset as at 30 June 2020 reflects account receivable balance of Kshs220,858. These were outstanding imprests amounting to 169,300 and county AIES amounting to Kshs.51,558 that has not been surrendered as at 30th June 2020. The Outstanding imprests have been surrendered and the payment vouchers availed for audit review. See the table below:

#### Outstanding Imprests

S/N	Officers Name	Imp W/No	Amount	Status	Reference
1	Monoko Bob Harun	3532466	42,000	Surrendered	V/NO 000008344
2	Fridah Kiambati	3523624	50,400	Surrendered	V.NO. 001615
3	John Chau	3523622	59,400	Surrendered	V/NO. 012810
4	Steve Chitai	3711773	17500	Surrendered	V/NO.00008340/& VNO. 00008340/1

#### Outstanding County Advances

S/No	County	AIE No	Amount	Returns	RTGS	Balances
1	Tharaka Nithi	A 939416	48,017	21,983	48017	Nil

#### 1630) Committee Observations and Findings

- (i) The Committee further observed that the explanation given by the Accounting Officer with regard to Outstanding Imprests was satisfactory.
- (ii) The Committee marked the matter as resolved.



## 16. STATE DEPARTMENT FOR POST-TRAINING AND SKILLS DEVELOPMENT

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1068

**Mr. Alfred Cheruiyot, the Accounting Officer for the State Department of Vocational and Technical Training (Vote 1068) appeared before the Committee on 11<sup>th</sup> August, 2021 to adduce evidence on the Audited Financial Statements for the State Department of Vocational and Technical Training (Vote 1068) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                             |   |                                  |
|-----------------------------|---|----------------------------------|
| 1. Mr. M. B. Mohamed        | - | Senior Accountant PTSD           |
| 2. Mr. Joseph M. Yamu       | - | Assistant Accountant General     |
| 3. Ms. Catherine M. Shiroko | - | Senior Principal Finance Officer |

And submitted as follows:

#### 1631) **Unqualified Opinion**

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

#### **426. Pending Bills**

1632) Note 13 to the financial statements reflects pending bills balance of Kshs.449,405 as at 30th June, 2020. Management has not explained why the bills were not settled during the year when they occurred and the department is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

1633) Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form the first charge.

#### **Submission by the Accounting Officer**

1634) The reason for the pending bills is that they belong to one supplier who had an issue with his bank account with the then Barclays Bank which was defined in our IFMIS. The supplier did not notify us in time of his bank account being transferred from Barclays Bank to ABSA Bank to enable the Department to define his new Account in IFMIS. However the bills were settled as per the table below and the attached bank statements:

<b>SUPPLY OF SERVICES</b>			
<b>S.No.</b>	<b>Details</b>	<b>Amount Ksh</b>	<b>Date Paid</b>
<b>1</b>	Long Rock Tours and Travels	39,025.00	28/12/2020
<b>2</b>	Long Rock Tours and Travels	112,665.00	26/2/2021
<b>3</b>	Long Rock Tours and Travels	167,715.00	26/2/2021
<b>4</b>	Long Rock Tours and Travels	130,000.00	26/2/2021
	<b>Total</b>	<b>449,405.00</b>	

1635) **Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regard to Pending Bills was satisfactory; and**
- (ii) **The Committee marked the matter as resolved.**

1636) **Committee Recommendations**

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

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

1637) **Conclusion**

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

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

1638) **Conclusion**

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

## 17. MINISTRY OF HEALTH

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1081

**Ms. Susan Mochache, the Principal Secretary and Accounting Officer for the Ministry of Health (Vote 1081) appeared before the Committee on 1<sup>st</sup> November 2021 and 25<sup>th</sup> November, 2021 to adduce evidence on the Audited Financial Statements for the Ministry of Health (Vote 1081) for the Financial Year 2019/2020. She was accompanied by the following officers:**

1. Mr. Moses N. Mbaruku	-	Secretary Administration
2. Mr. Edward Njoroge	-	Ag. CEO, KEMSA
3. Ms. Peninah Njuguna	-	Head of Accounting Unit
4. Mr. Joseph K. Koech	-	Deputy Accountant General
5. Mr. Albert D. Mokua	-	Director Human Resource
6. Mr. David K. Ngugi	-	Head of Supply Chain Management
7. CPA. Ken Nyamolo	-	Ag. Deputy Director Finance
8. Ms. Joan Akinyi Ochieng	-	Assistant Accountant General
9. Ms. Vivian Mboga	-	Senior Assistant Secretary
10. Mr. Benson Murimi	-	Principal Finance Officer
11. Mr. Bernard Kuria	-	Legal Officer
12. Ms. Sharon Gisore	-	Assistant Supervisor
13. Mr. Bernard Muthure	-	Project Supervisor
14. Ms. Naumy J. Kemboi	-	Deputy Accountant General
15. Ms. Mary Mugambi	-	Project Manager, KP. NASCO
16. Mr. Moses K. Ranji	-	Accountant EACE Project
17. Dr. Isaac M. Kimani	-	Project Manager
18. Mr. James Ng'ethe	-	Principal Finance Officer
19. Mr. Bernard Mulune	-	NPHL
20. Ms. Caroline Ndung'u	-	THS Accountant
21. Ms. Alice Akinyi	-	Accountant

And submitted as follows:

#### **Basis for Adverse Opinion**

#### **429. Un-Surrendered and un-supported Cash and Cash Equivalents**

1639) The statement of assets and liabilities as at 30 June 2020 reflects a cash and cash equivalent balance of Kshs.117,494,653. This, as previously reported, excludes deposits totaling to Kshs.10,956,114,687 that were held in former Ministries of Medical Services and Ministry of Public Health and Sanitation that merged to form Ministry of Health that were never transferred to the new deposit account. This was 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 accounts. Further, the bank accounts of the former Ministries were closed on 16 October, 2014 with the Ministry seeking approval from The National Treasury to write off the balance through letter Ref. No/ACC/AUDIT/12/VOL.11 (18) dated 6 March, 2019.

1640) In addition, review of the bank reconciliation statements revealed that reconciling items relating to the recurrent and deposit bank accounts totaling Kshs.9,125,242,123 and Kshs.10,668,033 respectively were cleared from the reconciliation. However, the respective clearance dates were not indicated.

1641) Consequently, the validity and accuracy of the reported cash and cash equivalents balance of Kshs.117,494,653 as at 30 June, 2019 could not be ascertained.

#### **Submission by the Accounting Officer**

1642) The Accounting Officer submitted that this was discussed during the appearance before the Public Accounts Committee on 30th August 2021. The Ministry is awaiting the Public Accounts Committee (PAC) Report for the year 2018/2019.

#### **1643) Committee Observations**

The Committee observed the matter was considered in the financial year 2017/18 and recommendations made thereof.

#### **430. Unexplained variance in proceeds from sale of Assets**

1644) The statement of receipts and payments reflects proceeds from sale of assets amounting to Kshs.8,252,948,616 for the year ended 30 June 2020 while the supporting schedule reflects Kshs.8,252,981,034.50 resulting into unexplained or un-reconciled variance of Kshs.32,418.

1645) Consequently, the accuracy and completeness of the proceeds from sale of assets amount of Kshs.8,252,948,616 for the year ended 30 June 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

1646) The Accounting Officer submitted that it was true that the statement of receipts and payments reflects proceeds from sale of assets balance of Kshs.8,252,948,616 for the year ended 30 June 2020. The variance was caused by un-attached account analysis from the amounts under chargeable items itemized as 3510500 and 3520300. The schedules addressing the variance have since been provided for audit review. Account analysis for the Kshs.8,252,981,034.50, Kshs.40,418 and Kshs.8,000 as per the schedule balance from IFMIS were availed for perusal by the Committee.

1647) **Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Unexplained variance in proceeds from sale of Assets were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**431. Account Receivables**

**431.1 Outstanding Imprest and Advances**

1648) The Statement of Assets and Liabilities and as disclosed under Note 13 to the financial statements reflects an amount of Kshs.18, 446,372 in respect of accounts receivables-outstanding imprest. This included imprests of Kshs.10,425,598 for 2018/2019 that ought to have been accounted for on or before 30 June 2020 but was still outstanding as at 31 October 2020. This is contrary to Section 93 (5) of the Public Finance Management Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station. Section 93 (6) further provides that in the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.

**Submission by the Accounting Officer**

1649) The Accounting Officer submitted that it was true that imprests amounting to Kshs.10, 425,598 for 2018/2019 Financial Year were still outstanding as at 31 October, 2020. The total imprest amount outstanding for the two financial years' was submitted for recoveries to IPPD; and recoveries made in the months of November 2020, December 2020, January 2021, February 2021, March 2021 and April 2021. Out of the outstanding imprest balance of Kshs.18,446,372 as at 30th June 2020, Kshs.13,887,242.00 have since been recovered/ accounted for, leaving a balance of Kshs.4,559,130. Names of the officers with outstanding imprests have since been re-submitted to IPPD for recoveries.

1650) **Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Account Receivables - Outstanding Imprest and Advances were satisfactory.
- (ii) However, imprest amounting to Kshs.4,559,130 was still in recovery process.

1651) **Committee recommendations**

**Within sixty (60) days of adoption of this report, the Accounting Officer to ensure full recovery of the outstanding imprest in accordance with Regulation 92(6) and 92(10) of Public Finance Management (National Government) Regulations of 2015 and present evidence to Auditor General for review and reporting in the next audit cycle (2021/22).**

### **431.2 Unsupported Imprest**

1652) The statement of assets and liabilities and as disclosed under Note 13 to the financial statements reflects an amount of Kshs.18,446,372 in respect of receivables-outstanding imprest. The outstanding imprest balance included Kshs.748,566 disclosed as other imprests. Supporting documents in respect of this amount were not provided for audit verification. This is Contrary to section 104(1) of the Public Finance Management Act Regulations 2015 which provides that all receipts and payments vouchers of public moneys shall be properly supported by the appropriate authority and documentation.

1653) In the circumstances, the accuracy, validity and recoverability of the outstanding imprest amount of Kshs.18, 446,372 is in doubt.

#### **Submission by the Accounting Officer**

1654) The Accounting Officer submitted that it was true that the statement of assets and liabilities reflects an amount of Kshs.18,446,372 in respect of receivables-outstanding imprest, out of which an amount of Kshs.748,566 accounts receivable balance, is disclosed as other imprests. The supporting documents for the Kshs.748,566 including the surrender documents have since been provided for audit review.

#### **1655) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Unsupported Imprest were satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **432. Compensation of Employees**

#### **432.1 Unexplained Variance in Compensation of Employees**

1656) The statement of receipts and payments reflects compensation of employees' payments of Kshs.8,149,395,770 and as disclosed under Note 6 to the Financial Statements. This amount includes basic salaries of permanent employees and personal allowances paid as part of salary of Ksh.1,058,840,293 and Ksh.2,491,375,847 respectively. However, the supporting schedules reflect Kshs.1,010,562,686, and Ksh.2,416,930,272 resulting to unexplained variance of Kshs.48,277,607 and Ksh.74,445,575 respectively.

#### **Submission by the Accounting Officer**

1657) The Accounting Officer submitted that it was true that the statement of receipts and payments reflects compensation of employees' payments of Kshs.8,149,395,770 and as disclosed under Note 6 to the Financial Statements. The difference in basic salary of Kshs.48,277,607 and in personal allowances of Kshs.74,445,475 totaling Kshs.122,723,082 was caused by the following transactions omitted in the schedules that

were availed for audit verification and perusal by the Committee. The reconciling schedules of basic salaries and allowances paid as part of salary which agree with the figure of Kshs.122,723,082 is attached.

**1658) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Compensation of Employees - Unexplained Variance in Compensation of Employees were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**432.2 Unauthorized over Establishment**

1659) During the financial year 2019/2020, the Ministry employed 1009 staff in 28 departments/sections against approved staff establishment of 361 vacancies resulting to over employment of 648 staff. No explanation has been provided for the over establishment.

**Submission by the Accounting Officer**

1660) The Accounting Officer submitted that the employment was in light of the approval by the Public Service Commission (PSC). The Public Service Commission, vide their letter Ref no. PSC/ADM/91/III/ (44) dated 16th November 2016 approved the Ministry's Authorised Establishment of 3,961 posts, and the Ministry's current in-post stands at 2,492. In light of the above, the current existing vacancies are 1469. Copy of the approved Authorized Establishment was availed for audit verification and perusal by the Committee.

**1661) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Unauthorized over Establishment were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**432.3 Irregular Salary Payment**

1662) The Statement of Receipts and payments reflects compensation of employees' payments of Kshs.8,149,395,770 and as disclosed under Note 6 to the Financial Statements. Analysis of the staff payroll also revealed that twenty six (26) employees had a net salary amounting to negative Kshs.1,037,421. They however, received a total of Kshs.1,627,818 in their bank accounts resulting to overpayment of Kshs.2,665,239.

1663) Consequently, the accuracy and validity of the compensation of employees' balance of Kshs.8,149,395,770 could not be confirmed.



### **Submission by the Accounting Officer**

1664) The Accounting Officer submitted that it was true that twenty six (26) employees had a net salary amounting to negative Kshs.1,037,421; received a total of Kshs.1,627,818 in their bank accounts that thus resulted to overpayment of Kshs.2,665,239. The negative salary was occasioned by:

- i. Imprest recoveries
- ii. interdictions and suspensions
- iii. Contract expiry
- iv. Expiry of tax exemptions for PWDs(Persons with Disability)

1665) This resulted to some of the officers' personal commitments being effected and some to be differed. The net pay that the affected officers received could not cover any of their differed payments. Schedule of employees with negative salary was availed.

### **1666) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Irregular Salary Payment were satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **433. Unsupported Expenditure on Other Grants and Transfers**

1667) The Statement of receipts and payments reflects other grants and transfers of Kshs.3,159,808,772 and as disclosed under Note 9 to the Financial Statements. The amount includes expenditure on emergency relief and refugee assistance amounting to Kshs.3,154,296,199 of which payment vouchers for amounts totaling Kshs.28,105,636 were not provided for audit verification.

1668) Consequently, the accuracy, completeness and validity of emergency relief and refugee assistance expenditure amount of Kshs.3,154,296,199 could not be confirmed.

### **Submission by the Accounting Officer**

1669) The Accounting Officer submitted that it was true that the Statement of receipts and payments under other grants and transfers reflects an expenditure of Kshs.3,154,296,199 on emergency relief and refugee assistance. It was regrettable that the payment vouchers for Kshs.28,105,636 had not been provided for review at the time of audit. The payment vouchers have since been availed for audit review. Copies of the payment vouchers were availed for perusal by the Committee.

### **1670) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Unsupported Expenditure on Other Grants and Transfers were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1671) Committee Recommendation**

**The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

**434. Unsupported Expenditure on Rentals of produced assets**

1672) The Statement of receipts and payments and as disclosed under Note 7 to the Financial Statements reflects an amount of Kshs.8,597,768 in respect of use of goods and services. This includes expenditure of Kshs.6,021,637,157.90 relating to rentals of produced assets. The amount includes quarterly payments for hire of transport amount of Kshs.3,017,711 and variations for leased managed equipment services amount of Kshs.1,126,359,946 whose payment vouchers were not availed for audit review.

1673) Consequently, the accuracy and validity of use of goods and services balance of Kshs.6,021,637,158 included under use of goods and services could not be confirmed.

**Submission by the Accounting Officer**

1674) The Accounting Officer submitted that it was true that the Statement of receipts and payments includes expenditure of Kshs.6,021,637,157.90 relating to rentals of produced assets. The relevant vouchers have since been provided for audit verification.

**1675) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Unsupported Expenditure on Rentals of produced assets were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1676) Committee Recommendation**

**The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

**435. Un-explained Variance in Transfers to Other Government Units**

1677) The statement of receipts and payments reflects transfers to other government entities of Kshs.85,544,463,723. However, the supporting documents provided for audit reflected transfers of Kshs.85,545,063,711 resulting into unexplained variance of Kshs.599,999. Further, the transfer to other Government entities amount of Kshs.5,544,463,732 included

an amount of Kshs.53,021,332,693 to beneficiaries against which Management was only able to provide confirmations from the beneficiaries of Kshs.38,004,592,237 resulting to an unexplained variance of Kshs.5,016,740,456. Confirmation of receipts by various beneficiary institutions in respect of transfers amount of Kshs.12,351,070,164 were not availed for audit verification.

1678) Consequently, the accuracy, completeness and validity of transfers to other government units of Kshs.15,016,740,456 could not be confirmed.

#### **Submission by the Accounting Officer**

1679) The Accounting Officer submitted that the total transfer to Government entities for 2019/2020 Financial Year amounted to Ksh.85,544,463 as reported in the Financial Statements. It is true that the supporting documents provided for audit reflected transfers of Kshs.85,544,463 resulting in un-explained variance of Kshs.599, 999. The schedule of the Kshs.85,544,463,723 addressing the variance has since been provided for audit review.

1680) The composition of un-explained variance of Kshs.15,016,740,456 as was reported in the Auditor General's report is as analyzed below;

Item	Financial Statements Balance	Schedule balance Kshs.	Variance Kshs.
KEMRI	2,363,139,631	2,951,288,215	(588,148,584)
KEMSA	16,029,919,953	14,194,090,864	1,835,829,089
KMTC	6,730,886,297	4,107,559,152	2,623,329,148
KNH	17,096,043,226	8,765,746,834	8,330,296,392
MTRH	10,801,434,586	7,985,907,172	2,815,436,414
TOTAL	53,021,332,693	38,004,592,237	15,016,740,456

1681) It was true that at the time of audit, confirmation of only Kshs.38,004,592,237 had been provided. However, confirmations of the balance of Kshs.15, 016,740,456 have since been provided for audit review.

1682) Consequently, confirmation of receipts by various beneficiary institutions in respect of transfer amount of Kshs.12, 351,070,164 have been provided for Audit verification.

#### **1683) Committee Observations and Findings**

- (i) The Committee observes the Accounting Officer did not produce all documents at the time of audit which amounts to dereliction of duty;
- (ii) The Committee observed that the explanation and documents subsequently produced by the Accounting Officer with regard to the Un-explained Variance in Transfers to Other Government Units were satisfactory; and
- (iii) The Committee marked the matter as resolved.

#### 1684) **Committee Recommendation**

**The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

#### **436. Acquisition of Assets**

##### **436.1 Unsupported and Excess Expenditure on Construction of Buildings**

1685) The statement of receipts and payments and as disclosed under Note 11 to the financial statements reflects an amount of Kshs.1,265,744,064 in respect of acquisition of assets. This includes expenditure on construction of buildings amount of Kshs.151, 588,886 out of which an amount of Kshs.1,882,794 paid to a contractor was not supported with contract documents and payment vouchers. Further, journal vouchers in support of adjustment made on 30 June, 2020 amounting to Kshs.82,716,028.80 were not availed for audit verification.

1686) In addition, the construction of buildings balance of Kshs.151,588,886 includes Kshs.26,610,826 relating to purchase of one hundred and ninety eight(198)desk top computers, fifty(50)laptops and thirteen(13) black and white printers. However, according to the prevailing market price index at the time, the amount payable was Kshs.19,070,650 resulting into an over payment of Kshs.7,540,176.

1687) In the circumstances, the accuracy, completeness and validity of the amount of Kshs.84,598,825 in respect of acquisition of assets could not be confirmed.

#### **Submission by the Accounting Officer**

1688) The Accounting Officer submitted that it was true that the acquisition of assets balance of Kshs.1,265,744,064 for the year ended 30 June 2020 includes an amount on construction of buildings of Kshs.151,588,886. All the payment vouchers for the Kshs.151, 588,886 incurred in construction of buildings have since been availed for audit review.

1689) The journal adjustments made on 30 June, 2020 for Kshs.82,716,028.80 were in respect of payments made to Vaghjiyani Enterprises Ltd for certificate nos. 7 and 3 for Burns and Pediatric Emergency Centre; and for provision of professional services for electrical and mechanical engineering for the proposed completion of Nanyuki Hospital as a pending bill. The journal vouchers for Kshs.82,716,028.80 have since been provided for audit review.

1690) Further, the ICT equipment in question were procured using Ministry of ICT framework contracts for procurement of such equipment. This follows a government circular Ref No OP/CAB.39/1A of February 23, 2018 directing the MOICT to develop and issue guidelines for framework Agreements and Framework Contracting as required by PPOA Circular No.

6/2010 for purposes of managing price, quantity, quality and standards in the acquisition of ICT equipment and services. Such frameworks are arrived at through a competitive process that factors in various market prevailing dynamics in addition to prices. The MOICT framework agreements used are as follows:

- a. Laptops MOICT/008/2018
- b. Printers MOICT/009/2018
- c. Desktops MOICT/001/2018

**1691) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Acquisition of Assets - Unsupported and Excess Expenditure on Construction of Buildings were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**436.2 Research, Studies, Project Preparation, Design and Supervision**

1692) The statement of receipts and payments as disclosed under Note 11 to the financial statements reflects expenditure on Acquisition of assets amount of Kshs.1,265,744,065. This includes expenditure on research studies, project preparation, design and supervision amount of Kshs.323,169,684. Management did not provide payment vouchers and supporting documents for expenditure of Kshs.80,007,220 for audit verification.

1693) Consequently, the accuracy, completeness and validity of acquisition of assets expenditure of Kshs.80,007,220 for the year ended 30 June 2020 could not be confirmed.

**Submission by the Accounting Officer**

1694) The Accounting Officer submitted that it was true that the statement of receipts and payments includes expenditure on research studies, project preparation, design and supervision of Kshs.323,169,684. The supporting documents and payment vouchers for the expenditure of Kshs.80,007,220 have since been availed for audit review. Copies of the payment vouchers were availed for perusal.

**1695) Committee Observations and Findings**

- (i) The Committee observes the Accounting Officer did not produce all documents at the time of audit which amounts to dereliction of duty;
- (ii) However, the Committee observed that the explanation and documents subsequently produced by the Accounting Officer with regard to the Research, Studies, Project Preparation, Design and Supervision were satisfactory; and
- (iii) The Committee marked the matter as resolved.

**1696) Committee Recommendation**

**The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

#### **Other Matter**

#### **437. Budgetary Controls and Performance**

1697) As reflected in the summary of appropriation: recurrent and development combined, the Ministry's actual receipts amounted to Kshs.106,831,908,804 against budgeted receipts of Kshs.125,644,729,264 resulting into a shortfall; of Kshs.18,812,820,460 or 15%. The Ministry's actual expenditure was limited to the receipts realized.

1698) The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

#### **Submission by the Accounting Officer**

1699) The Accounting Officer submitted that it was true that as reflected in the Summary statements of appropriation recurrent and development combined, the Ministry's actual receipts amounted to Kshs.106,831,908,804 against budgeted receipts of Kshs.125,644,729,264 resulting into a shortfall of Kshs.18, 812,820,460 or 15%. The Ministry's actual expenditure was limited to the receipts realized.

1700) The underfunding was as a result of non-issue of exchequer by the National Treasury and non-receipt of returns by spending units to facilitate capturing of A-I-A for donors.

#### **1701) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Budgetary Controls and Performance were satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **438. Unresolved prior year Audit matters**

1702) In the previous year's audit report, several issues were raised under the report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on effectiveness on Internal Controls, Risk Management and Governance. The issues remained unresolved as at 30 June, 2020 and have been included in Note 21 to the financial statements on Progress on Follow Up of Prior Years' Auditor's Recommendations.

#### **Submission by the Accounting Officer**



1703) The Accounting Officer submitted that this was discussed in the parliamentary Accounts Committee appearance on 30th August 2021. The Ministry is awaiting the PAC Report of 2018/2019.

**1704) Committee Observations and Findings**

The Committee observed that the matter was discussed in the report of financial year 2018/19 and recommendations made thereof.

**439. Pending Bills**

**439.1 Non- Payment of Bills**

1705) As disclosed under Note 20 to the financial statements, pending bills totaling Kshs.41,657,572,631 were not settled during the year but were instead carried forward to financial year 2020/2021. Failure to settle bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

**Submission by the Accounting Officer**

1706) The Accounting Officer submitted that it was true that the Financial Statements reflect pending bills balance of Ksh.41,657,573,232 not settled during the year. The bills were as analyzed below.

Construction of buildings	17,737,152
Supply of goods	43,208,807
Supply of services	41,596,627,273
Totals	41,657,572,631

1707) Bills amounting to Kshs.942,217,384 have since been paid except for bills of Kshs.41,540,287,848 relating to supply of services which constitutes Kshs.40,715,355,848 for Court awards and legal fees; and Kshs.824,932,000 for Partec East Africa Limited.

**1708) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Pending Bills - Non- Payment of Bills matters were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**439.2 Unsupported Pending Bills**

1709) Included in the pending bills balance of Kshs.41,657,572,631 as at 30 June 2020 is an amount of Kshs.80,419,835 in respect of fifteen(15) companies whose copies of original



documents including certificate of incorporation, tax compliance, pin certificate and even confidential business questionnaire were not availed for audit verification. Further, the invoices and delivery notes for the companies provided for audit were computer generated with the same numbers and the local purchase orders raised were not signed.

#### **Submission by the Accounting Officer**

1710) The Accounting Officer submitted that the payment vouchers in question date back to financial year 2014/2015 and a total of eight (8) firms prequalified by the ministry were invited to bid. The firms were evaluated as per the Minutes No MOH/MPC/008/2014-2015 of the Ministerial Procurement Committee meeting held on 24th February 2015 for Quotations No MOH/055/2014-2015, MOH/056/2014-2015 and MOH/057/2014-2015. The bidders were then issued with manual Local Purchase Orders which they used to deliver the goods in the month of June 2015 as indicated in the Delivery Notes. The payments were processed as pending bills in the year 2019/2020 based on the following available documents:

- i. A copy of approved requisition
- ii. Ministerial Procurement Committee Minutes
- iii. Copy of manual Purchase Order
- iv. Delivery Notes
- v. Invoices
- vi. Inspection and Acceptance Certificates
- vii. Counter Receipt Vouchers (Goods Received Note/ S13)

1711) It was true that the signatures on the manual Purchase Orders were not legible since the available orders were carbon copies and the originals raised in the Financial Year 2014-2015 could not be traced. For purposes of processing the bills, system generated Purchase Orders were generated through the IFMIS System and were duly signed by the relevant officers. The Confidential Business Questionnaire, Certificate of Registration and Tax Compliance Certificates are requested during prequalification and quotation stages. The documents could not be traced during processing of payment.

1712) It was true that some of the suppliers used computer-generated invoices and delivery notes with the same numbers. With advancement in technology, most suppliers are moving towards computer generated documents to take advantage of need-based document printing as opposed to traditionally preprinted invoice and delivery books. This in its own is not an illegality/irregularity. The suppliers may also prefer to use the same numbers on the invoice as on the Delivery Notes for ease of tracking their payments. However, the amount, quantities and description of such goods must match the goods/services in the Purchase Order.

#### **1713) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Pending Bills - Unsupported Pending Bills matters were not satisfactory; and
- (ii) The matter remained unresolved.

**1714) Committee recommendations**

**Within three months of adoption of this report, the Auditor General to carry out a forensic Audit on the pending bills of Kshs. 80,419,835 to establish their authenticity and report to Parliament.**

**439.3 Pending Legal Bills and Court Awards**

1715) Analysis of the pending bills as at 30 June, 2020 revealed that out of the total pending bills of Kshs.41,657,572,631, an amount of Kshs.40,715,355,848 or 98% of the total bills related to court awards and legal fees. Further, out of the total court awards and legal fees of Ksh.40,715,355,848, a balance of Ksh.33,089,728,834, or 81% of the total court awards and legal fees was in respect to claims by two (2) suppliers.

**Submission by the Accounting Officer**

1716) The Accounting Officer submitted that the cause of many of the cases and arbitral claims leading to the high Pending Legal Bills under Breach of Contracts is attributable to non-payment and/or delayed payment of contractors and suppliers at the Ministry. The court has discretion under Section 26 of the Civil Procedure Act to award the contractors monthly-compounded interest of the claims and interest on loss of profits at court rates from the date of filing of the suit until payment in full. Therefore, court cases and arbitral awards continue to accrue interest. The Pending Legal Bills are historical and Hon. Attorney General has advised we negotiate with the plaintiffs in order to stop interest accrual and settle. The bills are still pending due to budgetary constraints.

**1717) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Pending Bills - Pending Legal Bills and Court Awards matters were not satisfactory; and
- (ii) The matter remained resolved.

**439.4 Awards Relating to Goods Supplied in 1996**

1718) On 31 July, 2000 a supplier sued the Ministry for failure to pay for goods supplied in 1996 and for loss of profit on cancellation of contract. The cancelled contract which the supplier used to sue for claim of loss of profit was however, not availed for audit verification.

1719) Information availed indicated that goods supplied amounted to Kshs.57,356,951 while the claim for loss amounted to Kshs.20,410,831 totaling to Kshs.77,766,832. On 9 October, 2015, the Court awarded the supplier Kshs.1,862,302,792 for pending amount, outstanding accounts and for lost profits. This comprised of the principal amount of Kshs.77,766,832, legal fees of Kshs.26,602,660 and compounded interest of 2% per month from 31 May, 2000 running to the date of Judgment.

1720) This amount had, however, accumulated to Kshs.3,139,492,149 by 2017. Subsequently, the Ministry entered into negotiations with the supplier and the amount was revised downwards to Kshs.1,751,416,684, but continued to attract compounded interest at the rate of 2% per month. On 30 June, 2020, the Ministry paid the supplier Kshs.751,416,684 through the Attorney General, leaving a balance of Kshs.1 billion which continued to attract compounded interest at 2% per month.

1721) It was not clear why the Ministry did not appeal the ruling considering the effect the award was to have on the Ministry's budget and the precedent created which is likely to result in similar action by other suppliers. This was also shared by the solicitor General in his letter Ref: MOH/ADM/LEG/EQUIP/55/2017/35 dated 30 October, 2019 addressed to the Principal Secretary, in which he expressed reservations on why the Ministry did not appeal or have a stay order, negotiate ex parte and seek orders stopping the interest from accruing further.

#### **Submission by the Accounting Officer**

1722) The Accounting Officer submitted that the Hon. Attorney General advised that there are limited judicial options for the resolution of the matter and further delay in settling the matter would result in interest accrual and expose the Government to greater loss of public funds. The Ministry is committed to settling all pending legal bills/arbitral awards including the matter of Vulcan that has a balance of Kshs.1 billion. However, we are not able settle the decretal amount due to budgetary constraints.

#### **1723) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Pending Bills - Awards Relating to Goods Supplied in 1996 matters were not satisfactory; and
- (ii) The matter remained unresolved.

#### **1724) Committee Recommendations**

**Within three months of adoption of this report, the Accounting Officer to liaise with Attorney General to consider whether the award can be appealed as a matter of public interest.**

### **439.5 Court Awards Relating to Supply of Insecticides and Other Hospital Supplies**

1725) The Ministry entered into a contract for supply of insecticides, malaria control equipment, drugs and protective clothing at a contract price of Kshs.1, 157,846,150. The contract was to be implemented from 14 July, 1996 to 30 June, 1997. However, the Ministry failed to pay the supplier where upon the supplier sued for breach of contract. Available information indicates that the court awarded the supplier Kshs.1, 862,302,792 plus compounded interest at 18% per annum from 1st March, 1999 to 31 January, 2020 amounting to Kshs.80,522,564,880. However, upon negotiations out of court, the award was revised to Kshs.15,250,000,000 resulting to an escalation of Kshs.13,387,697,208 from initial award of Kshs.1, 862,302,792.

#### **Submission by the Accounting Officer**

1726) The Accounting Officer submitted that NAIROBI J.R APPLICATION NO. 55 OF 2017 IN NAIROBI HCC NO. 159 OF 2006 (formerly HCCC. NO. 1459 OF 1999) EQUIP AGENCIES vs THE HON. ATTORNEY GENERAL (on behalf of the Ministry of Health). Equip Agencies Limited entered into a contract with the Ministry of Health on behalf of the Government for the supply of antimalarial drugs and equipment to the Government on an “as and when required” basis on 14th July, 1995 for a contract period expiring on 30th June, 1997. Equip Agencies Limited alleged that at the request of the Ministry, it supplied and delivered various anti-malarial equipment and drugs whose principal amount was Kshs.1,157,846,150.00/- which amount the Ministry failed to settle necessitating them to institute a suit against the Ministry of Health.

1727) The Attorney General filed Defence to the suit on behalf of the Ministry of Health on 25th November, 1999 wherein it denied all the allegations in the Plaintiff. The Plaintiff (Equip Agencies) soon thereafter moved the Honorable Court for orders that the Defence be struck out on the basis that the same did not raise any triable issues vide an application dated 19th July, 2000.

1728) The Court delivered its Ruling to the said application on 15th December, 2000 where the Defence filed by the Attorney General was struck out as prayed and judgment entered in favor of the Plaintiff as prayed in the Plaintiff. The Plaintiff was also awarded costs of the application. The Office of the Attorney General successfully appealed against the said Ruling at the Court of Appeal and the Court ordered for a retrial. Retrial proceedings commenced in the year 2006. Judgment was delivered on 2nd December, 2011 where Kshs.1,862,302,792.50 was awarded to the Plaintiff plus compound interest at 18% per annum and costs.

1729) The Plaintiff's Advocate wrote to the Attorney General forwarding a Certificate of Order against the Government dated 6th December, 2016 for Kshs.34,290,484,620.70/-. The Attorney General subsequently wrote an advisory to the Ministry of Health to settle that amount. Consequently, the Plaintiff instituted Judicial Review proceedings seeking

orders of mandamus to compel the Principal Secretary, Ministry of Health to settle the decretal amount in NAIROBI JR NO. 55 OF 2017.

1730) The Judicial review proceedings were defended. However, the Court delivered judgment in favour of the Plaintiff on 18th December, 2017 granting an order of Mandamus compelling the Principal Secretary, Ministry of Health to pay the decretal sum of Kshs.1,862,302,792.00/- plus interest compounded at 18% per annum from 1st March, 1999 together with taxed costs of the suit in the sum of Kshs.446,073,972.70/-. The Hon. Attorney General advised that there are limited judicial options for the resolution of the matter and further delay in settling the matter would result in interest accrual and expose the Government to greater loss of public funds.

1731) A Joint Negotiation Committee comprising of representatives from Ministry of Health, the Office of Attorney General & Department of Justice and National Treasury & Planning was constituted. The Joint Negotiating Committee and the Plaintiff held a meeting on 14th February, 2020 at the Office of Attorney General & Department of Justice Boardroom. The Plaintiff proposal was settle the judgment at Kshs.15.25Billion plus costs amounting Kshs.446,073,972.70.

1732) **Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Pending Bills - Court Awards Relating to Supply of Insecticides and Other Hospital Supplies were not satisfactory; and
- (ii) The matter remained unresolved.

1733) **Committee Recommendations**

**Within three months of adoption of this report, the Accounting Officer to liaise with Attorney General to consider whether the award can be appealed as a matter of public interest.**

#### **439.6 Accumulated Interest Due to Delayed Payments**

1734) The Ministry entered into various contracts with the supplier for supply of hemoglobin scale books and throat swabs, insulin, surgical dressing and sutures, darrow's solution and disposable needles at a cost of Euros, 1,776,907.70 equivalent to Kshs.196, 881,373 during the financial years 1992/1993. The agreement provided that payment was to be made strictly within 30 days from the date of the invoice or delivery of the goods and any delay in payment would attract interest at 1.55 or 2% per month on outstanding amount. As at 30 June, 2020, the claim by the supplier stood at Kshs.17,839,728,834 which translates to an increase of Kshs.17,642,847,461 from the initial amount of Kshs.196,881,373.

1735) In the circumstances, the completeness, validity and value for money on the reported pending bills balance of Kshs.41,659,573,232 as at 30 June,2020 could not be confirmed.

#### **Submission by the Accounting Officer**

1736) The Accounting Officer submitted that the matter is pending before court. The Hon. Attorney General advised that we settle the matter ex parte taking into account the colossal amount claimed by the Plaintiff in the suit vis-a-vis the substantial saving to be made owing to the concessions offered by the Plaintiff. The Ministry have not been able to. Legal documents were availed to that effect.

1737) The Ministry has not been able to pay the Kshs.15.25 Billion due to budgetary constraints. However, I call upon the committee to intervene in ensuring that funds are allocated to settle the bills.

#### **1738) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Pending Bills - Accumulated Interest Due to Delayed Payments were not satisfactory; and
- (ii) The matter remained unresolved.

#### **1739) Committee Recommendations**

**Within three months of adoption of this report, the Accounting Officer to liaise with Attorney General to consider whether the award can be appealed as a matter of public interest.**

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

#### **Basis for Conclusion**

#### **440. Staff Payroll and Human Resource**

1740) A review of staff payrolls for the Financial Year 2019/2020 revealed that, identity card numbers of ten (10) employees and KRA tax PINs of seventeen (17) employees were omitted from the payrolls. Further, two (2) employees shared the same bank account number.

#### **Submission by the Accounting Officer**

1741) The Accounting Officer submitted that it was true that there was a total of seventeen (17) employees with either missing identity numbers or KRA PIN during the period under review. The employees were on discipline and had their salaries stopped and thus no changes could be effected in the system on their record until their cases are concluded.



1742) Additionally, IPPD system was rolled out in the Ministry of Health in the year 2005 and to generate a UPN number, a copy of ID and KRA pin were a requirement. Therefore, the numbers that were rolled out before then may have been generated without ID No and/or KRA pin. Currently, generation of a UPN number requires a KRA pin and ID number. This anomaly cannot therefore recur. The two employees appearing to share account numbers are members of Hazina Sacco (FOSA). The account in question; 001120000553601, is a general account for Hazina Fosa, to which money is remitted before being credited to individual accounts.

1743) When the officers requested their salaries to be paid through the FOSA, they brought the general account instead of their individual accounts. Corrective measures have since been taken to ensure that the officers' salaries are remitted to their individual accounts at the Sacco level. The individual accounts for the two employees are as indicated below:

- Eunice Muthoni – A/c no: 1991-1-504-007986
- Stephen R. Cheruiyot – A/c no: 1991-1-504-014632

1744) **Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Staff Payroll and Human Resource were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**441. Employees in Service beyond the Retirement Age**

1745) A review of the Human Resource records revealed that there were thirty (30) employees who had attained the mandatory retirement age of sixty (60) years but were still in the staff payroll. This is contrary to Section D.21 of the Public Service Commission-Human Resource Policies and Procedures Manual of May, 2016 on mandatory retirement at the age of 60 years.

1746) Consequently, the Management was in breach of the law.

**Submission by the Accounting Officer**

1747) The Accounting Officer submitted that it was true that thirty (30) employees who had attained the mandatory retirement age of sixty (60) years were still in the payroll in 2019/2020 Financial Year.

1748) These are employees who are either on contract, or are Persons with Disability (PWDs). Persons with disabilities retire at 65 years of age; and those on contractual terms of service, can serve beyond 60 years on the basis of rare skills in their possession.



1749) **Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Employees in Service beyond the Retirement Age were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**442. Non-compliance with the One Third of Basic Salary Rule**

1750) Analysis of the staff payroll also revealed that forty- eight (48) employees were earning less than one third of their basic salaries. This is contrary to section C.1 (3) of the public Service Commission –HR Policies and procedures Manual of May 2016. Consequently, the Management was in breach of the law.

**Submission by the Accounting Officer**

1751) The Accounting Officer submitted that it was true that forty- eight (48) employees were earning less than one third of their basic salaries. As per the June 2020 Payroll, only 10 officers were earning less than a third of their basic salary. Some officers were being recovered imprests; while some were on interdiction, among other reasons provided to the Auditors for verification.

1752) In conclusion, we appreciate the issues raised in the audit report on the Financial Statements for the year ended 30th June 2020 and request that the recommendations emanating from examination of the same will be taken into account in compliance with all the provisions of the Public Finance Management Act.

1753) **Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Non-compliance with the One Third of Basic Salary Rule were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

1754) **Conclusion**

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

**DONOR FUNDED PROJECTS**

**GLOBAL FUND – EXPANDING HIV PREVENTION, CARE AND TREATMENT SERVICES TO REACH UNIVERSAL ACCESS (80% COVERAGE) TO REDUCE**

**BOTH INCIDENCE AND ASSOCIATED IMPACT PROGRAM (GRANT NO. KEN-H-MOF/KEN-H-TNT NO.853)**

**REPORT ON THE FINANCIAL STATEMENTS**

**Basis for Qualified Opinion**

**444. Bank Balances**

1755) The statement of financial assets reflects a bank balance of Kshs.11, 936,241 as at 30 June, 2020. A review of the Project's bank statement revealed that deposits totaling to Kshs.11,791,000 were made into the account on diverse dates during the year. Explanation from Management indicates that the deposits were from the Clinton Health Access Initiative (CHAI). This is in contravention to the Global Fund Grant Regulations (2014) clause 3.4(d) which provides that the grant funds should not be co-mingled with other funds unless agreed to in writing by the Global Fund. No evidence of approval from Global Fund was availed for audit verification.

1756) In addition, the bank reconciliation statement for June, 2020 reflects receipts in bank statement not in cash book totaling to Kshs.11, 791,000 and payments in bank statement not in cash book totaling to Kshs.13, 338,430 whose clearance status was not availed for audit verification.

1757) Further, and as reported in the previous year, the bank's project reconciliation statement for the month of June, 2018 reflected receipts in cash book not captured in the bank amounting to Kshs.1, 397,060. However, a review of the bank statements had revealed that the cheques amounting to Kshs.1,397,060 had been cleared in May, 2018.

1758) In the circumstances, the accuracy and validity of cash and bank balance of Kshs.11,936,241 reflected in the statement of financial assets as at 30 June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

1759) The Accounting Officer submitted that it was true that funds were co-mingled in NFM 1 account. It is regrettable and going forward, measures have been instituted to ensure no co-mingling of funds. The clearance status of the receipts in bank statement not in cash book of Kshs.11,791,000 as well as payments in bank statement not in cash book of Kshs.13,338,430 have since been provided for audit review.

1760) A payment of Kshs.2,073,240.00 department voucher no 1056 of which Kshs.1,397,060.00 was a refund from NFM2 account to NFM1 account for purposes of reconciliation. The indicated payment was cleared in the bank on 27th June 2019 and not

May 2018 as indicated in the report. The bank statement for the period June 2019 was availed to the Committee for perusal.

**1761) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Bank Balances were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

**1762) Conclusion**

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

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

**Basis for Conclusion**

**446. Inability to Utilize the Grant within the Project Period**

1763) As disclosed under the funding summary section of the annual report and financial statements, the Project was for a duration of two (2) years, i.e. from 1 October, 2015 to 31 December, 2017 with total available funding of Kshs.3,801,642,328 (USD 43,200,481). A review of the annual report and financial statements for the year ended 30 June, 2020, however reflects undrawn balances of Kshs.1,016,799,046 (USD 9,825,170) and cash and cash equivalents balance of Kshs.11,936,241 as at 30 June, 2020 which is likely to be refunded to the Donor as no Project extension is in place. Although Management has indicated that disbursements of funds to counties remained a challenge, there was need to expand the area of coverage so as to utilize the grant and to maximize the benefits. In the circumstances, the primary objective of reduction of HIV AIDS new infections by 75% and related mortality rate by 25% and value for money for the program may not have been achieved in light of undrawn and unutilized funds.

**Submission by the Accounting Officer**

1764) The Accounting Officer submitted that the NFM1 grant was USD 259,463,767.77 with an expenditure of USD 244,627,865.54 representing an absorption rate of 94%. The prolonged health care workers' strike in Dec 2016 to April 2017 disrupted implementation of NFM 1 grant.

**1765) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Inability to Utilize the Grant within the Project Period were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**EAST AFRICA PUBLIC HEALTH LABORATORY NETWORKING PROJECT  
(EAPHLN) CREDIT NO.5616-KE**

**REPORT ON THE FINANCIAL STATEMENTS**

**1766) Unqualified Opinion**

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

**448. Budgetary Control and Performance**

1767) The statement of comparative budget and actual amounts reflects approved receipts budget and actual on comparable basis of Kshs.545,617,042 and Kshs.448,510,623 respectively resulting to an under-collection of Kshs.97,106,419. Similarly, the project expended an amount of Kshs.751,103,948 against an approved budget of Kshs.466,088,888 resulting to an under expenditure of Kshs.265,014.610 or 32% of the budget. Management has not explained why the project had budgeted for a deficit budget where the anticipated payments had exceeded the receipts by Kshs.205,486,906. The under expenditure is indicative that some planned activities and programs were not undertaken during the year.

1768) Management has attributed the low absorption to the transfer of funds to a Referral Hospital in Eldoret and at Marsabit for administration from the laboratories.

**Submission by the Accounting Officer**

1769) The Accounting Officer submitted that it was true that statement of Comparative budget and actual amounts reflects approved receipts budget and actual on comparable basis of KShs.545,617,042 and KShs.448,510,623 respectively resulting to an under collection of Kshs.97,106,419. The under collection is mainly due to non-release of funds by the World Bank.

1770) The project expended an amount of KShs.751,103,948 against an approved budget of Kshs.466,088,888 resulting to under expenditure of Kshs.265,014,610 or 32% of the budget. This was as a result of a number of planned activities and procurements that were not completed before end of the year under review but were later completed during the FY 2020/2021.

1771) **Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Budgetary Control and Performance were satisfactory; and
- (ii) The Committee marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1772) **Conclusion**

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROL, RISK MANAGEMENT AND GOVERNANCE

1773) **Conclusion**

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

**KENYA HEALTH SECTOR SUPPORT (EMMS) PROJECT (IDA CREDIT NO.4771 AND NO. 50340 – KE)**

REPORT ON THE FINANCIAL STATEMENTS

**Basis for Qualified Opinion**

**451. Cash and Cash Equivalents**

1774) The statement of financial assets and liabilities reflects a nil bank balance as at 30 June, 2020. However, a review of the financial statements indicates that the project had an opening bank balance of Kshs.135,997,035 as at 1 July, 2019, out of which an amount of Kshs.133,617,037 is indicated as having been surrendered to The National Treasury during the year as disclosed in Note 8.10 to the financial statements. However, no documentary evidence including bank statements, bank confirmation certificate or cash book was availed for audit verification.

1775) In the circumstances, the accuracy of the cash and cash equivalents nil balance as at 30 June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

1776) The Accounting Officer submitted that it was true that the project had an opening cash balance of Kshs.135,997,035 as at 1 July 2019. The EMMS Component of KHSSP was a basket consisting of World Bank, Danida and Gok funds. During the Financial Year 2019/20, a total of Kshs.16,217,383 was refunded back to the Royal Danish Embassy being the unutilized Danida balance in the basket. The balance of Kshs.117,399,653 was recalled by The National Treasury and the bank account at Central Bank closed. Copy of the bank statement and payment voucher to the Royal Danish Embassy was availed for perusal by the Committee.

**1777) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Cash and Cash Equivalents were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**452. Receivables**

1778) The Statement of financial assets and liabilities reflect a receivables balance of Kshs.2,380,000 as at 30 June 2020. This balance was previously reflected as a reconciling item in the bank reconciliation statement dating back to July 2016. Additional information however, indicates that this balance relates to a double payment that was made to a company and for which no refund had been effected as at the time of audit in November 2020.

1779) In the circumstances, the accuracy and full recoverability of receivables balance of Kshs.2,380,000 could not be confirmed.

**Submission by the Accounting Officer**

1780) The Accounting Officer submitted that it was true that there was a double payment made to a supplier by the name Hill Converters Ltd. This happened when Payment System was being transitioned from G-Pay to Internet Banking which affected many payments. Other suppliers who were double paid during this transition period refunded the extra amounts, but this specific supplier refused to refund, stating that the payment took long to be processed and that he is recovering interest on the same. The matter was handed over to the Legal Office to commence legal action against the supplier with a view to recovering the funds. Copy of letter to the Legal department was availed for perusal by the Committee.

**1781) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Receivables were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1782) Committee Recommendations**

**Within three months of adoption of this report, the Accounting Officer to report to Parliament on the progress of the legal process initiated to recover the amount double paid.**

#### **453. Unresolved Prior Year Matter-Transfer to Other Government Entities**

1783) As disclosed in Note 8.7 to the financial statements, the statement of receipts and payments for 2018/2019 financial year reflected transfers to other government entities of Kshs.527,102,564 which included a transfer of Kshs.73,908,356 to International Development Association (IDA) in respect of ineligible funds identified under the Project during implementation period termed as long outstanding un-documented expenditures caused by foreign exchange losses. The Project Management did not avail supporting documents and explanations for the payment by way of clarifications and information on how the amount was tabulated and why such losses could not have been avoided. The matter remained outstanding as at 30 June, 2020.

#### **Submission by the Accounting Officer**

1784) The Accounting Officer submitted that it was true that a transfer of Kshs.73,908,356 was made to IDA in respect of ineligible funds identified and termed as long outstanding undocumented expenditures due to foreign exchange losses. The exchange loss was due to the difference in the Interim Financial Reports (IFRs) which were being prepared and submitted to World Bank on a quarterly basis using a dollar rate of 87 as per the Financing Agreement and not the Central Bank rates (which ranged between 94 to 103) from Project inception to closure. In view of this, the World Bank requested for a refund of an amount of Kshs.81,545,999.61 as the outstanding balance. Part of this money was paid under a different component. The payment supporting documents have since been availed for audit review. Payment voucher and letters from World Bank demanding the Payments were availed for perusal by the Committee.

#### **1785) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Unresolved Prior Year Matter-Transfer to Other Government Entities were satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **454. Late Submission of Financial Statements**

1786) During the year under review, the Project Management submitted the financial statements to the Auditor-General on 19 October, 2020, nineteen (19) days after the statutory date of 30 September, 2020. This is contrary to Section 47(1) of the Public Audit Act, 2015 which requires that financial statements should be submitted to the Auditor-General within three months after the end of the fiscal year to which the accounts relate.



1787) Management was therefore in breach of the law.

#### **Submission by the Accounting Officer**

1788) The Accounting Officer submitted that it was true that the reports were submitted late contrary to the Public Audit Act. This happened because the Project Manager was out of the country for official duties and so could not sign the financial statements in time. This is regretted and will not be repeated.

#### **1789) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Late Submission of Financial Statements were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

#### **1790) Conclusion**

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

### **HEALTH SECTOR SUPPORT PROJECT – SWAP SECRETARIAT (IDA CR. NO. 4771-KE AND CR. NO.5367-KE)**

### **REPORT ON THE FINANCIAL STATEMENTS.**

#### **1791) Unqualified Opinion**

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

#### **Emphasis of Matter**

#### **457. Budgetary Control and Performance**

1792) The statement of comparative budget and actual amounts for the period ended 30 June, 2020 reflects actual receipts of Kshs.289,140,119 being miscellaneous receipts on refunds from unutilized KEMSA disbursements during the year 2017/2018 against a NIL budget. Further, the project incurred actual expenditure of Kshs.2,040 on bank charges resulting in underutilization of Kshs.289,138,079 or 99.9% of the actual receipts. There have been no planned activities since the project closure which was earmarked to close on 30 June, 2018.

No explanation was provided on why the Project had not been closed despite there being no activities after the Project closure date.

#### **Submission by the Accounting Officer**

1793) The Accounting Officer submitted that it was true that an amount of Kshs.289,140,119 was received back from KEMSA after project closure. The amount consists of balances from several disbursements made to KEMSA during project life that were not fully utilized. The bank charges were also incurred since the funds were held in the bank and the bank had to charge their fees.

1794) The project has not been closed fully because of some pending issues in relation to funds that were disbursed to other implementing agencies whereby the World Bank has requested for an audit to be undertaken to verify if there were any unutilized funds from the agencies for onward transmission to the World Bank. A breakdown of the funds returned was availed for verification.

#### **1795) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Budgetary Control and Performance were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

#### **1796) Conclusion**

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

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROL, RISK MANAGEMENT AND GOVERNANCE**

#### **1797) Conclusion**

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

### **EAST AFRICA'S CENTRE OF EXCELLENCE FOR SKILLS AND TERTIARY EDUCATION IN BIOMEDICAL SCIENCES – PHASE 1 (LOAN NO.2100150031997) PROJECT**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **1798) Unqualified Opinion**

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

### **Other Matter**

#### **461. Budgetary Control and Performance**

1799) The statement of comparative budget and actual amounts reflects an approved budget and actual receipts on comparable basis of Kshs.482,000,000 and Kshs.299,397,713 respectively, thus under-funding the budget by Kshs.182,602,287 or 38% of the budgeted receipts. Similarly, the Project utilized Kshs.304,337,413 or 63% of the approved budget of Kshs.482,000,000 resulting into an under-expenditure of Kshs.177,662,587 or 37% of the budget.

1800) Management has attributed the under-expenditure to delays in the approval of hiring of personnel at the Project Coordinating Unit, training of students, procurement of equipment and Covid-19 related mitigation measures.

#### **Submission by the Accounting Officer**

1801) The Accounting Officer submitted that it was true that the statement of comparative budget and actual amounts reflects an approved budget and actual receipts on comparable basis of Kshs.482,000,000 and Kshs.299,397,713 respectively, thus under funding the budget by Kshs.182,602,287 or 38% of the budgeted receipts. Similarly, the Project utilized an amount of Kshs.304,337,413 or 63% of the approved budget of Kshs.482,000,000 resulting into an under-expenditure of Kshs.177,662,587 or 37% of the budget.

1802) The under-expenditure was due to delays in the approval of hiring of personnel at the Project Coordinating Unit (PCU), delayed MHRMAC approval for training of students, as well as delay in getting approval for procurement of equipment. The expenditure has increased as result of the following:

1. The project has now hired a project manager who reported on 2<sup>nd</sup> May 2021.
2. The project has trained 288 health workers from July 2019 to date.
3. Procurement of Batch I Equipment is completed and we have embarked on modalities of procuring Batch II Equipment.
4. Construction of East Africa's Kidney Institute Complex commenced on 1<sup>st</sup> April 2020 and has progressed well having raised 12 interim certificates of which 11 are paid totaling to KSh.800,558,425.00 net of retention. Appointment letter for the Project Manager, copies of interim certificates for EAKI Complex and List of the 96 trained health workers were availed for perusal.

### 1803) **Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Budgetary Control and Performance were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

### **Basis for Conclusion**

#### **462. Delay in Project Implementation**

1804) As reported in the previous year, Section 3.0.1 of the financing agreement states that the Borrower shall repay the principal of the loan over a period of thirty-five (35) years, after a five (5) years grace period commencing from the date of signing the agreement. The Project commencement date was 17 December, 2014 with a projected end date of 31 December, 2019. A review of the status as at 30 June, 2020 revealed that an extension was granted for the Project to end on 31 December, 2021. However, Project monthly progress report of June, 2020 indicates that the tender for construction works of East Africa Kidney Institute was signed on 18 July, 2019 and possession of site by the contractor was on 28 August, 2019. On the other hand, construction works commenced on 27 April, 2020 and had only achieved 7% completion despite time lapse of 79% as at 30 June, 2020. Clearly, the project is behind schedule and the delays have adversely affected the project implementation and related activities.

#### **Submission by the Accounting Officer**

1805) The Accounting Officer submitted that the major milestone was marked by commencement of construction works in April 2020 and delivery of Batch I equipment in February 2020. These two aspects take the biggest chunk of the budget (Kshs.1,958,486,755 or 59%). Commencement of the construction works and procurement of Batch I equipment has improved the project performance. So far, Kshs.1,562,656,658 or 43% of the budget has been disbursed and civil works at 48% completion level. The process of tender to procure Batch II equipment to be fitted in the complex is at an advanced stage. The management has also moved to mitigate delays by approving 24 hours work schedule for the consultant including obtaining the requisite NEMA approvals for the same. Copies of the no objection letter for Projection extension to 31st December, 2022, NEMA approval for extension of working hours to 24 hours and Progress reports for the civil works as at 31st October 2021 were availed for perusal by the Committee.

### 1806) **Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Delay in Project Implementation were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

### 1807) **Conclusion**

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

## GLOBAL FUND TUBERCULOSIS GRANT PROGRAMME (GRANT NO.KEN-T-TNT-854 AND KEN-T-TNT-1548)

### REPORT ON THE FINANCIAL STATEMENTS

### 1808) **Unqualified Opinion**

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

### **Other Matter**

### **465. Budgetary Control and Performance**

1809) The statement of comparative budget and actual amounts reflects budgeted receipts totalling Kshs.859,847,389 from the External Development Partners and actual receipts on comparable basis of Kshs.421,825,238 resulting to a shortfall of Kshs.438,022,151 or 51% of the budgeted receipts. Similarly, Management had budgeted to spend Kshs.859,847,389 but only Kshs.506,478,971 or 59% was actually expended. The under-utilization of funds implies that the Project may not be achieving its planned goals and objectives.

### **Submission by the Accounting Officer**

1810) The Accounting Officer submitted as follows:

### **Receipts**

1811) The opening cash balance for the financial year 2019/20 was Kshs.424,552,261. This balance forms part of the budget provision for the year and only the difference is disbursed to the program from Global Fund. In the year under review the Kshs.421,825,238 is what was disbursed by Global Fund.

1812) Consequently, the total cash available for the project was Kshs.846,377,499 or 98% of the budgeted receipts for the financial year 2019/2020.

## **Expenditure**

1813) In the financial year 2019/2020, the Project spent Kshs.506,478,971 or 59% absorption rate of funds. The under-utilization of funds is majorly attributed to the COVID-19 pandemic that disrupted implementation of program activities for the months of March – June 2020.

1814) However, adequate risk mitigation measures were put in place and the project achieved some of the targets for the year under review whereby the treatment success rate achieved was 905 against a target of 83% and 94% case notification rate.

1815) The Ministry carried forward and accelerated the implementation of the targets planned for financial year under audit review in the subsequent financial year 2020/21. Audit report on the Financial Assets was availed for perusal.

### **1816) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Budgetary Control and Performance were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

### **Basis for Conclusion**

#### **466. Failure to Recover Long Outstanding Imprests**

1817) As previously reported, the statement of financial assets reflects accounts receivable-imprest and advances balance of Kshs.3,164,169 as at 30 June, 2020. However, and as disclosed under Note 9.10 to the financial statements, the total imprest and advances of Kshs.3,164,169 some dating back to 2012/2013 financial year were overdue as at 30 June, 2020. This is contrary to Section 93(5) of the Public Finance Management Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station. Further, Section 93(6) provides that in the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank rate.

1818) Consequently, Management is therefore in breach of the law.

### **Submission by the Accounting Officer**

1819) The Accounting Officer submitted that the Ministry has initiated recovery measures for the outstanding imprest of Kshs.2,520,400 through the Attorney General's office since the affected officers are no longer in Government. Section 69 of the Public Finance Management Act 2012 states as follows:

*'An accounting officer for a national government entity may write off any loss not exceeding a prescribed amount, and in circumstances prescribed by regulations.'*

1820) The outstanding Kshs.784,650 advances to defunct provincial administration for BCG Vaccines; the Ministry has confirmed the status of the bank accounts and is in the process of closing them. Analysis of the outstanding amount of Kshs.3,305,050 was shown as follows:

- Schedule for the outstanding imprests of Kshs.3,305,050
- Letter for recovery of the outstanding amounts of Kshs.2,520,400
- Bank statements and certificates of bank balances to the KEPI Accounts.

**1821) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Failure to Recover Long Outstanding Imprests were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

**1822) Conclusion**

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

**GLOBAL FUND - MALARIA ROUND 10 PROJECT GRANT NO. KEN-011-G13-M AND NO. KEN-M-TNT-1546**

**REPORT ON THE FINANCIAL STATEMENTS**

**1823) Unqualified Opinion**

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

**Other Matter**

**469. Budgetary Control and Performance**



1824) The statement of comparative budget and actual amounts reveals that the Project had budgeted receipts totaling Kshs.754,577,929 from the External Development Partners, but actual receipts amounted to Kshs.719,446,924, resulting to a shortfall of Kshs.35,131,005 or 5% of the budgeted receipts. Similarly, the Project was budgeted to spend an amount of Kshs.754,577,929 but only expended Kshs.391,516,546 or 52% of the approved budget. Management has attributed the under absorption to slow uptake of activities occasioned by delayed Exchequer releases coupled with the transfer of officers from the project and the effect of the COVID 19 pandemic.

1825) The under-utilization of funds may lead to failure by the Project to achieve its planned goals and objectives.

#### **Submission by the Accounting Officer**

1826) The Accounting Officer submitted that the Malaria programme received funding from the global fund to support overall malaria control efforts as guided by the Kenya Malaria Strategy 2019 - 2023. One of the key activities funded in the financial year 2019/2020 was for the facilitation of distribution of Long-lasting Nets to the communities in malaria transmission areas across the country.

1827) The distribution was scheduled to take place from March 2020. The activity was deferred as a result of the emergence of Covid-19 in Kenya. As a result, the programme was required to develop a revised distribution mechanism that was aligned to Covid19 mitigation measures put into place by the Ministry of Health. The amended distribution plan and schedule was completed and approved by the Global Fund.

#### **1828) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Budgetary Control and Performance were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

#### **1829) Conclusion**

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

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

#### **1830) Conclusion**

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

## **HEALTH SECTOR SUPPORT PROJECT - HEALTH SECTOR SERVICES FUND (GRANT NO.4771-KE AND TF-16027)**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

##### **472. Unsupported Bank Balances**

1831) As had been reported in the previous year and as disclosed in Note 8.11 B to the financial statements, the statement of financial assets and liabilities reflects bank balances of Kshs.659,122,494 as at 30 June 2020. However, the management did not avail supporting documents by way of bank confirmation certificates, bank reconciliation statements and cash books to account for an amount of Kshs.657,875,266 which is indicated as being held in forty-seven (47) counties. Further, a review of the audit carried out by the Independent Integrated Fiduciary Review Agent (IIFRA) indicated that supporting documents for a total of Kshs.518,080,255 was availed resulting to unsupported cash balance of Kshs.139,795,011 from twelve (12) counties. However, no explanation has been given for failing to avail these documents for audit review. In addition, Management has not adjusted the balances in the books of accounts.

1832) Consequently, the validity, completeness and accuracy of bank balances of Kshs.659,122,494 as at 30 June 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

1833) The Accounting Officer submitted that it was true that documents for unsupported cash balance amounting to Kshs.139,795,011 had not been availed and that the balances had not been adjusted in the books of accounts. The anomaly dates back to 7 years ago when disbursements to Health Facilities in the 47 Counties were treated as expenditure and at the same time the Health Facilities bank balances reported in the books of accounts.

1834) It has since been established that there are no bank balances in the facilities and some accounts have also been closed. Accounts have been restated from FY 2014/15 to date in the current Financial Year correcting the error. Bank statements, Certificates of Bank Balances and Cash Book Extracts availed for verification.

#### **1835) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Unsupported Bank Balances were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

### 1836) **Conclusion**

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

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

### 1837) **Conclusion**

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

## SUPPORT OF THE HEALTH FINANCING STRATEGY - OUTPUT BASED APPROACH (OBA) PROGRAMME (CREDIT NO. 201065853)

## REPORT ON THE FINANCIAL STATEMENTS

### **Basis for Qualified Opinion**

### **475. Non-Compliance with International Public Sector Accounting Standards (IPSAS) No.1**

1838) As disclosed at Note 8.5 to the financial statements, the use of goods and services balance of negative Kshs.577,795 for the year ended 30 June, 2020 is net of foreign exchange gain of Kshs.586,195 attributed to the Project's Euro account No. 22120161840700 held at the Co-operative Bank of Kenya. The exchange gain was offset against expenses contrary to paragraph 48 of IPSAS No.1 which states that assets and liabilities, and revenue and expenses, shall not be offset unless required or permitted by an IPSAS.

1839) In the circumstances, the financial statement may not present a true and fair view of the operations of the project activities during the year under review.

### **Submission by the Accounting Officer**

1840) The Accounting Officer submitted that the project financial statements were prepared following guidelines from the National Treasury and public sector accounting standards board (IPSASB) through issuance of templates for preparation of financial statements to all MDAs, projects, SAGAs, County Governments and parastatals. The 2019/2020 financial

statements were prepared using the 2018/2019 project's templates (attached) which allowed for such net offs.

1841) The project has adjusted this presentation in the 2020/2021 financial statements using the 2020/2021 project template which recognizes foreign exchange gain as miscellaneous receipts. The 2019/20 template extract and 2020/2021 template extract were availed for perusal.

**1842) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Non-Compliance with International Public Sector Accounting Standards (IPSAS) No.1 were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**476. Discrepancy in Project Timelines**

1843) As reported in the previous year's audit, the Programme was officially scheduled to end on 30 October, 2017 while the Micro Health Project which is operating under the Programme was scheduled to end on 1 October, 2019 with the final report expected on 1 April, 2020. The Management has not demonstrated how the Micro Health Project will be managed beyond the period of the Programme.

1844) In the circumstances, I am unable to confirm the continued existence of the Micro Health Project.

**Submission by the Accounting Officer**

1845) The Accounting Officer submitted that the issue was discussed in the Ministry's appearance on 30th August 2021 and the Ministry is awaiting the PAC recommendations report for 2018/2019 Financial Year. The programme closure was put on hold as directed by the donor until final audit was done. In this regard, the running contract was accommodated and the donor gave no objections in honoring the contract obligations as the programme management unit was still in place. The Micro Health project came to an end on 1st April 2020 and is awaiting the final Audit to enable the project closure.

1846) The donor gave a no objection to tender for external audit services on 26th September 2018. After evaluation of the tender, issuance of the professional opinion was delayed due to changes in the Ministry's management. This led to the external Audit services to be re-tendered again. After re-tendering, the procurement unit proceeded with evaluation process up to award stage. However, there was mis-communication between KfW and the Ministry on the tendering process which led to nullification of the tender.

1847) A no-objection for nullification and re-tender for external audit was issued in May 2021. The process is now underway. No objection to the Terms of Reference (ToR) for the

Tender/Award for the External Audit Services and no objection for nullification and re-tender for provision of Consultancy services for the External Audit were availed for perusal.

**1848) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Discrepancy in Project Timelines were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

**Basis for Conclusion**

**477. Lack of Programme Extension and Undrawn Balances**

1849) A review of the funding summary reflects an undrawn balance of Euros 3,954,416 equivalent to Kshs.405,862,527 and the statement of financial assets and liabilities reflects cash and cash equivalent balance of Kshs. 20,492,737 which is likely to be refunded to the donor since the Programme's end date was 30 October, 2017. There is no evidence that the Management have sought for approval for the extension of the Programme upon expiry.

1850) In the circumstances, the Programme may not have realized its set goals and objectives.

**Submission by the Accounting Officer**

1851) The Accounting Officer submitted that the issue was discussed in the Ministry's appearance on 30th August 2021 and the Ministry is awaiting the PAC recommendations report for 2018/2019 Financial Year.

1852) It was true that funding summary reflects undrawn balance of EURO 3,954,416 equivalent to Kshs.405,862,527 and the statement of financial assets and liabilities reflect cash and cash equivalent balance of Kshs.20,492,737, which is likely to be refunded to the donor since the Programme end date was 30 October, 2017. The cash and cash equivalent of EUROS 156,405.09 (after deducting a four months forecast of EUROS 13,250) was refunded back to the donor as the programme major activities had come to an end.

1853) The management wrote to KfW requesting for authority to utilize the undrawn funds .The response granting authority was received on 7th July 2020. The donor has allowed use of the residual funds in other programmes with related initial programme core objective and hence no definite closure date has been set. Evidence of refund of the cash and cash and cash equivalent and Letter requesting for Authority for utilization of undrawn/residual funds, as well as the letter granting authority for the same.

**1854) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Lack of Programme Extension and Undrawn Balances were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

### 1855) **Conclusion**

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

## **SUPPORT OF THE HEALTH CARE FINANCING STRATEGY - REPRODUCTIVE HEALTH - OUTPUT BASED APPROACH (RH-OBA) PROJECT (CREDIT BMZ NO. KENYA 201065853)**

## REPORT ON THE FINANCIAL STATEMENTS

### 1856) **Unqualified Opinion**

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

### **480. Emphasis of Matter**

1857) I draw your attention to the disclosure under the funding summary section of the annual report and financial statements. The Project was expected to end in January, 2018 with total available funding of Kshs.3,273,686,056 (Euro 30,200,000). However, a review of the annual report and financial statements for the year ended 30 June, 2020, reflects undrawn balances of Kshs.126,792,873 and cash and cash equivalent balance of Kshs.14,648,976. The Management has attributed the reduction on reimbursable amounts to the Government of Kenya funding on free maternity. The outstanding amount is likely to be refunded to the Donor as no Project extension has been sought or any indication of engagement with the financier on the way forward.

### **Submission by the Accounting Officer**

1858) The Accounting Officer submitted that the issue was discussed during the Ministry's appearance on August 30, 2021. The Ministry is awaiting the PAC recommendations report for 2018/2019 Financial Year. As per the RH-OBA financial statements for FY 2019/2020, RH-OBA project achieved 97% utilization. The project objectives were met as presented

in the final project implementation report. The remaining 3% was not utilized because of the following reasons:

1. Introduction of free maternity services by Government, which was effected in 2012. This led to the reduction of the reimbursement amounts to the facilities; for instance, normal delivery was reduced from Kshs.4,000 to Kshs.1,500. Consequently, the project withdrew less money than what was expected within the project life.
2. The Ministry of Health had planned to increase the number of districts in the 4th phase of implementation from 5 to 8 but this was not effected due to the free maternity services offered across the country by Government.

**1859) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Emphasis of Matter were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

**1860) Conclusion**

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

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

**1861) Conclusion**

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

**TRANSFORMING HEALTH SYSTEMS FOR UNIVERSAL CARE (THS-UC) PROJECT GRANT IDA CREDIT NO.5836-KE, TFOA2561 AND TFOA2792**

**REPORT ON THE FINANCIAL STATEMENTS**

**Basis for Qualified Opinion**

**483. Long Outstanding Imprests and Advances**

1862) The statement of financial assets reflects accounts receivables - imprests and advances balance of Kshs.1,933,500 which includes an amount of Kshs.1,835,300 that had not been



recovered as at 30 June, 2020. The unrecovered amount includes a long outstanding balance of Kshs.1,774,900 issued during the financial year 2016/2017 contrary to Regulations 93(5) and 93(6) of Public Finance Management (National Government) Regulations, 2015 which requires a holder of a temporary imprest to account or surrender the imprest within seven (7) working days after returning to the duty station and Accounting Officers to recover the full amount from the salary of the defaulting officers with interest at the prevailing Central Bank Rate.

### **Submission by the Accounting Officer**

1863) The Accounting Officer submitted that the issue was discussed during the Ministry's appearance on August 30, 2021. The Ministry is awaiting the PAC recommendations report for 2018/2019 Financial Year.

1864) It was true that as at 30th June 2020, the project had Kshs.1,933,500 of outstanding imprest; out of which Kshs.1,774,900 had been issued to Gaudencia Mokaya in a prior year and Kshs.188,600 issued to various officers in the year 2019/20 for undertaking of activities at the counties. However, due to rise in Covid -19 cases, travel and gathering restrictions were imposed, making it impossible to undertake the activities. The imprests were surrendered in cash as per the attached copies of FO 17 and Miscellaneous receipts.

1865) However, an imprest of Kshs.1,774,900 issued to Gaudencia Mokaya remains outstanding. The officer passed on before she accounted for the imprest. We have written to Pensions department to recover the imprest from her pension as per the attached letter. A reminder letter has also been done and a copy was availed for perusal. Copies of FO 17 and Miscellaneous receipts and Recovery letter to pensions department (Gaudencia Mokaya, and a reminder letter for recovery of the same were availed for perusal

### **1866) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Long Outstanding Imprests and Advances were satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **Other Matter**

#### **484. Budgetary Control and Performance**

1867) The statement of comparative budget and actual amounts reflects final budgeted receipts and actual receipts on a comparable basis of Kshs.5,084,854,605 and Kshs.4,561,176,446 respectively resulting to an under-funding of Kshs.523,678,159 or 10% of the budget. The underfunding might have hindered implementation of the planned activities of the Project impacting negatively on service delivery to the public.

### **Submission by the Accounting Officer**

1868) The Accounting Officer submitted that it was true that during the year under review, there was a reduction in funding by Kshs.523,678,159. This resulted from a supplier who was blacklisted by the bank and was the only listed supplier of the family planning commodity under the World Bank. The firm, i.e. Merck Sharp & Dohme B.V (MSD B.V) debarred for 12 months was to supply Etonogestrel implants at a cost of USD 4.9 million. However, there was enough stock at KEMSA since procurement is done based on the forecast. Extract from World Bank portal for Merck Sharp & Dohme B.V (MSD B.V) showing debarment was availed for perusal.

### **1869) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Budgetary Control and Performance were satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **485. Pending Bills**

1870) Note 10.12 to the financial statements reflects a pending bills amount of Kshs.63,070,639 as at 30 June, 2020. No explanation has been provided for non-payment of the pending bills. The Project is at risk of incurring interest costs and penalties with the continued delay in making payments.

### **Submission by the Accounting Officer**

1871) The Accounting Officer submitted that it was true that during the financial year 2019/20, there were pending bills amount of Kshs.63,070,639 as at 30th June 2020. During the year, there were some specialized equipment procured on behalf of Lamu and Marsabit counties. The equipment were received towards the end of the financial year and had to be inspected and accepted by a committee including user department before payments were made.

1872) In addition, there were trainings and workshops that had been approved and were taking place in the month of June, and it was not possible to raise POs for the conference facilities because the requisition mode of procurement had already been closed, hence the invoices were raised but could not be paid for. All the bills have since been paid and copies of payment vouchers were availed for perusal by the Committee.

### **1873) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Pending Bills were satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **486. Prior Year Audit Matters**

#### **486.1 Comingling of Funds**

1874) Regulation 76(1) of the Public Finance Management (County Governments) Regulations, 2015 requires opening and maintenance of a Project account for every Project at Central Bank of Kenya (CBK), unless exempted in writing by the Cabinet Secretary, into which all funds shall be kept and an account shall be in the name of the Project for which it is opened.

1875) A review of Nairobi County transactions in respect of the Project indicated that a separate account was not maintained. The Project transactions were processed through a County Special Purpose Account together with transactions for other Projects.

1876) Consequently, the Management was in breach of the law.

#### **Submission by the Accounting Officer**

1877) The Accounting Officer submitted that the issue was discussed in the Ministry's appearance on 30th August 2021 and the Ministry is awaiting the PAC recommendations report for 2018/2019 Financial Year. The Financial Manual on the operations of Transforming Care project (THS) stipulates that the counties must operate a Special Purpose account which should not hold any funds other than THS funds and Danida. The Ministry was therefore not aware of this commingling and has since trained and sensitized the project Accountants in all counties on the best accounting practices. The trainings were conducted from 4th to 6th November 2020 and follow ups done during Bi-annual Technical Assistance visits to the counties by the project management team. Financial Management Procedures Manual was availed for perusal.

#### **1878) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Prior Year Audit Matters - Comingling of Funds were satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **486.2 Irregular Procurement of Conference Facilities in Kiambu County**

1879) Section 106(2)(b) of the Public Procurement and Asset Disposal Act, 2015 requires quotations to be given to as many persons as necessary to ensure effective competition. However, during the financial year 2018/2019, the County made payments amounting to Kshs.4,781,500 for hire and use of conference facilities for training in cash and without any evidence of competitive procurement.

1880) Consequently, value for money for the payments amounting to Kshs.4,781,500 could not be confirmed.

#### **Submission by the Accounting Officer**

1881) The Accounting Officer submitted that the issue was discussed in the Ministry's appearance on 30th August 2021 and the Ministry is awaiting the PAC recommendations report for 2018/2019 Financial Year.

1882) It was true that Kiambu County did not follow the procurement process as required hence the expenditure was deemed to be ineligible. The World Bank directed that the money be refunded in full to the Project's SPA account in Kiambu County. Consequently, the Principal Secretary wrote to the CEC Kiambu county REF: MOH/ADM/THUCP/1/2/171/VOL.II (99), through the COG to refund the funds to the project's account. The county has refunded the money in full as per the attached copy of the bank statement. Letter to Kiambu County and Copy of the bank statement were all availed for perusal.

#### **1883) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Prior Year Audit Matters - Irregular Procurement of Conference Facilities in Kiambu County were satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **486.3 Transfers to Other Government Entities**

1884) The statement for receipts and payments for the year ended 30 June, 2019 reflected total transfers to other government entities of Kshs.2,650,727,789 comprising of transfers by the entity of Kshs.215,286,365 and payments made by third parties of Kshs.2,435,441,424. Signed confirmations or expenditure returns from beneficiaries were however, not availed for audit review. Consequently, it was not possible to establish whether the transfers were received by the intended beneficiaries and utilized for the intended purposes.

1885) In the circumstances, I am unable to confirm whether the transfers were a proper charge to public funds.

#### **Submission by the Accounting Officer**

1886) The Accounting Officer submitted that it was true that during the year ended 30th June 2019, there were transfers to other counties amounting to Kshs.2,650,727,789. Out of this amount, Kshs.475,856,461 relates to direct payments to the suppliers for the supply of family planning commodities. During the year under review, Kshs.215,286,365 was also paid from the project account to Kisumu, Mombasa and Embu counties for cross county and Intergovernmental collaboration. A total of Kshs.1,959,584,962 was transferred to the

counties by National Treasury on behalf of the project. The counties have since acknowledged receipt of the funds and the acknowledgements were availed for perusal by the Committee.

**1887) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Prior Year Audit Matters - Transfers to Other Government Entities were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

**Basis for Conclusion**

**487. Purchase of Goods and Service**

1888) As disclosed in Note 10.5 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.715,840,584 under purchase of goods and services which includes an amount of Kshs.415,286,025 in respect of specialized materials. The latter balance includes an amount of Kshs.304,160,118 paid to the Kenya Medical Supplies Authority (KEMSA) for procurement of Covid-19 related equipment. A review of procurement documents revealed that KEMSA procured the said Covid-19 related items using the direct procurement method retrospectively without putting in place systems and procedures to guide the use of the procurement method contrary to Section 69(2) and Section 45(1) of the Public Procurement and Asset Disposal Act, 2015.

1889) In the circumstance, it is not clear whether the project obtained value for money on the expenditure of Kshs.304,160,118 incurred on procurement of Covid-19 related items.

**Submission by the Accounting Officer**

1890) The Accounting Officer submitted that the matter was still under investigation by the Police.

**1891) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Purchase of Goods and Service were not satisfactory; and
- (ii) The matter remained unresolved.

**1892) Committee Recommendations**

**Within three (3) months of adoption of this report, the DCI to provide progress on the investigations to the National Assembly.**

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

### **Basis for Conclusion**

#### **488. Lack of Audit Committee Reports**

1893) Regulation 160(1)(b) of the Public Finance Management (National Government) Regulations, 2015 stipulates that the internal auditors have a duty to give reasonable assurance through the Audit Committee on the state of risk management, control and governance within the organization. Further, Regulation 162(1) requires that the Head of Internal Audit reports administratively to the Accounting Officer and functionally to the Audit Committee.

1894) However, as reported in 2018/2019, Management did not avail any supporting documents as evidence that the Project had approved internal audit work plans and whether there was any discussion of the audit reports and actions taken. Consequently, the measures put in place for internal controls, risk management and overall governance may not be adequate.

#### **Submission by the Accounting Officer**

1895) The Accounting Officer submitted that the issue was discussed in the Ministry's appearance on 30th August 2021 and the Ministry is awaiting the PAC recommendations report for 2018/2019 Financial Year. The Ministry's internal audit committee had never met since the resignation of the chairperson. Internal auditors however carried out the audit activities as it awaited appointment of the chairperson. The Ministry vide Ref: MOH/AUD/MAC/II dated 13th August 2020 appointed chairperson of the audit committee (copy attached). The committee is now in place and operational. The committee had its first sitting in December 2020 and has since been meeting on Quarterly basis. Letters of appointment and Minutes of the 1st sitting were availed for perusal.

#### **1896) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Lack of Audit Committee Reports were satisfactory;
- (ii) The Committee further observed that the Audit Committee had been appointed and operational; and
- (iii) The Committee marked the matter as resolved.

## **GLOBAL FUND HIV AIDS PROGRAM (GRANT NO. KEN-H-TNT GA 1547)**

## REPORT ON THE FINANCIAL STATEMENTS

### **Basis for Qualified Opinion**



#### **489. Unsupported Cash and Cash Equivalents**

1897) As disclosed under Note 9.7 to the financial statements, the statement of financial assets reflects cash and cash equivalents balance of Kshs.421,185,310 which constitutes a bank balance of Kshs.420, 811,123 and Kshs.374,187 being Mpesa balance. However, the reconciliation statement supporting the bank balance indicates payments in bank statement not in the cashbook totaling Kshs.619,500 and payments in cashbook not in bank statement amounting to Kshs.2,206,420 and whose clearance status had not been disclosed at the time of conclusion of the audit in October, 2020.

1898) In addition, the Mpesa balance of Kshs.374,187 includes an opening balance of Kshs.15,000,000 whose supporting documents by way of Mpesa confirmation certificate was not availed for audit review.

1899) Consequently, the accuracy and completeness of the cash and cash equivalent balance of Kshs.421,185,310 reflected in the statement of financial assets as at 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

1900) The Accounting Officer submitted that Kshs.614,000 was payment for daily subsistence allowances and transport for participants attending civil society organization meetings in Kiambu County which was cleared in December 2020. Cheque no. 414 amounting to Kshs.111,700 was payment for June 2019 staff NHIF but the bank paid Kshs.117,000 leaving an overpayment of Kshs.,300 still outstanding to be reversed back to the account by the bank.

1901) She confirmed that the Ministry did provide a copy of the Mpesa certificate for Kshs.15,000,000 on 25th June 2020. Copies of the bank certificate and m-pesa statements were also availed.

#### **1902) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Unsupported Cash and Cash Equivalents were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

#### **Basis for Conclusion**

#### **490. Unaccounted for Imprests**

1903) As disclosed under Note 9.8 to the financial statements, the statement of financial assets reflects a balance of Kshs.1,312,660 under accounts receivable imprests and advances



which includes imprests of Kshs.1,112,660. The outstanding imprests were overdue as at 30 June, 2020 contrary to Section 93(5) of the Public Finance Management Act (National Government) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the same within seven (7) working days after returning to the duty station. Further, Section 93(6) provides that in the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank rate.

1904) Consequently, the Management is in breach of the law.

#### **Submission by the Accounting Officer**

1905) The Accounting Officer submitted that the outstanding imprest of Kshs.1,112,660 was advanced to the following officers to undertake implementation of the activity.

1. An imprest of Kshs.1,219,940 issued to Ambrose Juma (a registered officer working at National AIDS and STI control Program (NASCOP) to undertake Voluntary Medical Male Circumcision (VMMC) stakeholders meetings in West pokot and Marsabit. The imprest was to cater for participants' daily subsistence allowance and transport reimbursement for the meeting. On the fateful date, the officer had already paid county health workers and community stakeholders their allowances totaling to Kshs.848,080. On 7th October 2018 while on transit to Marsabit to finalise implementation of the activity, the officers were raided and robbed Kshs.330,000. As part of surrender, the officer banked back Kshs.41,860 which was the imprest balance on 29th January 2019. The officer reported the case to the Marsabit police station and the case is still pending investigation.
2. An imprest of Kshs.769,440 issued to Barbara Mambo was for county review meeting in Makueni, Kitui, Machakos and Kajiado counties. The imprest was to cater for participants' daily subsistence allowance and transport reimbursement for the meeting. The amount was fully surrendered on 26<sup>th</sup> October 2020. Copies of the surrender documents were provided.
3. Kshs.13,220 was an imprest balance to be surrendered by Caroline Ogeto. The amount was banked back to the account on 26<sup>th</sup> October 2020. Copy of bank statement was provided.

#### **1906) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Unaccounted for Imprests were satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **491. Payments Made Inclusive of VAT Contrary to Guidelines**

1907) The statement of receipts and payments reflects purchase of goods and services of Kshs.438,097,261 which includes an amount of Kshs.38,208,319 for printing, advertising and information supplies and services. The balance includes value added tax (VAT) amount totaling to Kshs.4,577,869 paid to suppliers, contrary to the Global Fund Guidelines section 3.5(1) which categorizes use of grant funds to pay for VAT as non-allowable expense.

1908) The Management is therefore in breach of the Grant regulations.

#### **Submission by the Accounting Officer**

1909) The Accounting Officer submitted that the Program noted that a VAT amount of Kshs.4,577,869 was paid to suppliers, which was an omission. The program has instituted internal control measures to ensure tax exemption certificates are processed for suppliers. List of the paid suppliers was availed.

#### **1910) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Payments Made Inclusive of VAT Contrary to Guidelines were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

#### **1911) Conclusion**

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

### **UNITED NATIONS POPULATION FUND (UNFPA) 9TH COUNTRY PROGRAMME FOR KENYA**

#### **REPORT ON THE FINANCIAL STATEMENTS**

#### **1912) Unqualified Opinion**

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

#### **Other Matter**

#### **494. Budgetary Control and Performance**

1913) The statement of comparative budget and actual amounts reflects approved receipts budget and actual on comparable basis of Kshs.23,299,030 and Kshs.23,299,030. However, the project expended an amount of Kshs.3,588,140 or 16% against an approved budget of Kshs.23,299,030 resulting to an under expenditure of Kshs.19,337,390 or 84% of the budget. The under expenditure is indicative that some planned activities and programs were not undertaken during the year.

1914) Management has attributed the low absorption to delays in accessing the donor funds which only came in May, 2020.

#### **Submission by the Accounting Officer**

1915) The Accounting Officer submitted that it was true that there was an under expenditure of Kshs.19,337,390 equivalent of 84% of the budget. The Financial Year for United Nations Population Fund (UNFPA) ends in December whereas the Financial Year for the National Government ends in June; and since the funds were released in June 2020, they could not be utilized within the short period hence the low absorption.

#### **1916) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Budgetary Control and Performance were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

#### **1917) Conclusion**

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

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

#### **1918) Conclusion**

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

### **COVID-19 EMERGENCY RESPONSE PROJECT (CREDIT NO.6598-KE)**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **1919) Unqualified Opinion**

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

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

##### 1920) **Conclusion**

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

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

##### 1921) **Conclusion**

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

#### OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE MINISTRY OF HEALTH

#### KENYA HEALTH SECTOR PROGRAMME SUPPORT III – DANIDA REF. 104. KENYA.810.300 (GRANT) - COUNTY GOVERNMENT OF KISII

#### REPORT ON THE FINANCIAL STATEMENTS

##### **Basis for Adverse Opinion**

##### **500. Unconfirmed Accuracy and Validity of Financial Statements**

1922) The balances reflected in the financial statements are extracted from summary receipts and payments reports instead of a trial balance derived from a general ledger as required by the International Public Accounting Standards and the reporting format prescribed by the Public Sector Accounting Standards Board.

1923) In the absence of a general ledger, the completeness, accuracy and validity of the balances reflected in the financial statements for the year ended 30 June, 2020 has not been confirmed.

##### **501. Cash and Cash Equivalents**

1924) The statement of financial assets and liabilities as at 30 June, 2020, reflects bank balances totaling Kshs.42,034,429, comprised of bank account balances for various health

facilities totaling Kshs.41,863,305 and the Programme's Special Purpose Account at the Central Bank of Kenya amounting to Kshs.171,124. The balances totaling Kshs.41,863,305 in turn include bank balances totaling Kshs.22,987,438 for several health facilities. However, the balances are not supported with relevant records including cash books, bank reconciliation statements and bank balance confirmation certificates.

1925) Similarly, the Special Purpose Account balance totaling Kshs.171,124 operated at the Central Bank of Kenya is not supported with the cash book, bank reconciliation statements and the bank balance confirmation certificate. In view of these anomalies, the accuracy, completeness and validity of the bank balance totaling Kshs.42,034,429 reflected in the statement of assets and liabilities as at 30 June, 2020 has not been confirmed.

## **Other Matter**

### **502. Budgetary Control and Performance**

1926) The statement of comparative budget and actual amounts reflects budgeted receipts totaling Kshs.201,989,760 and actual receipts totaling Kshs.86,976,267 resulting to a shortfall of revenue amounting to Kshs.115,013,493 equivalent to 43% of the budget. Further, the statement reflects final budgeted expenditure amounting to Kshs.201,989,760 and actual expenditures amounting to Kshs.53,611,421 resulting to under-expenditure of Kshs.148,378,339 equivalent to 27% of the budget. No plausible explanation has been provided by Management for the underperformance.

1927) Failure to meet revenue and expenditure targets implied that some of the activities planned for execution in the year under review were not implemented. The underperformance is likely to hinder the Programme from attaining its goals and objectives.

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

### **1928) Conclusion**

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

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

### **1929) Conclusion**

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

**HEALTH SECTOR SUPPORT PROJECT (CREDIT NO.4771-KE) – KENYA  
MEDICAL SUPPLIES AUTHORITY (KEMSA)**

**REPORT ON THE FINANCIAL STATEMENTS**

**Basis for Qualified Opinion**

**505. Purchase of Asset, Equipment and Consumables**

1930) The statement of financial performance reflects purchase of assets, equipment and consumables expenditure of Kshs.25,046,348 for the year ended 30 June, 2020. However, the supporting schedule for this expenditure reflects Kshs.641,309,540 resulting in a variance of Kshs.616,263,192 which was offset against differed income without justification.

1931) In the circumstances, the accuracy and validity of purchase of assets, equipment and consumables expenditure of Kshs.25,046,348 for the year ended 30 June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

1932) The Accounting Officer submitted that the expenditure for the year for Purchase of Asset, Equipment & Consumables was Kshs.641,309,540.17 against the deferred income of Kshs.616,263,192.00. As per accounting standards, grants in monetary form are carried as Deferred Income and used to reimburse costs in the period the expenditures are incurred. There are two ways to present the transaction;

- a) To present the income as a separate line item in the Statement of Performance;
- b) To net-off income recognized from deferred income from the related expense.

1933) The income recognized for the year was to the extent of the amount of deferred income and was netted off against purchases in the accounts hence creating an additional expenditure of Kshs.25,046,348.17. Extract of Note 9 - Deferred income in the Financial Statements and workings.

**1934) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Purchase of Asset, Equipment and Consumables were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

**Basis for Conclusion**

## **506. Non-Compliance with Public Procurement and Asset Disposal Act, 2015**

1935) During the year under review, the Kenya Medical Supplies Authority (KEMSA) procured 45,500 dispensing plastic resalable envelopes at a cost of Kshs.28,665,000 through tender No. KEMSA/DP03/2019-2021 and pharmaceutical items amounting to Kshs.94,962,092 through tender No. KEMSA/DP15/2018-2020 using direct procurement method. According to the Management, the use of the direct procurement method was aimed at mitigating against stock outs of critical items needed by the counties. The use of the direct procurement method was further justified on the basis that the identified supplier was a not for profit Faith-Based Organization. However, reasons given for the use of the direct procurement method in this case do not satisfy the conditions for use of the method as provided in Section 103(1) (2) of the Public Procurement and Asset Disposal Act, 2015.

1936) In the circumstance, the Management was in breach of the law.

### **Submission by the Accounting Officer**

1937) The Accounting Officer submitted as follows:

#### **Tender No. KEMSA/DP03/2019-2021 Supply of Dispensing Plastic- Resalable Envelops**

1938) The justification to use Direct Method of procurement for above mentioned tender was provided for in the attached approved MEMO. Further, KEMSA had contracted Mission for Essential Drugs and Supplies (MEDS) who are not for profit, faith based institution to provide EMMS to fill the gaps to mitigate against stock outs of critical selected commodities. Justification to undertake procurement through Direct Procurement from Mission for Essential Drugs and Supplies was provided.

#### **Tender NO. KEMSA/DP 15/2018-2020 Supply of Pharmaceuticals**

1939) The justification to use Direct Method of procurement for above mentioned tender was provided for in the attached approved MEMO. KEMSA contracted MEDS who is not for profit, faith-based institution to provide EMMS to fill the gaps to mitigate against stock outs of critical selected commodities during the rollout of UHC where the Order Fill Rate was expected to be 100%.

1940) MEDS had satisfactorily serviced the contract by then, however, vide a letter dated 10th March 2020, MEDS wrote to KEMSA explaining that the cost of active pharmaceutical ingredients(API) used in production of Pharmaceutical products had increased following the global disruption of the supply chain due to the COVID-19 pandemic.

1941) The evaluation committee reconvened and made recommendations on items whose request for price variation was acceptable. Only the items that the committee



recommended, had their prices varied and supplier notified. Authority to undertake procurement through Direct Procurement from Mission for Essential Drugs and Supplies and the addendum to framework contract were availed for perusal by the Committee.

**1942) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Non-Compliance with Public Procurement and Asset Disposal Act, 2015 were not satisfactory; and
- (ii) The Committee marked the matter as unresolved.
- (iii) The Committee recommends further investigation by the Auditor-General for reporting in the subsequent audit cycle.

**507. Delay in Delivery of Goods**

1943) A review of procurement contracts entered into between the Authority and suppliers revealed instances of delay in delivery of goods for periods of 2-6 months by six suppliers with total orders of Kshs.19,718,531. The noted delay in delivery of goods if not addressed could adversely affect timely realization of the project objectives.

**Submission by the Accounting Officer**

1944) The Accounting Officer submitted that Suppliers are expected to make deliveries within the agreed timelines. However, due to various reasons such as warehouse space constrains, logistics challenges on the suppliers' side and availability of adequate stocks in KEMSA warehouse, deliveries are sometimes delayed.

1945) A supplier appraisal tool has been developed to facilitate supplier performance measurement, which will enhance timely deliveries of medical commodities.

**1946) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Delay in Delivery of Goods were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**508. Variation of Contract Price**

1947) Contract for supply of chlorhexidine gluconate solution 5% was awarded to a supplier as per framework contract dated 18 October, 2018. The initial quantity was 16,573 units at Kshs.684.50 per unit translating to Kshs.11,344,218.50. Purchase order No. 819731 and 819732 were issued for supply of 7,500 units and 9,073 units respectively. However, out of the initial quantity of 16,573 units, only 7,500 units were delivered leaving a balance of 9,073 units. It was also noted that in call down No. 1 dated 20 November, 2019, the supplier

agreed to supply additional quantity of 11,070 units at the price of Kshs.684.50 despite the fact that he had not supplied 9, 073 units from the initial contract which was outstanding for more than one year.

1948) Further, in a letter dated 12 November, 2019, the supplier sought a 15% price variation citing increase in global price of raw materials and fluctuation of foreign exchange rates. Consequently, the Authority revised the price upward from Kshs.684.50 to Kshs.787.17 and cancelled purchase order No. 819732 for the 9,073 units and issued purchase order No. 824031 for 11,070 units, thereby resulting in additional cost of Kshs.931,524 for the 9,073 units supplied at the revised price of Kshs.787.17 per unit.

1949) In view of the above, the public may not have realized value for money in respect of the varied contract that resulted in additional cost of Kshs.931,524.

#### **Submission by the Accounting Officer**

1950) The Accounting Officer submitted that Call offs are informed by the stock handling policy of maintaining 9 months of stock quantity which include pipeline and warehouse stock levels. Therefore, to avoid stock outs, call offs can be made when other deliveries are in pipeline. This assists the suppliers in preparing to avail the commodities in appropriate time. The price variation was approved by the accounting officer following the request from the supplier vide a letter citing increase cost of raw materials and foreign exchange fluctuations.

1951) Following, the COVID-19 global pandemic, cost of raw materials increased especially China where majority of materials are sourced from. Letter from Njimia Kenya Ltd, requesting for review of award of unit price.

1952) Pursuant to section 139(4) of the PPADA 20L5, For the purpose of this section, any variation of 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-

*(a) The price variation is based on the prevailing consumer price index obtained from Kenya National Bureau of statistics or the monthly inflation rate issued by the central Bank of Kenya;*

1953) The exchange rate during tender opening of 28th June 2018 was USD 1 = Ksh.101.15 while in March when the variation was effected, it was USD 1: Ksh.104.792.

#### **1954) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Variation of Contract Price were satisfactory; and
- (ii) The Committee marked the matter as resolved.

## 509. Unresolved Prior Year Issue - Delay in Distribution of Equipment

1955) In 2018/2019, it was reported that the statement of comprehensive income for the year ended 30 June, 2019 reflected purchase of assets, equipment and consumables amounting to Kshs.400,099,529 out of which equipment valued at Kshs.3,051,499 was still at KEMSA warehouses and had not been distributed for installation and commissioning despite the suppliers having been fully paid. A review of the matter in 2019/2020 indicated that equipment valued at Kshs.511,111 had still not been distributed for installation and commissioning as at 30 June, 2020.

1956) Consequently, the public may not have realized value for money in respect of the undistributed equipment valued at Kshs.511,111 as at 30 June, 2020.

### Submission by the Accounting Officer

1957) The Accounting Officer submitted that the issue was discussed in the Ministry's appearance on 30<sup>th</sup> August 2021 and the Ministry is awaiting the PAC recommendations report for 2018/2019 Financial Year. Distribution of the remaining commodities worth Kshs.511,111.82 analysed in the table below is underway following provision of the distribution list.

Product	UOM	Available Quantity	Unit Value	Cost value in Kshs.
AUTOCLAVE WITH STERILIZING BASKET	PIECE	1	263,043.00	263,043.00
DELIVERY SET WITH GREEN TOWELS (DRAPES)	SET	14	5,223.13	73,123.82
DRY HEAT STERILIZER	UNIT	1	76,220.00	76,220.00
REFRTGERATOR FOOD( MEDIUM)	PIECE	1	98,725.00	98,725.00
<b>TOTAL</b>				<b>511,111.82</b>

### 1958) Committee Observations and Findings

The Committee observed that the matter was considered during the examination of the 2018/2019 financial year report and recommendations made thereof.

## REPORT ON EFFECTIVNESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### 1959) Conclusion

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

**GLOBAL FUND HIV/AIDS PROJECT GRANT NO. KEN-H-TNT-1547 – NATIONAL AIDS CONTROL COUNCIL**

**REPORT ON THE FINANCIAL STATEMENTS**

**Basis for Qualified Opinion**

**511. Long Outstanding Imprests**

1960) The statement of financial assets and liabilities reflects accounts receivable balance of Kshs.3,506,336 which as disclosed in Note 8.8 comprises of Kshs.770,900, Kshs.2,235,186 and Kshs.500,250 being amounts owed from individual staff members, amounts owed from regional offices and amounts refundable from the Government of Kenya recurrent vote respectively. Included in the balance of Kshs.2,235,186 due from regional offices is an amount of Kshs.1,200,025 relating to 2014/15 financial year in respect of the previous grant whose recovery is in doubt.

1961) Further, examination of records revealed that the amount of Kshs.500,250 refundable from the Government of Kenya recurrent vote related to expenditure for consultancy fees paid from the Project account but relating to the Council's recurrent vote. Eligibility of the expenditure could not be confirmed.

1962) In the circumstances, the accuracy and validity of the accounts receivables balance of Kshs.3,506,336 as at 30 June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

1963) The Accounting Officer submitted as follows:

**Outstanding Staff Imprest of Ksh.770,900**

1964) The amounts that were outstanding as at June 30, 2020 were fully recovered and communication on the recovery made to the Office of the Auditor General (OAG) on December 7, 2020. Schedule of recovery and the Communication to the Auditor General.

**Advances to Regional Offices Ksh.2,235,186**

1965) The total amount of Kshs.2,235,186 was disbursed to the NACC Regional offices to support its operations at the Regions. The NACC recovered Kshs.1,082,471 out of the disbursed amounts. An outstanding amount of Kshs. 1,152,715 was then determined as irrecoverable. These amounts were being held by the Regional Accountant, Nyanza, Mr. Omenge Momanyi who deserted office and was thereafter terminated from employment. The Matter was reported to the Police and a request for Write off to the National Treasury made since the amounts are irrecoverable. Schedule of the outstanding amount of

Kshs.2,235,186, Termination from employment letter for Mr. Omenge Momanyi and the police abstract were availed for perusal.

#### **GF Refund from GOK Recurrent Ksh.500,250**

1966) The amount of Kshs.500,250 was fully refunded vide Payment Voucher No 1249 dated November 7, 2020 and the refund Communicated to the OAG on December 7, 2020. The refund communication-payment voucher was availed.

#### **1967) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Long Outstanding Imprests were satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **512. Unconfirmed Funds from Previous Grant**

1968) As previously reported, the statement of receipts and payments for the period ended 30 June 2019 reflected funds brought forward from the previous Grant of Kshs.79,960,862. Information availed indicated that under Clause 6.1 of the Grant Agreement, the Global Fund gave authority for the Management to utilize the uncommitted balances from the previous Grant KEN-H-TNT-853 to roll out the new Grant KEN-H-TNT-1547. It was however, noted that the previous Grant KEN-H-TNT-853 had not been preparing separate financial statements for the past years and no Grant closure report from the Local Fund Agent was availed for audit.

1969) In the absence of Grant closure reports and clear authorization from the Global Fund on the exact amounts to be transferred to the new Grant, the accuracy of the receipts of Kshs.79,960,862 could not be confirmed.

#### **Submission by the Accounting Officer**

1970) The Accounting Officer submitted that the issue was discussed in the Ministry's appearance on 30th August 2021 and the Ministry is awaiting the PAC recommendations report for 2018/2019 Financial Year.

1971) The Global Fund Financial Closure Report (FCR) dated August 27, 2019 and addressed to the National Treasury verified HIV grant NFM1 closing balances at USD 9,305.862 which included the NACC Closing balances of Kshs.79,960,862 based on the review of the Financial Closure Report (FCR). All the closing balances were given clearance to be transferred into the new Grant account vide a letter dated June 26, 2020 and the Subsequent closure of those Accounts.

1972) These documents were provided by the Global Fund Local Fund Agent (LFA) and shared with Office of the Auditor General. The Closure of the NFM1 account has been

effected as recommended by Global Fund. The NACC continues to strengthen its financial reporting systems to ensure full compliance with Kenya Government and Global Fund grant requirements.

**1973) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Unconfirmed Funds from Previous Grant were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**Other matter**

**513. Budgetary Control and Performance**

1974) The Projects actual expenditure for the year amounted to Kshs.179,035,756 against an expenditure budget of Kshs.436,362,178 resulting in an under expenditure of Kshs.257,326,422 or 59%. Although Management attributed the low budgetary absorption to postponement of planned activities due to the Covid-19 outbreak, there is need to expedite the programs to reach the intended beneficiaries in time.

**Submission by the Accounting Officer**

1975) The Accounting Officer submitted that it was true that there was under expenditure of Kshs.257,326,422, equivalent to 59% of the total budget. The under absorption was occasioned by the Funds Flow challenges with the GF resources being received towards the end of the Financial year in June. The Challenges occasioning delays have since been addressed with a more efficient funds flow in the subsequent Grants as evidenced by over 76% absorption in the Current Grant ending in June 2021.

**1976) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Budgetary Control and Performance were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

**1977) Conclusion**

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

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

1978) **Conclusion**

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

**EAST AFRICA PUBLIC HEALTH LABORATORY NETWORKING PROJECT  
(EAPHLN) CREDIT NO.4732-KE – KENYA MEDICAL SUPPLIES AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

1979) **Unqualified Opinion**

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

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

1980) **Conclusion**

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

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

1981) **Conclusion**

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



## 18. STATE DEPARTMENT OF INFRASTRUCTURE

### FINANCIAL STATEMENTS FOR VOTE 1091

**Prof. Paul Mwangi Maringa, the Principal Secretary and Accounting Officer for the State Department of Infrastructure (Vote 1091) appeared before the Committee on 26<sup>th</sup> October, 2021 to adduce evidence on the Audited Financial Statements for the State Department of Infrastructure (Vote 1091) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                           |                                |
|---------------------------|--------------------------------|
| 1. Ms. Sophie W Mwangashi | - Head of Accounts Unit        |
| 2. Eng. David Muchilwa    | - Director Development KeNHA   |
| 3. Mr. Philip Wachira     | - Senior Chief Finance Officer |
| 4. Eng. S Kinoti          | - Director General KURA        |
| 5. Eng. Philemon Kandie   | - Ag. Director General KeRRA   |
| 6. Eng. Maurice Nabende   | - Director KIHBT               |

#### **Basis for Qualified Opinion**

##### **519. Accounts Receivables-Outstanding Imprest**

1982) As disclosed in Note 13 to the financial statements, the statement of assets and liabilities reflects accounts receivables - outstanding imprest and clearance accounts balance of Kshs.26,995,854 which includes an amount of Kshs.25,730,057 described as district suspense. However, Management did not provide an analysis for this amount. Under the circumstances, the accuracy, completeness and recoverability of the account receivables balance of Kshs.26,995,854 as at 30 June, 2020 could not be confirmed.

##### **Submission by the Accounting Officer**

1983) The Accounting Officer admitted that the State Department did not provide an analysis for Kshs.25,730,057 described as district suspense, included in accounts receivables – outstanding imprest and clearance accounts balance of Kshs.26,995,854/- as shown in the financial statement, statement of assets and liabilities.

1984) The Department would now wish to state that the analysis for the amount has since been provided to the Auditor for verification.

##### **1985) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to outstanding Imprest was satisfactory; and**
- (ii) The Committee marked the matter as resolved.**

##### **520. Prior Year Adjustments**

1986) As disclosed in Note 16 to the financial statements, the statement of assets and liabilities reflects a balance of Kshs.403,069,649 under prior year adjustments. However, the adjustments are not supported by any documentary evidence to confirm the validity. In the circumstance, it has not been possible to ascertain the accuracy and fair statement of the prior year adjustment amount of Kshs.403,069,649 for the year ended 30 June, 2020.

**1987) Committee Observations and Findings**

- (i) The Committee observed that the documents supporting the prior adjustment of Kshs.403,069,649 were not provided to the auditors during the audit.
- (ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012.

**1988) Committee Recommendation**

- 1) Within three (3) months after tabling and adoption of this report, the accounting officer should provide the supporting documents to the Auditor General for audit verification and report to the National Assembly.**
- 2) The Accounting Officer must ensure he/she provides documents 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 and to ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

**521. Transfers to Other Government Units**

1989) The statement of receipts and payments reflects a balance of Kshs.217,885,538,410 under transfers to other government units. However, confirmation from two recipient agencies differed from the schedule of transfers provided in Note 9 to the financial statements as detailed out below:-

<b>Recipient Entity</b>	<b>Financial Statements (Kshs)</b>	<b>Confirmed Receipts (Kshs)</b>	<b>Variance (Kshs)</b>
Engineers Board of Kenya (Development)	61,000,000	67,000,000	6,000,000
Kenya National Highways Authority (Development)	52,028,513,717	52,151,868,697	123,354,980
<b>Total</b>	<b>52,089,513,717</b>	<b>52,218,868,697</b>	<b>129,354,980</b>

1990) In the circumstances, the transfer of Kshs.217,885,538,410 to other government units could not be confirmed resulting .

### **Submission by the Accounting Officer**

#### **Engineers Board of Kenya**

1991) The difference of Kshs.6,000,000 between the State Department Financial Statement and amount acknowledged by the Engineers Board is explained as follows:-

- The Department transferred a total of Kshs67,000,000/- to the Board, this being a full years' Development budgetary allocation. The amount was released in two tranches of Kshs36,500,000/- and Kshs30,500,000/- on 9<sup>th</sup> October 2019 and 25<sup>th</sup> June 2020 respectively. While the latter was charged entirely under item 2630201 – Transfers to other Government Units, the former was charged under various Vote Heads and Items as per the budget estimates as shown hereunder:-

1091145301 – 2630201 – Transfer to other Government Units -	21,500,000.20
1091136701 – 2630201 - Transfer to other Government Units -	9,000,000.00
1091136701 - 3111499 - Research, Feasibility Studies	- 6,000,000.00
<b>Total 1<sup>st</sup> Half</b>	<b><u>36,500,000.00</u></b>
1091145301 – 2630201 – Transfer to other Government Units -	21,500,000.20
1091136701 – 2630201 - Transfer to other Government Units -	9,000,000.00
1091136701 - 3111499 - Research, Feasibility Studies	- <u>0</u>
<b>Total 2<sup>nd</sup> half</b>	<b><u>30,500,000.00</u></b>
<b>Grand Total transferred 2019/2020</b>	<b>67,000,000.00</b>

1992) The State Department, guided by the IFMIS Standard Chart of Accounts reported in the yearend financial statement a total of Kshs.61,000,000/- under Transfers to other Government Units and the Kshs6,000,000/- under Acquisition of assets- Research, Feasibility Studies, Project Preparation and Design, Project Supervision, resulting into variance of Kshs6,000,000/- mentioned earlier

#### **Kenya National Highways Authority**

1993) The difference of Kshs.123,354,980.00 between transfer acknowledged by Kenya National Highways Authority and the Department Financial Statement is explained as follows:

- The Development Exchequer transfer to Kenya National Highways Authority of Kshs.304,284.00 erroneously omitted in the inter-entity confirmation schedule has now been confirmed bringing the total transfer acknowledged by the agency to Kshs.52,152,172,981.35.

- The difference of Kshs123,659,264 now arising between the acknowledgement by Kenya National Highways Authority of Kshs.52,172,981.35 and the Department Financial Statement figure of Kshs.52,028,513,717.000 was an Exchequer transfer to Kenya National Highways Authority on 29<sup>th</sup> October, 2019 that was charged under 1091101401-2210711 – Tuition fees instead of Item no. 2630201 – Capital Grants to Government Agencies.

**1994) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Transfers to Other Government Units was satisfactory; and
- (ii) The Committee marked the matter as resolved.**

**Other matter**

**522. Loss of Asset**

1995) The summary of fixed assets register at Annex 1 reflects other machinery and equipment balance of Kshs.120,766,040 as at 30 June, 2020. Included in the balance is an amount of Kshs.6,538,892 being the value of motor vehicle GKB 211J belonging to the Kenya Institute of Highways and Building Technology (KIHBT) that was reported stolen on 3 July, 2020. Although the case was reported at Makadara DCIO and the matter is said to be under investigation, the vehicle had not been recovered as at the time of audit. In the circumstances, the accuracy of the balance of Kshs.120,766,040 reflected in other machinery and equipment could not be confirmed.

**Submission by the Accounting Officer**

1996) The loss of motor vehicle Toyota Hiace GKB 211J belonging to KIHBT was reported stolen to the Police under OB no. 15/07/07/2020 on 3<sup>rd</sup> July 2020 at Makandara Police Station as per attached letter ref DCI/C/CRI/1/VOL IX 27 dated 10<sup>th</sup> November 2020 from DCI Makadara. The vehicle was stolen from KIHBT grounds after office hours. As at the time of the theft, the premises were under the Contracted guard firm, Gyto Security. The following suspects were charged and aligned in court

- i. Denis Kiprotich Mutios – Gyto Security
- ii. Kelyin Kimatu Mwema – Gyto Security
- iii. Peter Muchiri Mwangi - KIHBT Driver
- iv. David Mwangi Gichimu – Accomplices
- v. Washington Mutinda Mutuku – Accomplices

1997) All the above were charged in court as per the Director of Criminal Investigations letter ref: DCI/C/CRI/1/1/VOL.IX/27 dated 10th November 2020 and letter ref DCI/C/CRI/1/1/VOL.IX/37 dated 27th November 2020. The vehicle has however not been recovered.

### 1998) **Committee Observations and Findings**

- (i) The Committee observed that the suspects have since been arraigned in court awaiting court verdict; and
- (ii) The Committee further observed that since the matter was an active in Court. The matter was, therefore, stayed under *sub-judice* rule.

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

### **Basis for Conclusion**

#### **523. Proposed Finishes and Roof Works for New Office Block at KIHBT Main Campus**

1999) The contract for finishes and roof works for a new office block at KIHBT main campus was awarded on 27 January, 2020 at a contract sum of Kshs.41,202,777 for a contract duration of sixteen (16) weeks. However, tender documents issued to the various bidders were not uniform. Further, the original bid documents, evaluation reports and the monthly progress reports were not availed for audit verification. In addition, although the works have been certified to be 100% complete, a site verification visit indicated a 60% level of completion as at 30 June, 2020 with Kshs.34,841,144 of the contract sum having been paid. In the circumstances, it has not been possible to confirm the competitiveness and fairness in the award of the contract as well as the value for money on the expenditure of Kshs.34,841,144 incurred on the Project as at 30 June, 2020.

#### **Submission by the Accounting Officer**

2000) The Accounting Officer submitted as follows:

**i. Bid Documents issued were not the same**

2001) The blank bid document was uploaded on the Public Procurement Information Portal managed by the National Treasury through the Public Procurement Regulatory Authority (tenders portal) on 5<sup>th</sup> November 2019 and bidders were advised through the tender advert that appeared that same day to download the document free of charge. Three addenda to the document were also uploaded on the same portal on 5<sup>th</sup>, 11<sup>th</sup> and 21<sup>st</sup> November, 2019. No other document was issued that could make one bidder miss out on some pages. The uploaded documents are still accessible on the portal for verification. The original bid documents for the bidder who won the tender has been availed to the Auditor for verification.

**ii. Documents not provided**

- The original bid document for the bidder who won the tender has been availed to the Auditor
- Original evaluation report has been availed to the Auditor.

- Site meeting minutes have been availed to the Auditor. The same reflect the progress, appraisals and any possible variations to the contract. However, it is noted that there was no variation on the project contract sum.
- The Contract was under management by a professional team from the State Department of Public Works and the works measured and paid at every stage was commensurate with the percentage of completed works including materials on site.
- The project has since been completed and handed over as per the attached completion certificate.
- There was no variation on the contract sum

### iii. Payment Ahead of Works

2002) The certified works were in tandem with the work done. Certified works included components for materials on site. A visual analysis of the physical work done may fail to take into consideration the materials on site. Further to the foregoing, some finished works such as window louvers may be installed but be temporarily removed to allow for completion of adjacent works. A physical verification of the building as at 30th October showed that all the certified works had actually been done, having utilized the materials on site that had been certified earlier. When materials on site are considered, the physical completion as at 30th June 2020, stood at 80%. The certified works at 80% completion materially ties with the amount of money paid of Ksh.34,841,144 against a contract sum of Ksh.41,202,777.

### iv. Delay in Project Implementation

2003) The contract was supposed to end on 15th July 2020. However, owing to delayed site acquisition, delayed payments, and the circumstances relating to COVID 19 – restrictions, M/s Whitespan Enterprises requested for the extension of contract period and the same was as per the attached variation orders;

- First revision of completion date as per R.A recommendations -25th August, 2020
- Second revision of completion date as per R.A recommendations -17th November, 2020

The Project was completed on 11<sup>th</sup> February, 2021 as per the attached handing over certificate.

### 2004) Committee Observations and Findings

- The Committee observed that the project has since been completed and handed over to the State Department; and**
- The matter was therefore resolved.**

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

2005) **Conclusion**

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

**DONOR FUNDED PROJECTS**

**NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT (IDA CREDIT NO. 5140-KE)**

**REPORT ON THE FINANCIAL STATEMENTS**

2006) **Unqualified Opinion**

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

**Emphasis Matter**

**526. Project Closure and Low Absorption of Project Funds**

2007) As disclosed under paragraph 1.2 and 1.7 on Project information and overall performance, the funding summary indicates that the Project was to be implemented within a duration of five and half (5.5) years commencing from 3 August, 2013 to 31 December, 2018, with a total expected credit of Kshs.306,900,000 equivalent to US\$3,600,000. Technically, the project should have been closed. However, only Kshs.147,521,153 or 48% of the total expected credit had been received as at 30 June, 2020, leaving a balance of Kshs.159,378,847 or 52% undrawn. The Project has been unable to complete its activities and attain its objectives and expected outcomes.

2008) My opinion is not modified based on the effects of the above matter.

**Submission by the Accounting Officer**

2009) There were no submissions from the accounting officer.

2010) **Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

2011) **Committee Recommendations**

- 1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**



- 2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

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

### 2012) **Conclusion**

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

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

### 2013) **Conclusion**

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

## DONOR FUNDED PROJECTS

### **EASTERN AFRICA REGIONAL TRANSPORT, TRADE AND DEVELOPMENT FACILITATION PROJECT (IDA CREDIT NO.5638-KE)**

## REPORT ON THE FINANCIAL STATEMENTS

### **Basis for Qualified Opinion**

#### **529. Unsupported Prior Year Adjustments**

2014) As disclosed under Note 9.16 to the financial statements, the statement of financial assets reflects prior year adjustments balance of Kshs.3,028,860 (2018 - Kshs.6,492,005). However, Management has not supported the adjustments by way of detailed explanation and relevant documentations such as journal entries.

2015) The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was issued therein

### **Submission by the Accounting Officer**

2016) The Accounting Officer submitted that the State Department would like to state that the project financial statement for the year under review contained errors carried forward from previous year, which is highly regretted. The errors have since been rectified and

subsequent amendments made to the financial statement, and submitted to the auditor for verification.

## **Other Matter**

### **530. Budgetary Control and Performance**

2017) The statement of comparative budget and actual amounts reflects actual and budgeted receipts of Kshs.85,490,250 and Kshs.450,000,000 respectively resulting in under-funding of Kshs.364,509,750 or 81% of the budgeted. Similarly, the Project expended an amount of Kshs.51,683,050 against an approved budget of Kshs.450,000,000 resulting to an under absorption on Kshs.398,316,950 or 88% of the budget. Although the Management has attributed the under-funding and under expenditure to the effects of COVID 19 pandemic which has led to the suspension of many activities, the performance is very low.

2018) Consequently, the planned programs and activities may not have been implemented and the public have not received the envisaged services.

### **Submission by the Accounting Officer**

2019) There were no submissions from the accounting officer.

### **2020) Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

### **2021) Committee Recommendations**

- 1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

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

### **2022) Conclusion**

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**Basis for Conclusion**

**532. Weakness in Internal Control - Long Outstanding Imprests and Advances**

2023) Further, as disclosed under Note 9.14 to financial statements, the statement reflects a balance of Kshs.38,895,664 under accounts receivable-imprest and advances which includes an amount of Kshs.1,780,720 which has been outstanding for more than one year. Management has explained that the amount is held against an officer who had retired and subsequently passed on. It has not been explained why the management did not recover the amounts at the point of retirement thereby casting doubts on the effectiveness of the internal control at the point of separation in service.

2024) Consequently, the recoverability of the balance is in doubt.

**Submission by the Accounting Officer**

2025) There were no submissions from the accounting officer.

**2026) Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

**2027) Committee Recommendations**

- 1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

**KENYA TRANSPORT SECTOR SUPPORT PROJECT (IDA CREDIT NO. 4926-KE AND NO. 5410-KE (COMPONENT B1 SUPPORT TO MINISTRY OF ROADS))**

REPORT ON THE FINANCIAL STATEMENTS

**2028) Unqualified Opinion**

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

## Other Matter

### 534. Slow Release of Counter Part Funding

2029) Note 1.7 on the funding summary indicates that the Project was to be implemented within a duration of six (6) years from 2011 to 2016, with total funding of Kshs.1,628,241,200 comprising of IDA credit and counterpart funding by the Government of Kenya of Kshs.1,489,300,000 and Kshs.138,941,200 respectively. However, the Counterpart funding has lagged behind with Kshs.34,441,168 or 25% having been received as at 30 June, 2020, leaving a balance of Kshs.104,500,003 or 75% of the commitment. Although, a three (3) year extension period to 2019 was granted and which has also lapsed, the Project is not likely to complete its activities and attain its objectives and expected outcomes.

2030) My opinion is not modified based on the effects of the above matter.

### Submission by the Accounting Officer

2031) There were no submissions from the accounting officer.

### 2032) Committee Observations and Findings

The Committee observed that the Accounting officer did not respond to this paragraph.

### 2033) Committee Recommendations

- 1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

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

### 2034) Conclusion

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

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

### 2035) Conclusion

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

**EAST AFRICA SKILLS FOR TRANSFORMATION AND REGIONAL INTEGRATION PROJECT (CREDIT NO. 6334-KE)**

**REPORT ON THE FINANCIAL STATEMENTS**

**2036) Unqualified Opinion**

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

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

**2037) Conclusion**

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

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

**2038) Conclusion**

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

**OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR INFRASTRUCTURE SUPPORT TO ROAD SECTOR POLICY: 10TH EDF RURAL ROADS REHABILITATION PROJECT IN KENYA (AGREEMENT NO. KE/FED/023-571) – KENYA RURAL ROADS AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

**2039) Unqualified Opinion**

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

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

**Basis for Conclusion**

## **541. Project Implementation Inconsistencies**

2040) During the 2019/2020 audit, field inspections were undertaken on three of the five (lots) project implementation sites. The following unsatisfactory issues were however noted: -

### **541.1 Lot 1 - Embu County Roads - 11.7 KM**

2041) The contractor had not provided a laboratory and all the laboratory equipment as outlined in the contract but continued to share with the engineer contrary to the contractual terms. This could have hindered the smooth running of the project including running tests.

2042) Further, the performance guarantee for the Lot expired on 12 August, 2018 and was yet to be renewed as at the time of the audit. Instead, the Authority indicated having held back cash deposit in lieu of performance guarantee and as provisioned for in the contract. However, there is no evidence of an account having been opened in accordance with the guidelines set out under Section 28(1) of the PFM Act, 2012 on obtaining express permission of The National Treasury to open and operate the account.

2043) In addition, the asphalt testing on some sections of the road had failed and required the contractor to stop its usage and redo the parts of the road that was done using the defective material. However, the contractor did not adhere to the instructions despite being communicated to as stipulated in the contract. Consequently, the sections of the road have failed before the Project completion. The contractor had also not put in place safety measures by erecting signages, barriers and protection of the works area raising the risk of accidents due to open culvert.

2044) The Project was behind schedule and pursuant to the Management meeting held on 28 August, 2018, it was agreed that the employer (Authority) would deduct liquidated damages. However, no deductions have been effected in the subsequent Interim Payment Certificates.

2045) The contractor had abandoned the site and the equipment withdrawn thus stalling the project.

2046) Consequently, it has not been possible to confirm if the money being held was for the purpose of performance guarantee and whether value for money would be achieved.

### **Submission by the Accounting Officer**

2047) The Accounting Officer submitted that the anomaly raised by the auditor was based on a defective bank reconciliation presented. However upon realization of the same, the bank reconciliation was redone and corrections were done accordingly as attached. Further the

outstanding items in the redone bank reconciliation have been cleared and availed for verifications.

**2048) Committee Observations and Findings**

- (i) The Supervisor team made alternative testing arrangements at Material Testing and Research Division, (MTRD) in Embu, for quality control and some equipment were not supplied where the Contractor was only paid for laboratory equipment supplied.
- (ii) The Contractor was not using the Engineers materials laboratory. He used the Engineers laboratory to store a few laboratory testing equipment as some tests are required to be undertaken jointly. The Contractor was undertaking testing at Material Testing and Research Division (MTRD) laboratory at his own expense and this did not affect the quality and control of works.
- (iii) Further, the performance guarantees for the Lot expired on 12 August, 2018 and was yet to be renewed as at the time of the audit. Instead, the Authority indicated having held back cash deposit in lieu of performance guarantee and as provisioned for in the contract. However, there is no evidence of an account having been opened in accordance with the guidelines set out under Section 28(1) of the PFM Act, 2012 on obtaining express permission of The National Treasury to open and operate the account.
- (iv) In addition, the asphalt testing on some sections of the road had failed due to use of defective material by the contractor who did not adhere to the instructions.
- (v) Also, the Performance Guarantee was later recalled on 6th March, 2020 and the money deposited in KeRRA, Account since the Contractor abandoned the works and thus a breach of the Contract.

**2049) Committee recommendations**

- 1) The Accounting Officer to provide to the National Assembly and Auditor-General for audit review a schedule of the laboratory equipment supplied and those not supplied including the corresponding amounts paid or payable for the laboratory equipment.**
- 2) The Accounting Officer to provide to the National Assembly and Auditor-General for audit review the approval for the contractor to use the Engineers laboratory to store laboratory testing equipment.**
- 3) The Accounting Officer to provide to the National Assembly and Auditor-General for audit review the evidence of an account having been opened in accordance with the guidelines set out under Section 28(1) of the PFM Act, 2012. Also provide evidence of Performance Guarantee being later recalled and the money being deposited in KeRRA, Account.**
- 4) The Auditor-General review the documents and report to the National Assembly.**

**541.2 Lot 2 - Tharaka Nithi County Roads - 29.48 KM**

2050) The contract for construction of Lot 2 roads was varied from the original contract sum of Kshs.499,365,944 to Kshs.644,149,313, an increment of Kshs.144,783,369 or 29%



contrary to the contract provisions without being subjected to fresh tender. This was also contrary to Section 139 4(e) of the Contract provides for which contract variations provided the cumulative value does not result in an increment of more than twenty-five per cent of the original contract sum.

2051) The contractor had abandoned the site and withdrawn all the equipment. The works had stalled at 49.7% since February, 2019. The contracted Project time had also been exhausted.

#### **Submission by the Accounting Officer**

2052) The Accounting Officer submitted that the Contractor abandoned site operations since March, 2019 after site staff went on strike due to unpaid salaries. Several management meetings have been held to no avail. The Contractor in July, 2011 filed a civil suit stopping the Employer terminating the contract which was lifted in December 2020. In addition, the Contractor also commenced arbitration proceedings to decide on a dispute relating to asphalt testing and deducted measurements due to failed cold asphalt concrete surfacing. The arbitration is still in progress. The management terminated the contract and is in the process of retendering. The contract for construction of Lot 2 roads was varied from the original contract sum of Kshs.499,365,944 to Kshs.644,149,313, an increment of Kshs.144,783,369 or 29% contrary to the contract provisions without being subjected to fresh tender. This was also contrary to Section 139 4(e) of the Contract provides for which contract variations provided the cumulative value does not result in an increment of more than twenty-five per cent of the original contract sum.

2053) The Lot 3 Contract (Ndurumo-Giakiamponi road) is the one that had the said Variation and not Lot 2. The contractual works are under development partners funding the European Development Fund (EDF), procurement guidelines, Procurement and Grants for EU (PRAG) was adopted, as guided under Section 6 of the PPADA 2015, Article 5.2 of PRAG allows variation of the works contract up to 50%. The contractor had abandoned the site and withdrawn all the equipment. The works had stalled at 49.7% since February, 2019. The contracted Project time had also been exhausted.

2054) The Contractor abandoned site operations since March, 2017 after site staff went on strike due to unpaid salaries. Several management meetings have been held to no avail. The Contractor in July, 2011 filed a civil suit stopping the Employer terminating the contract which was lifted in December 2020. In addition, the Contractor commenced arbitration proceedings to decide on a dispute relating to asphalt testing and deducted measurements due to failed cold asphalt surfacing. The arbitration is still ongoing. The management terminated the contract in January 2021 and is retendering the outstanding works.

#### **2055) Committee Observations and Findings**

- i) The Committee observed that the contractor abandoned site operations since March, 2019 after site staff went on strike due to unpaid salaries. The committee observes that

the contractor may have been financially incapacitated to handle the contract of the magnitude which may have been noted during procurement thus negligent on the part of the evaluation.

- ii) The Committee observed that the contract was varied from the original contract sum of Kshs.499,365,944 to Kshs.644,149,313, an increment of Kshs.144,783,369 or 29% contrary to the provisions of Section 139 4(e) of the Public Procurement and Asset Disposal Act 2015.

#### 2056) **Committee recommendations**

**Within three (3) months after tabling and adoption of this report the Accounting Officer and the Cabinet secretary for National Treasury to fast track the funding and completion of the project. Accounting Officer to provide to the National Assembly and Auditor-General for audit review a schedule of the equipment supplied and those not supplied including the corresponding amounts paid or payable for the laboratory equipment.**

#### **541.3 Lot 3 - Meru County Roads - 23.74 KM - Unaccounted for Assets - Laboratory and Survey Equipment**

- 2057) The contract provided that the laboratory and survey equipment were to revert to the employer upon completion of the project. However, there is no evidence on whether the equipment handed over have been received and stored. Further, the project three (3) vehicles and two (2) motor cycles have not been included in the handing over report.

#### **Submission by the Accounting Officer**

- 2058) The Accounting Officer submitted that All laboratory equipment were formally handed over to the Regional Materials Officer, Material Testing Laboratory Meru, see attachment. The survey equipment and accessories were formally handed over to the KeRRA Regional Director, Meru Region.

- 2059) The 2No. Motorcycles reverted to the Contractor in December 2019 as per the site records, 1No. pick-up KCJ 229U, was returned to the Contractor on 20th and KCJ 300U was returned on 21st April, 2020. Vehicle registration No. KCJ 101U was used by the outgoing Team Leader who was concluding final report of the supervision service and was returned to the Contractor by 30th November 2020.

#### 2060) **Committee Observations and Findings**

The Committee observed that the all laboratory equipment were formally handed over to the Regional Materials Officer, Material Testing Laboratory Meru, the survey equipment and accessories were formally handed over to the KeRRA Regional Director, Meru Region, the 2No. Motorcycles, vehicles KCJ 229U, KCJ 300U and No. KCJ 101U were returned to the Contractor. This meant that the Accounting officer did not repossess the vehicles as per the terms of the contractor but the vehicles were in possession of the contractor to the contrary.

2061) **Committee recommendations**

- 1) **Within three (3) months after tabling and adoption of this report, the Accounting Officer should trace and recover the 2No. Motorcycles, vehicles KCJ 229U, KCJ 300U and No. KCJ 101U from the contractor and have them registered as Government vehicles in accordance with the Terms of the contract. The registration documents should be provided to the National Assembly and Auditor-General for review.**
- 2) **The committee reprimands the Accounting Officer for breach of the provisions of the terms of the contract and in the event of loss of the motor cycles and the vehicles the officers in charge of the contract management should be surcharged.**

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

2062) **Conclusion**

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

**NUNO-MODOGASHE ROAD PROJECT – KENYA NATIONAL HIGHWAYS AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

2063) **Unqualified Opinion**

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

**Other Matter**

**544. Budgetary Control and Performance**

2064) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,476,155,636 and Kshs.1,363,977,031 respectively resulting to an under-funding of Kshs.1,112,178,605 or 45% of the budget. Similarly, the Project expended Kshs.1,010,088,388 against an approved budget of Kshs.2,476,155,636 resulting to an under-expenditure of Kshs.1,466,067,247 or 41% of the budget.

2065) The underfunding and underperformance affected the planned activities may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

2066) The Accounting Officer submitted that the underfunding and underperformance was occasioned by slow progress of final works as a result of Covid-19 pandemic in the

Financial Year. It was anticipated that the final payment certificate would be raised before the end of Financial Year 2019/20, however due to the measures put in place towards the end of the Financial Year to contain the spread of the virus this was not achieved resulting to underperformance of the project. The Authority however received the final payment certificate for the project in FY 2021/22 and settled the payment. Furthermore, proceeds of the loans in the financing agreements were not expended in full hence savings on the credit were realized. The Authority through the Parent Ministry in FY 2020/21 initiated cancellation of the unutilized loan balances.

**2067) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Budgetary Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

**2068) Conclusion**

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

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

**2069) Conclusion**

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

**NORTH EASTERN TRANSPORT IMPROVEMENT PROJECT (IDA CREDIT NO. V0630) – KENYA NATIONAL HIGHWAYS AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

**2070) Unqualified Opinion**

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

**Emphasis of Matter**

**548. Amount Withdrawn but Unclaimed**

2071) The statement of receipts and payments reflects proceeds from domestic and foreign grants of Kshs.229,908,651 and as disclosed under Note 10.4 to the financial statements. However, this excludes amounts withdrawn but unclaimed, of USD 718,463.07 equivalent to Kshs.75,444,958 as at 30 June, 2020 reflected in the Project special account statement. The amount represents cumulative funds transferred to the Project bank account, but whose expenditure returns had not been submitted to The National Treasury by the close of the financial year. Management has not reconciled nor explained the form or where the funds are held.

2072) My Opinion is not modified in respect of this matter

#### **Submission by the Accounting Officer**

2073) The Accounting Officer submitted that when such a financing facility becomes effective, a Designated account (DA) is opened and operated by the National Treasury. Likewise, the Authority equally opened a Project account (PA) that will receive funding from the DA through the Parent ministry. Once this banking arrangement is set up, the Development partner will deposit an advance into the DA to the limit specified in the financing agreement. Upon the request of the Authority, a draw down will be made from the DA and the amounts sent to the PA through the parent ministry. Once received in the PA, these amounts will be used to settle eligible project expenses. According to the financing agreement such expenditure returns will be made to the Development partner quarterly 45 days after the end of each calendar quarter. This return then triggers release of amounts by the development partner into the DA and the cycle begins all over again.

2074) In the FY 2019-2020, an amount of USD 319,670.14 and USD 162,448.67 was released from the Designated Account on 2nd October, 2019 & 29th April, 2020 respectively and received in the project Bank Account on 5th November, 2019 and 4th June, 2020 equivalent Kshs.33,168,973.70 and 17,409,623.95. At the end of the FY 2019-2020 the Project Bank Account was holding an amount Kshs.31,379,795.00 supported by a Certificate of bank balance.

2075) Subsequently by end of F 2019/20 in line with financing agreement an expenditure return was forwarded to World Bank on 28th August, 2020 amounting to USD 415,017.16 equivalent of Kshs.43,185,864.40 as such the Authority was in full compliance with the Financial Agreement provisions on disbursements and accounting of funds.

#### **2076) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Amount Withdrawn but Unclaimed was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **Other Matter**

## **549. Pending Bills**

2077) Note 11.1 to the financial statements discloses pending bills amount of Kshs.39,979,158 as at 30 June, 2020. Although Management has committed to liaising with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

### **Submission by the Accounting Officer**

2078) The Accounting Officer submitted that all the pending bills were paid during the first quarter of financial year 2020/21.

### **2079) Committee Observations and Findings**

- (i) The Committee observed that the pending bills have since been settled; and**
- (ii) The Committee marked the matter as resolved.**

## **550. Budgetary Control and Performance**

2080) The statement of comparative budget and actual amounts reflects total receipts of Kshs.245,550,603 against final receipts budget of Kshs.292,000,000 resulting into shortfall of receipts of Kshs.46,449,397 or 16%. Similarly, out of the approved expenditure budget of Kshs.292,000,000, the project spent Kshs.200,585,003 leading to an under-expenditure of Kshs.91,414,997 or 31%.

2081) The under expenditure was attributed to the project design having been completed.

### **Submission by the Accounting Officer**

2082) The Accounting Officer submitted that there was under expenditure of Kshs.91,414,997 or 31% between budgeted amount and Actual expenditure. This financing was to cater for project designs. The project designs were completed in FY 2019/20 at a cost saving achieved hence the under absorption. The Committee marked the matters as resolved.

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

### **2083) Conclusion**

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

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

2084) **Conclusion**

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

**KENOL-SAGANA-MARUA HIGHWAY IMPROVEMENT PROJECT NO. P-KE-DBO-037 – KENYA NATIONAL HIGHWAYS AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

2085) **Unqualified Opinion**

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

**Other Matter**

**554. Budgetary Control and Performance**

2086) The statement of comparative budget and actual amounts reflects total receipts of Kshs.27,972,967 against estimated receipts of Kshs.590,000,000 resulting into shortfall of receipts of Kshs.562,027,033 or 95%. Similarly, the statement reflects actual expenditure of Kshs.27,972,967 against estimated expenditure of Kshs.590,000,000 resulting into an under-expenditure of Kshs.562,027,033 or 95%. Management has attributed the under expenditure to prolonged procurement processes.

2087) The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

2088) The Accounting Officer submitted that this was due to prolonged procurement process arising from the Development Partner requirements. However, in FY 2020/21 the Authority was able to procure both the supervision consultant and the civil works contractor. The contractor is currently fully mobilized and has caught up with physical progress of works, currently standing at approximately 19% against a planned progress of 18%. The Committee marked the matters as resolved.

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

2089) **Conclusion**

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



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

### 2090) **Conclusion**

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

## **NAIROBI OUTER RING ROAD IMPROVEMENT PROJECT NO. P-KE-DB0-020 – KENYA URBAN ROADS AUTHORITY**

### REPORT ON THE FINANCIAL STATEMENTS

### 2091) **Unqualified Opinion**

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

### **Other Matter**

### **558. Slow Absorption of Project Funds**

2092) Note 1.6 on the funding summary indicates that the Project was to be implemented within a duration of three (3) years from 2014 to 2017, with a total expected credit of Kshs.11,030,000,000. However, an amount of Kshs.9,396,363,385 or 85% of the total expected credit had been received as at 30 June, 2020, leaving a balance of Kshs.1,633,636,615 or 15% undrawn. Although, a two (2) year extension period up to September, 2019 was granted, the Project was unable to complete its activities and attain its objectives and expected outcomes.

### **Submission by the Accounting Officer**

2093) There were no submissions from the accounting officer.

### 2094) **Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

### 2095) **Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for**

**audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The Auditor General should then review the responses and report on the status to the National Assembly.**

#### **559. Pending Bills**

2096) Note.11.1 to the financial statements reflects pending bills amounting to Kshs.710,123,917 as at 30 June, 2020. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

2097) Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year.

#### **2098) Submission by the Accounting Officer**

There were no submissions from the accounting officer.

#### **2099) Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

#### **2100) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The Auditor General should then review the responses and report on the status to the National Assembly.**

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

#### **2101) Conclusion**

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2102) **Conclusion**

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

**KIBWEZI-MUTOMO-KITUI ROAD PROJECT (CONTRACT NO. BLA2016K001) - KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

2103) **Unqualified Opinion**

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

**Other Matter**

**563. Pending Bills**

2104) Note 11 to the financial statements reflects pending bills totaling to Kshs.938,115,297 as at 30 June, 2020. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional interest costs and penalties with the continued delay in making payments.

**Submission by the Accounting Officer**

2105) The Accounting Officer submitted that it was true that the amount of Kshs.938,115,297 GoK portions of the project were outstanding as at 30 June 2020. In the subsequent FY 2020/21 however, the Authority settled an amount of Kshs.524,665,968 of these bills hence enabling the contractor to substantially complete the road project on 4th June 2021 hence open for public use.

2106) The Authority, in liaison with the parent ministry will endeavor to ensure that the balance of the bills as well as subsequent invoices and bills raised by the contractor as well as acquisition of rights of way are promptly settled through sufficient budgetary allocation. The Committee marked the matters as resolved.

2107) **The Committee observations and Findings**

- (i) The Committee observed and found that the amount of Kshs.938,115,297 formed the GoK contribution portions in the project and were outstanding as at 30 June 2020.

However, the Authority settled an amount of Kshs.524,665,968 In the subsequent FY 2020/21.

- (ii) The Committee further, observed that the Accounting Officer indicated that the road project was substantially complete by 4th June 2021 and hence open for public use but did not provide the completion certificates and the respective supporting project status report.

**2108) Committee Recommendations**

- 1) The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should provide the completion certificates and the respective supporting project status report to the Auditor-General for audit review. The Auditor-General should review the documentation and physically verify the Project to confirm the status and report to the National Assembly.**

**564. Budgetary Control and Performance**

2109) The statement of comparative budget and actual amounts reflects total receipts of Kshs.6,010,224,695 against budgeted receipts of Kshs.7,106,001,845 resulting into shortfall of Kshs.1,095,777,150 or 15%. Similarly, the statement reflects actual expenditure totaling Kshs.5,861,085,986 against estimated expenditure of Kshs.7,106,001,845 resulting into an under-expenditure of Kshs.1,244,915,859 or 18% which mainly occurred under acquisition of non-financial assets. The under expenditure was attributed to suspension of work by contractor due to COVID-19 cases reported in Kitui.

2110) **The Committee marked the matters as resolved.**

**Submission by the Accounting Officer**

2111) The Accounting Officer submitted that it was true that the Project experienced under-absorption of development partner funds in the financial year. This was as result of Suspension of works by the contractor as a result of COVID-19 cases reported in Kitui town and the country at large. Further, the financier's requirement that the development partner portion can only be settled upon proof that GoK counterpart portion of each IPC has been settled hampered the contractor's cashflow hence lower progress of works. Following concerted efforts however, the Project was substantially completed and taken over on 4th June 2021 and is opened for use by the public.

**2112) The Committee observations and Findings**

- (i) The Committee observed and found that the Project experienced under-absorption of development partner funds in the financial year due to suspension of works by the contractor as a result of COVID-19 cases reported in Kitui town.

- (ii) The Committee further, observed that the financier's requirement that the development partner portion can only be settled upon proof that GoK counterpart portion of each IPC had been settled hampered the contractor's cashflow hence lower progress of works.
- (iii) The Project is substantially complete, taken over on 4th June 2021 and is opened for use by the public.

**2113) Committee Recommendations**

- 1) The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should provide the completion certificates and the respective supporting project status report to the Auditor-**

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

**2114) Conclusion**

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

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

**2115) Conclusion**

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

**MOMBASA WEST INTEGRATED ROADS NETWORK PROGRAMME PHASE 2  
DUALLING OF MAGONGO ROAD (A109L) AND EXPANSION OF KIPEVU ROAD  
– KENYA NATIONAL HIGHWAYS AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

**2116) Unqualified Opinion**

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

**Other Matter**

**568. Pending Bills**

2117) Note 11.1 of the notes to the financial statements reflects pending bills totaling Kshs.2,269,170,914 as at 30 June, 2020. Management has not explained the reason the bills were not settled during the year in which they occurred. The Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

2118) Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

#### **Submission by the Accounting Officer**

2119) The Accounting Officer submitted that Pending bills arose due to inadequate budgetary provisions coupled with delayed Exchequer releases to facilitate prompt contractual payments. In the subsequent Financial Year 2020/21, the Authority through the Parent Ministry and the National Treasury managed to settle Kshs.781,788,821 of these pending bills representing a 34% decrease in pending bills from Kshs.2.2 Billion to Kshs.1.4 Billion at the end of Financial Year 2020/21. The Authority shall continue liaising with Parent ministry and the National Treasury for adequate budgetary allocation and timely release of exchequer. The Committee marked the matters as resolved.

#### **2120) The Committee observations and Findings**

The Committee observed and found that the Accounting officer cleared pending bills amounting to Kshs.781,788,821 of the total owing of Kshs.2,269,170,914, the balance of which did not form the first charge of the financial year 2020/2021 and was therefore in breach of Regulation 42 of the Public Finance Management - National Government Regulations 2015.

#### **2121) Committee Recommendations**

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

#### **2122) Conclusion**

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

#### **2123) Conclusion**

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

**KAPCHORWA-SUAM-KITALE AND ELDORET BYPASS ROADS (KENYA)  
PROJECT ID NO. P-Z1-DB0-183 – KENYA NATIONAL HIGHWAYS AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

**2124) Unqualified Opinion**

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

**Other Matter**

**572. Pending Bills**

2125) Note 11.1 to the financial statements reflects pending accounts payables amounting to Kshs.946,931,517 as at 30 June, 2020. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

2126) Failure to settle bills during the year in which they relate to, distorts the financial statements and adversely affects the budgetary provisions for the subsequent year.

**Submission by the Accounting Officer**

2127) The Accounting Officer submitted that this was as a result of insufficient budgetary allocation and exchequer releases. However in the FY2020/21 the Authority - managed to secure a GoK budgetary allocation of Kshs.100,000,000 which will be utilized to settle part of the pending bills and the balance is planned for settlement in the current financial year. The authority will continue to engage with the line ministry and National treasury for enhanced budgetary provisions in support of the project. The Committee marked the matters as resolved.

**2128) The Committee observations and Findings**

The Committee observed and found that the Accounting officer cleared part of the pending bills and the balance did not form the first charge in the financial year 2020/2021. The Accounting officer was therefore in breach of Regulation 42 of the Public Finance Management - National Government Regulations 2015.

**2129) Committee Recommendations**

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



### **573. Budgetary Control and Performance**

2130) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.5,836,706,886 and Kshs.5,002,642,568 respectively resulting to an under-funding of Kshs.834,064,318 or 14% of the budget. The Project expenditure was limited to the amount realised.

2131) Based on the approved estimates, the under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

#### **Submission by the Accounting Officer**

2132) The Accounting Officer submitted that the outbreak of COVID 19 pandemic and the attendant containment measures led to slow progress of works that resulted in lower Development Partner budget absorption. Consequently, GoK expenditure was limited to exchequer receipts from National Treasury. The Authority is engaging the Line Ministry and National Treasury to make ensure adequate budgetary allocation to support the project. The Committee marked the matters as resolved.

#### **2133) Committee Observations and Findings**

(i) The Committee observed that the under-funding of Kshs.834,064,318 was as a result of COVID 19 pandemic and the attendant containment measures that led to slow progress of works hence lower Development Partner budget absorption. However, the Accounting officer did not provide the revised project work plan and budget giving details of the project end and closure dates.

(ii) The Committee observed that the project is incomplete and therefore the matter remains unresolved.

#### **2134) Committee Recommendation**

**1) Within three (3) months upon adoption of this report, the Accounting Officer must ensure that he/she avails the revised project work plan and budget giving details of the project end and closure dates.**

**2) The Committee reprimands the Accounting Officer for failure to provide supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and 81(4)(a) of the PFM Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015.**

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

#### **2135) Conclusion**

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

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

### 2136) **Conclusion**

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

## MOMBASA PORT AREA ROAD DEVELOPMENT PROJECT (LOAN AGREEMENTS NOS.KE-P29 AND KE-P32) – KENYA NATIONAL HIGHWAYS AUTHORITY

### REPORT ON THE FINANCIAL STATEMENTS

### 2137) **Unqualified Opinion**

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

### **Other Matter**

### **577. Pending Bills**

2138) As previously reported, Note 11.1 to the financial statements reflects pending accounts payable of Kshs.6,889,049,579 as at 30 June, 2020. Although Management has committed to liaising with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

2139) Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge. The Committee marked the matters as resolved.

### 2140) **The Committee observations and Findings**

The Committee observed and found that the Accounting Officer did not respond to this paragraph and therefore the pending bills may not have been settled or may not have formed the first charge in the subsequent financial year. The Accounting Officer was therefore in breach of Regulation 42 of the Public Finance Management - National Government Regulations 2015.

### 2141) **Committee Recommendations**

- 1) **The Committee reprimands the Accounting Officer for failing to respond on the audit query by the Auditor General; and,**
- 2) **The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

#### **578. Budgetary Control and Performance**

2142) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.4,101,193,511 and Kshs.3,708,213,107 respectively resulting to an under-funding of Kshs.392,980,404 or 10% of the budget. Similarly, the Project expended Kshs.3,477,519,313 against an approved budget of Kshs.4,101,193,511 resulting to an under-expenditure of Kshs.623,674,198 or 15% of the budget.

2143) The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

#### **Submission by the Accounting Officer**

2144) The Accounting Officer submitted that it was worth noting that out of the total pending bills in FY 2019/20 of Kshs6.8bn, Kshs3.7bn was land compensation to project affected persons while Kshs3.1bn was civil works and consultancy services bills. In FY 2020/21 the Authority in coordination with the Parent Ministry and the National Treasury managed to secure funds for the project leading to a reduction of the bills relating to civil works and consultancy services from Kshs3.1bn to Kshs1.1bn at the end of FY 2020/21 representing a 65% decrease in these bills. In FY 2021/22 the project has a budgetary allocation of Kshs.6.86 Billion which is sufficient to clear pending bills and support any ongoing works. The Committee marked the matters as resolved.

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

##### **2145) Conclusion**

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

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

##### **2146) Conclusion**

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

**MOMBASA-NAIROBI-ADDIS ABABA ROAD CORRIDOR PROJECT PHASE II  
(MARSABIT-TURBI ROAD) ID NO. P-Z1-DBO-027 – KENYA NATIONAL  
HIGHWAYS AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

**2147) Unqualified Opinion**

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

**Other Matter**

**582. Pending Bills**

2148) As disclosed under Note 11 and Annex 2A, the financial statements discloses pending bills balances of Kshs.67,901,399 against a bank balance of Kshs.2,961,077 as at 30 June, 2020. Management has not explained how these bills will be cleared since the project has closed and may not attract further funding from the Development Partner or the Kenya Government.

**Submission by the Accounting Officer**

2149) The Accounting Officer submitted that a situation arising due to the exhaustion of the credit extended to the Government. However it is critical to note that it is the Authority that contracts service providers to the project and therefore bound by the provisions of the contract. In the event that the credit is exhausted, it is the Government that remains with the residual responsibility of ensuring the project is delivered to the public. As such budgetary allocations and exchequer are made available to extinguish such liabilities. In FY 2020/21 this amount reduced to Kshs.62,165,683 which is anticipated to be settled in the current financial year. The

**2150) The Committee observations and Findings**

- (i) The Committee observed and found that the Accounting officer had not settled pending bills amounting to Kshs.62,165,683 as at the close of the financial year 2019/2020. However, the Accounting officer did not provide the revised project work plan and budget giving details of the project end and closure dates.
- (ii) The Committee observed that the project is incomplete and therefore the matter remains unresolved.

**2151) Committee Recommendation**

- 1) **Within three (3) months upon adoption of this report, the Accounting Officer must ensure that he/she avails the revised project work plan and budget giving details of the project end and closure dates.**
- 2) **The Accounting Officer must at all times provide supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and 81(4)(a) of the PFM Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015.**

### **583. Budgetary Control and Performance**

2152) The statement of comparative budget and actual amounts reflects total receipts of Kshs.9,188,458 against estimated receipts of Kshs.26,975,193 resulting into shortfall of Kshs.17,786,735 or 66%. Similarly, the statement reflects actual expenditure totalling Kshs.9,065,133 against estimated expenditure of Kshs.26,975,193 resulting into an under-expenditure of Kshs.17,910,060 or 66%. The under expenditure is attributed to the Project having been completed and therefore having minimal activities.

2153) In the circumstances, management should endeavor to complete all the envisaged activities and subsequently prepare for the project closure.

#### **Submission by the Accounting Officer**

2154) The Accounting Officer submitted that the project is completed and open to public use. This amount was budgeted in order to clear the final pending bills from the project. While budgeting is a best fit estimate, the Authority shall endeavor to ensure that budgeted amounts are as close as possible to actual outcomes. The Committee marked the matters as resolved.

#### **2155) The Committee observations and Findings**

The Committee observed and found that the shortfall and under expenditure of Kshs.17,786,735 and Kshs.17,910,060 respectively is attributed to the Project having been completed and therefore having minimal activities. The Project though complete meant that the Accounting Officer had over-budgeted and thus the project allocation was unrealistic.

#### **2156) Committee Recommendations**

**Within three (3) months upon adoption of this report, the Accounting Officer should provide the completion certificates and the respective supporting project status report to the Auditor-General for audit review. The Auditor-General should review the documentation and physically verify the Project to confirm the status and report to the National Assembly.**

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

2157) **Conclusion**

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2158) **Conclusion**

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

**MOMBASA-NAIROBI-ADDIS ABABA ROAD CORRIDOR PROJECT PHASE III (TURBI - MOYALE) NO. P-ZI-DB0-095 LOAN NO. 2100150025546 – KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

2159) **Unqualified Opinion**

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

**Other Matter**

**587. Pending Bills**

2160) Note 11.1 to the financial statements reflects pending bills amounting to Kshs.58,476,169 as at 30 June, 2020. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

**Submission by the Accounting Officer**

2161) The Accounting Officer submitted that this were current pending bills as at the end of financial year 2019/20. The bills were however settled by the end of the second quarter in financial year 2020/2021. The Committee marked the matters as resolved.

2162) **The Committee observations and Findings**

The Committee observed and found that the pending bills formed the first charge of the financial year 2020/2021 and were therefore cleared.

2163) **Committee Recommendations**

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

**588. Budgetary Control and Performance**

2164) The statement of comparative budget and actual amounts reflects total receipts of Kshs.112,759,438 against estimated receipts of Kshs.142,600,000 resulting into a shortfall of Kshs.29,840,562 or 21%. Similarly, the statement reflects an under-expenditure of Kshs.29,840,562 or 21% of the budget which mainly occurred under acquisition of non-financial assets. The under expenditure was attributed to the fact that the project is complete and open to public use hence low operating costs.

**Submission by the Accounting Officer**

2165) The Accounting Officer submitted that this project is complete, handed over to the Government and open to public use. Budgeted amounts are intended at settling any outstanding bills to the project. The Committee marked the matters as resolved.

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

2166) **Conclusion**

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

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

2167) **Conclusion**

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

**MOMBASA-MARIAKANI HIGHWAY PROJECT LOT 1 (MOMBASA-KWA JOMVU) LOAN NO. 2100150032743 – KENYA NATIONAL HIGHWAYS AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

2168) **Unqualified Opinion**

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



## **Other Matter**

### **592. Pending Bills**

2169) Note 11.1 to the financial statements reflects pending bills amounting to Kshs.133,575,356 as at 30 June, 2020. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional interest costs and penalties with the continued delay in making payments.

#### **Submission by the Accounting Officer**

2170) The Accounting Officer submitted that the amounts were outstanding due to constrained budgetary allocation to the project. In FY 2020/21 the project had a budgetary provision of Kshs.65 million that catered for part of the bills which will fully be paid off in Financial year 2021/22 in which the project has a budgetary allocation of Kshs.150 million.

#### **2171) The Committee observations and Findings**

The Committee observed and found that out of the Kshs.133,575,356 pending bills only Kshs.65 million was catered for and formed the first charge in the financial year 2020/2021 and the balance would be catered for in the financial 2021/22 and was therefore in breach of Regulation 42 of the Public Finance Management - National Government Regulations 2015.

#### **2172) Committee Recommendations**

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

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

### **2173) Conclusion**

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

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

### **2174) Conclusion**

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

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

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

### 2175) **Conclusion**

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

## **EPC / TURN KEY CONSTRUCTION OF FIVE FOOTBRIDGES AND T-MALL FLYOVER IN MOMBASA AND LANGATA ROAD CREDIT NO. KEN-01001-19 AND NO. KEN-02001-19 – KENYA NATIONAL HIGHWAYS AUTHORITY**

## REPORT ON THE FINANCIAL STATEMENTS

### 2176) **Unqualified Opinion**

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

### **Other Matter**

### **596. Budgetary Control and Performance**

2177) The statement of comparative budget and actual amounts reflects budgeted and actual receipts on comparable basis of Kshs.980,000,000 and Kshs.647,528,846 respectively resulting into underfunding by Kshs.332,471,154 or 34%. Similarly, the Statement reflects under-expenditure of the same amount. The underfunding was attributed to delays in signing the Financing Agreement which negatively impacted on the Project implementation.

### **Submission by the Accounting Officer**

2178) The Accounting Officer submitted that minimal absorption of the allocated budget was due to suspension of progress of works at three (3) footbridges along Mombasa Road as a result of design conflict with the ongoing Expressway project. However, the Authority through the Parent Ministry and the National Treasury have secured a no objection from the financier to allow the three (3) footbridges to be relocated to suitable sites along Langata Road. Currently an addendum to the contract is being prepared and we anticipate the absorption to improve in the current FY 2021/22 once the contractor commences construction of the three (3) footbridges along Langata Road.

### 2179) **Committee Observations and Findings**

- (i) The Committee observed that the that minimal absorption of the allocated budget was due to suspension of works at three (3) footbridges along Mombasa Road as a result of design conflict with the ongoing Expressway project. However, the Accounting officer did not provide the revised work plans for the project giving details of the project end and closure dates.
- (ii) The Committee observed that lack of proper planning reflected lack of essential technical knowhow or the technical capacity by the State Department;
- (iii)The matter therefore remains unresolved.

**2180) Committee Recommendation**

- 1) Within three (3) months upon adoption of this report, the Accounting Officer must ensure that he/she avails the revised project work plan and budget giving details of the project end and closure dates.**
- 2) The Accounting Officer must at all times provide supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to Article 229 (4)(h), sections 68 (2) (b) (e) (k) and 81(4)(a) of the PFM Act 2012 and section 9 (1) (e) of the Public Audit Act, 2015.**

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

**2181) Conclusion**

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

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

**2182) Conclusion**

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

**IMPROVEMENT OF RURAL ROADS AND MARKET INFRASTRUCTURE IN WESTERN KENYA PROJECT CREDIT NO. BMZ 2007-65 123 (KFW) YEAR-KENYA RURAL ROADS AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

**Basis for Qualified Opinion**

**599. Inaccuracies in Financial Statements**

2183) The statement of receipts and payments reflects cumulative receipts from loans from external development partners of Kshs.887,755,032 and as also disclosed under Note 3 to the financial statements. However, this amount differs from the amount disclosed under the report on funding summary cumulative amount received of Kshs.741,906,848 under paragraph 1.7 resulting to an unexplained variance of Kshs.145,848,184. Similarly, the statement reflects counterpart funding from the Government of Kenya of Kshs.542,315,413 which differs from the cumulative amount received under the report on funding summary cumulative amount of Kshs.416,688,951 under paragraph 1.7 resulting to an unexplained variance of Kshs.125,626,462.

2184) Consequently, the accuracy and completeness of the reported cumulative receipts from loans from external development partners and counterpart funding from the Government of Kenya of Kshs.887,755,032 and Kshs.542,315,413 respectively for the year ended 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

2185) The differences arose out of the previous years audited opening balances. Reconciliation has been performed to the cumulative closing balances in the prior years and the opening balances have been re-casted to reflect the correct position. The discrepancy between the cumulative receipts in the Statement of Receipts and Payments and the funding summary has been addressed and prior year adjustment made in the FY 2020/21 to reconcile the figures.

#### **2186) Committee Observations and Findings**

- (i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;**
- (ii) The Committee further observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;**
- (iii) However, the Committee observed that the figures have since been reconciled; and**
- (iv) The Committee marked the matter as resolved.**

#### **600. Accounting for Refund to Donor**

2187) Note 11 to the financial statements discloses refund of EUR 720,000 equivalent to Kshs.82,492,200 to the donor KfW pursuant to Clause 8 of Annex 6 of the separate agreement of attachment B (Annex 3). However, the refund has not been properly accounted for through the statement of receipts and payments. Instead, the refund has been deducted from fund balances brought forward in the statement of financial assets and liabilities and lumped together with purchase of goods and services in the statement of cashflows. Disclosure Note 5 to the financial statements on road works expenditure

includes the refunded amount of Kshs.82,492,200 which misstates the balances to the extent. Further, disclosure Note 5 to the financial statements on other operating costs does not indicate the total amount.

2188) Consequently, the accuracy and completeness of the donor refund of EUR 720,000 equivalent to Kshs.82,492,200 as at 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

2189) The issues arose as a result of the treatment of the refunded amount. Amendments have been made to correct the treatment of this refund by adjusting the cumulative loan receipts, to reflect the return of funds received. Further, an adjustment has been made to the fund balance brought forward in respect to this refund. A separate line item in the Statement of Cash flow to separate the refund from roadworks expenditures has been created.

#### **2190) Committee Observations and Findings**

- (i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;**
- (ii) However, the Committee observed that an adjustment has since been made to reflect the correct position; and**
- (iii) The Committee marked the matter as resolved.**

#### **601. Loss of Funding due to Low Absorption**

2191) During the year under review, the Project through a letter dated 5 March, 2019 referenced No:22340/200765123 refunded EUR 720,000(Kshs.Kshs.82,492,200) due to non-absorption of funds. Further, the project incurred avoidable foreign exchange losses in processing the refund of Kshs.2,775,024 due to fluctuations in the exchange rates.

#### **Submission by the Accounting Officer**

2192) The refund was in compliance with Clause 8 of Annex 6 of the Separate Agreement of Attachment B. The main cause of this was disbursement challenges related to movement of Loan funds from the Special EURO Account at Central Bank to the Disposition Fund Account operated by the Project Executing Agency. After disbursement of the Loan Funds by KfW, it took considerable time and processes to move them from National Treasury Account, to Ministry Account and eventually Disposition Fund Account operated by KeRRA and (NIC Bank). The management has engaged both our parent ministry and the National Treasury to discuss and resolve the matter of disbursement delays.

#### **2193) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Loss of Funding due to Low Absorption was satisfactory; and**

**(ii) The Committee marked the matter as resolved.**

**602. Training of Contractors on Labour-Based Contracts**

2194) The Project paid the Kenya Institute of Highways and Building Technology - Kisii Campus Kshs.166,534,650 in the financial year 2018/2019 for training of local contractors on labour-based maintenance of roads. Thirty-three (33) contractors from three counties of Bungoma, Kakamega and Vihiga were subsequently trained. However, it was not possible to identify how trainings were carried out as there are no Project files maintained in the regional offices on the training and no contracts have been subsequently awarded to the trained contractors in the year under review.

2195) In the circumstance, it was not possible to ascertain the lawfulness and effectiveness in the use of public funds amounting to Kshs.166,534,650 for training contractors on labour-based contracts.

**Submission by the Accounting Officer**

2196) The Accounting Officer submitted that Kisii Training Centre (KTC) which is a constituent college under Kenya Institute of Highways and Building Technology (KIHBT) was the official Training agency recommended in the Separate Agreement to the Loan and Financing Agreement. Consequently, KeRRA signed a Training Agreement with KTC for this purpose. Identification of Contractors for Training under this capacity building component was done through a competitive process after an advert was placed in the Daily Nation (Daily Newspaper) on 20th February, 2013. A report on the recruitment process was forwarded to KfW. Thereafter, KfW gave No Objection to the selection process.

2197) As part of the Training Module, the Trainee Contractors were assigned sections of roads measuring between 1.5-2km within the focal area (Kakamega, Bungoma & Vihiga) to implement as Trial Contracts. These are the Thirty-Three (33) Trial Contractors. KeRRA paid Kshs.166,534,650.00 to KTC towards implementation of the same as per the Training Agreement. A total length of 50.4km was implemented under Trial Contracts. This length is part of the overall scope achieved under the Programme implementation.

2198) He further submitted that implementation of Trial Contracts was done by KTC under supervision of the Project Management Consultants (PMC). We further wish to clarify that all Project files and payment records for Trial Contracts were under the custody of Kisii Training Centre and not KeRRA Regional Managers.

**603. Retention Monies**

2199) The Project owes contractors an amount of Kshs.14,603,693 by way of retention monies to guard for shoddy workmanship during the defect liability period. However, the liability

has not been reported in the statement of assets and liabilities as prescribed by the International Public Sector Accounting Standards Board (IPSAB).

2200) Consequently, the accuracy and completeness of the retention monies balance of Kshs.14,603,693 and the financial statements as at 30 June, 2020 could not be confirmed.

2201) No Submission made

## **Other Matter**

### **604. Budgetary Control and Performance**

2202) The statement of comparative budget and actual amounts for the year ended 30 June, 2020 reflects actual receipts of Kshs.91,882,132 against final receipts budget of Kshs.112,282,411 resulting in a shortfall of Kshs.20,400,279 or 18% of the approved budget. Further, actual expenditure for the year amounted to Kshs.141,575,526 against the final expenditure budget of Kshs.112,282,411 resulting to over expenditure of Kshs.29,293,115 or 21% of the approved budget. Management attributed the over expenditure to funding of activities through the accumulated funds.

2203) **Submission by the Accounting Officer**

No submissions.

2204) **Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

2205) **Committee Recommendations**

- 1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

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

2206) **Conclusion**

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



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

### 2207) **Conclusion**

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

## **KENYA SOUTH SUDAN LINK (KITALE MORPHUS) ROAD PROJECT (REF. NO.202062065 AND BMZ NO.202083939) – KENYA NATIONAL HIGHWAYS AUTHORITY**

### REPORT ON THE FINANCIAL STATEMENTS

#### **Basis for Qualified Opinion**

#### **607. Failure to Draw Down on the Funding Facility**

2208) Note 1.7 on the funding summary indicates that, of the total funding requirement of Kshs.13,637,000,720 for the Project, Kshs.13,635,890,000 was to be received from KfW Frankfurt am Main (“KfW”). However, as at 30 June, 2020 no draw down had been made as a result of the implementing agency’s failure to request for disbursements despite the Project having been in existence for three and half (3.5) years.

2209) Further, the statement of comparative budget and actual amounts reflects an initial budget receipts of Kshs.650,000,000 from grants and loans which was reduced to Nil in the final budget. The reason for the exclusion of the total budgeted receipts from loans and grants in the final budget have not been provided.

2210) In the circumstances, the Project is at risk of not being implemented due to continued delays on the draw down and in view of Section 3.2 of the Loan Agreement which gives right to the financier to decline disbursements after 31 December, 2021.

#### **Submission by the Accounting Officer**

2211) The Accounting Officer submitted that delay in project implementation emanated from the following: -

1. Delayed signing of the Financing Agreement that took about 2 years arising from complex negotiations between the National Treasury and KfW
2. The Procurement process for the Consultant started after signing of the Financing Agreement. The procurement process included shortlisting and required KfWs No objection at various stages.

2212) In the FY 2020/21 the design consultant managed to submit the inception report and the first invoice hence ability to draw down Kshs.25,108,356 from the grant facility. The Authority also anticipate to receive the second invoice for submission of the preliminary design report before closure of first half of FY 2021/22 hence a further draw down on the grant facility before 31<sup>st</sup> December 2021 deadline. Furthermore, the Authority through the Parent Ministry and the National Treasury has initiated the process of extension of the credit facility and are awaiting clearance from the Development Partners.

#### 2213) **Committee Observations and Findings**

The Committee observed that the delay in project implementation emanated from:

- (i) Delayed signing of the Financing Agreement that took about 2 years arising from complex negotiations between the National Treasury and KfW; and
- (ii) The Procurement process for the Consultant started after signing of the Financing Agreement. The procurement process included shortlisting and required KfWs No objection at various stages. The design consultant submitted the inception report and the first invoice for the drawdown of Kshs.25,108,356 from the grant facility to be affected. However, the Accounting officer did not provide the progress report to the National Assembly or the Auditor-General for review.

#### 2214) **Committee Recommendations**

Within three months of tabling and adoption of this report, the Accounting Officer should provide the progress report to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.

#### **Other Matter**

##### **608. Pending Bills**

2215) Note 11.1 to the financial statements reflects pending bills totalling to Kshs.26,614,857 as at 30 June, 2020. Management has not provided an explanation for non-payment of the pending bills. The Project is at risk of incurring additional interest costs and penalties with the continued delay in making payments of the pending bills.

##### **Submission by the Accounting Officer**

2216) The Accounting Officer submitted that the bills were outstanding due to budgetary and consequently exchequer constraints. However the Authority was able to secure funds in the subsequent FY 2020/21 and settled the bills.

#### 2217) **The Committee observations and Findings**

The Committee observed and found that the pending bills formed the first charge of the financial year 2020/2021 and were therefore cleared.

2218) **Committee Recommendations**

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2219) **Conclusion**

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2220) **Conclusion**

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

**TIMBOROA-ELDORET ROAD REHABILITATION PROJECT NO. P-KE-DB0-019 (LOAN NO. 2100150023344) – KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

2221) **Unqualified Opinion**

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2222) **Conclusion**

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2223) **Conclusion**

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

**NAIROBI-THIKA HIGHWAY IMPROVEMENT PROJECT LOT I AND II (CREDIT NO. 2100150015544) – KENYA NATIONAL HIGHWAYS AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

**2224) Unqualified Opinion**

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

**Other Matter**

**615. Pending Bills**

2225) Note 11 to the financial statements reflects pending bills amounting to Kshs.453,623,554 as at 30 June, 2020. The Management has however attributed the delay in the discharge of the bills to delays in Exchequer releases and has committed to liaise with the line Ministry and The National Treasury for timely releases Exchequer for prompt payments in the subsequent financial year. The Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

2226) Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

**Submission by the Accounting Officer**

2227) The Accounting Officer submitted that this amount represents outstanding land compensation payments as adjudged by the National Lands Commission. The amounts remain outstanding due to constrained budgetary allocation to the project. However the Authority is in constant liaison with the Parent ministry and The National Treasury to ensure adequate resources are availed to clear off these amounts.

**2228) The Committee observations and Findings**

- (i) The Committee observed and found that the pending bills represents outstanding land compensation payments as adjudged by the National Lands Commission.
- (ii) The Committee observed and found that the pending bills did not form the first charge of the financial year 2020/2021 and were therefore not cleared. The Accounting Officer was therefore in breach of Regulation 42 of the Public Finance Management - National Government Regulations 2015.

**2229) Committee Recommendations**

- 1) Within three months of tabling and adoption of this report, the Accounting Officer should provide the list of land owners whose compensation has been outstanding**

to the National Assembly and the Auditor-General for review. The Auditor-General should review the claims to ascertain the genuineness and report to the National Assembly.

- 2) **The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

## **616. Budgetary Control and Performance**

2230) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.529,365,448 and Kshs.400,128,745 respectively resulting to an under-funding of Kshs.129,236,703 or 24% of the budget. The Project expenditure was limited to the amount realised.

2231) Based on the approved estimates, under funding and expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

### **Submission by the Accounting Officer**

2232) The Accounting Officer submitted that arising from budgetary and consequently exchequer constraints the Authority was only able to realize Kshs.400,128,745 as audited above. The projects are however completed and open for public use and the budgeted amounts are intended to clear outstanding pending bills.

### **2233) The Committee observations and Findings**

- (i) The Committee observed and found that the under-funding of Kshs.129,236,703 arose from budgetary and exchequer constraints for the Authority.
- (ii) The Committee further, observed that the Accounting Officer indicated that the road project was substantially complete and hence open for public use but did not provide the completion certificates and the respective supporting project status report.

### **2234) Committee Recommendations**

- 1) **The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**
- 2) **Within three months of tabling and adoption of this report, the Cabinet secretary National Treasury and Accounting Officer state department should undertake a commitment to fund the state Department and clear outstanding pending bills before initiating new projects.**
- 3) **The Accounting Officer should provide the completion certificates and the respective supporting project status report to the Auditor-General for audit review. The Auditor-General should review the documentation and physically verify the Project to confirm the status and report to the National Assembly.**

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

### 2235) **Conclusion**

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

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

### 2236) **Conclusion**

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

## CENTRAL KENYA RURAL ROADS IMPROVEMENT AND MAINTENANCE PROJECT (AFD CREDIT NO. CKE 101201B, CREDIT NO. CKE 1046 01 J AND CREDIT NO. CKE 1094 01 M) – KENYA RURAL ROADS AUTHORITY

## REPORT ON THE FINANCIAL STATEMENTS

### **Basis for Qualified Opinion**

#### **619. Inaccuracies in the Financial Statements**

2237) The statement of cash flows reflects a balance of Kshs.858,259,368 under comparative cash and cash equivalents at end of the year, which differs with the audited financial statements figure of Kshs.846,902,653 resulting to an unreconciled variance of Kshs.11,356,715 that has not been explained. Further, the statement of comparative budget and actual amounts reflects total receipts utilization variance of Kshs.572,467,024. However, recasting resulted in a balance of Kshs.860,855,866 resulting to misstatement by Kshs.288,388,842 that has not been corrected.

2238) In addition, and as disclosed in Note 8.5 to the financial statements, the statement of receipt and payments reflects a loan from external development partners- receipts and payments controlled by the entity of Kshs.398,476,591. However, the special accounts statement reflects an amount of Kshs.402,756,447 resulting to an unreconciled difference of Kshs.4,279,856.

2239) In the circumstance, the accuracy and completeness of the financial statement as prepared and presented could not be ascertained.

### **Submission by the Accounting Officer**

2240) The Accounting Officer submitted that a reconciliation was performed to correct the Kshs.11,356,715 variances between the cumulative cash and cash equivalent opening

balance and the closing balance for the FY 18-19. The amount received in the project bank account was Kshs.398,476,591, as evidenced by the bank statements, and cashbook reconciliation. This is the same amount that was remitted by the Ministry of Transport and Infrastructure. The authority could only account for the amount that it received Kshs.98,476,591 as opposed to Ksh.402,756,447 that doesn't match the cash it received. Opening balances for FY 20-21 audit have been adjusted to the correct opening balance of Kshs.846,902,653 and the matter has now been resolved.

**2241) Committee Observation and Findings**

- (i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
- (ii) The Committee further observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
- (iii) However, the Committee observed that the supporting documents have since been availed and verified by the Office of the Auditor General.

**2242) The Committee recommends that:**

**Within three months of tabling and adoption of this report, the Auditor-General should review the revised balances and report the findings to the National Assembly.**

**Other Matter**

**620. Pending Accounts Payable**

2243) Notes 9.1 to the financial statements reflects pending bills of Kshs.41,473,682 as at 30 June, 2020. Management has not provided explanations for non-payment of the bills. The Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

**Submission by the Accounting Officer**

2244) The Accounting Officer submitted that these pending bills had not been paid due to budgetary constraints in the financial year 2019-20. All pending bills carried forward from the FY 2019/20 have been paid and the matter resolved.

**2245) The Committee observations and Findings**

The Committee observed and found that the pending bills formed the first charge of the financial year 2020/2021 and were therefore cleared.

**2246) Committee Recommendations**



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

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

##### 2247) **Conclusion**

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

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

##### 2248) **Conclusion**

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

#### MULTINATIONAL ARUSHA-HOLILI/TAVETA-VOI ROAD PROJECT LOAN NO.2100150028894 – KENYA NATIONAL HIGHWAYS AUTHORITY

#### REPORT ON THE FINANCIAL STATEMENTS

##### 2249) **Unqualified Opinion**

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

##### **Other Matter**

##### **624. Pending Bills**

2250) Note 11 to the financial statements reflects pending bills amounting to Kshs.42,523,499 as at 30 June, 2020. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation, timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

##### **Submission by the Accounting Officer**

2251) The Accounting Officer submitted that the Project had outstanding bills amounting to Kshs.42,523,499 as at 30 June 2020. This is a result of closure and Exhaustion of Development Partner financing prior to completion of road safety audits and Government of Kenya counterpart portions payable under the project, due to insufficient exchequer

allocations. We however wish to note that in the event that the development partner funding is exhausted, it is the Government's responsibility to ensure all liabilities are settled and the project is delivered to the public.

2252) In the subsequent FY 2020/21 the liability was reduced to Kshs.25,023,499 which is planned to be settled in the current financial year 2021/22.

#### 2253) **The Committee observations and Findings**

The Committee observed and found that the Accounting officer cleared pending bills amounting to Kshs.17,500,000 of the total owing of Kshs.42,523,499 , leaving a balance of Kshs.25,023,499 that did not form the first charge of the financial year 2020/2021. The Accounting Officer was therefore in breach of Regulation 42 of the Public Finance Management - National Government Regulations 2015.

#### 2254) **Committee Recommendations**

- 1) **Within three months of tabling and adoption of this report, the Cabinet secretary National Treasury and Accounting Officer for the state department should undertake a commitment to fund the state Department and clear outstanding pending bills.**
- 2) **The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

### **625. Budgetary Control and Performance**

2255) The statement of comparative budget and actual amounts reflects total receipts of Kshs.277,595,443 against estimated receipts of Kshs.214,319,894 resulting into surplus receipts of Kshs.63,275,249 or 29.5%. Further, the statement reflects actual expenditure totalling Kshs.284,905,603 against estimated expenditure of Kshs.214,319,894 resulting into an over-expenditure of Kshs.70,585,709 or 33% under acquisition of non-financial assets. The over expenditure was attributed to the fact that the payment included retention money released to contractors during the year but not factored in the budget.

#### **Submission by the Accounting Officer**

2256) The Accounting Officer submitted that it was true that the total expenditure for the financial year amounted to Kshs.284,905,603 against estimated expenditure of Kshs.214,319,894 resulting in a variance of Kshs.70,585,709 attributed to retention amounts of Kshs.81,223,999 that were released in the financial year and thus included as part of expenditure in the current financial year. Retention amounts are budgeted for during the implementation phase of the project, and the retention funds set aside by both GoK and the Development Partner in order to take care of defects that may arise prior to end of defects liability period. These retentions are released to the contractor after successful project inspection at the end of the defects liability period. At the point of release of this

retention, the amounts are not re-budgeted, but are included as part of expenditure in the year of release.

2257) Further, as required by the Projects reporting template issued by the Public Sector accounting Standards Board (PSASB), expenditures incurred by development partners (in this case retention refunds) were also reflected as receipts in the same financial year, hence the actual receipts in the financial year exceeds the budgeted amounts.

**2258) The Committee observations and Findings**

- (i) The Committee observed and found that the Accounting officer reported an over expenditure was attributed to the fact that the payment included retention money released to contractors during the year but not factored in the budget.
- (ii) The Projects reporting template issued by the Public Sector accounting Standards Board (PSASB) requires expenditures incurred by development partners (in this case retention refunds) be reflected as receipts in the same financial year. Therefore, being cognizant of the fact the state Department ought to have factored the retentions in the Budget, for it budget to be realistic.

**2259) Committee Recommendations**

**The Accounting Officer must at all times ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012. Further, reprimands the Accounting Officer for failure to ensure that complete financial and accounting records including supporting documents are presented within three (3) after the close of the financial year in breach of Section 9(1) (e) of the Public Audit Act, 2015.**

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

**2260) Conclusion**

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

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

**2261) Conclusion**

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

**PORT REITZ/MOI INTERNATIONAL AIRPORT ACCESS (C110) ROAD (FIDIC EPC/TURNKEY BASED) – KENYA NATIONAL HIGHWAYS AUTHORITY**

## REPORT ON THE FINANCIAL STATEMENTS

### 2262) **Unqualified Opinion**

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

### **Other Matter**

### **629. Pending Bills**

2263) Note 11.1 to the financial statements reflects pending bills amounting to Kshs.29,624,000 as at 30 June, 2020. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

2264) Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

### **Submission by the Accounting Officer**

2265) The Accounting Officer submitted that pending bills arose due to inadequate budgetary provisions coupled with delayed Exchequer releases to facilitate prompt contractual payments. However in Financial Year 2021/22 the Authority in coordination with the Parent Ministry and the National Treasury has managed to secure Kshs.30 Million budget allocation for the project to enable settlement of the bill.

### 2266) **The Committee observations and Findings**

The Committee observed and found that the pending bills did not form the first charge of the financial year 2020/2021 and were therefore not cleared in the financial 2020/2021 thus breaching Regulation 42 of the Public Finance Management - National Government Regulations 2015.

### 2267) **Committee Recommendations**

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

### **630. Budgetary Control and Performance**

2268) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.275,581,985 and Kshs.123,480,786 respectively, resulting to an under-funding of Kshs.152,101,199 or 45% of the budget. Similarly, the Project expended Kshs.130,282,360 against an approved budget of Kshs.275,581,985 resulting to an under-expenditure of Kshs.145,299,625 or 47% of the budget. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

#### **Submission by the Accounting Officer**

2269) The Accounting Officer submitted that due to exchequer constraints the Authority was only able to settle Kshs.152,101,199 as highlighted above. However this project is complete and open to public use and any budgeted amounts are targeted to pay outstanding bills.

#### **2270) The Committee observations and Findings**

The Committee observed and found that there was underfunding and under-expenditure of Kshs.152,101,199 and Kshs.145,299,625 respectively resulting from exchequer constraints. The underfunding resulted to pending bills may have affected the planned activities and may have impacted negatively on service delivery to the public. However, the Accounting Officer had not indicated how the pending bills were settled and may have breached Regulation 42 of the Public Finance Management - National Government Regulations 2015.

#### **2271) Committee Recommendations**

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

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

#### **2272) Conclusion**

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

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

#### **2273) Conclusion**

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

**DUALLING OF NAIROBI - DAGORETTI CORNER ROAD C60/C61 (PHASE 1)  
PROJECT - JICA GRANT AGREEMENT NO. 1260210 – KENYA URBAN ROADS  
AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

**2274) Unqualified Opinion**

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

**Emphasis of Matter**

**634. Non-Closure of the Project**

2275) The Project implementation period was for 17.6 months ending 31 July, 2017 with donor funding of JPY.1,565,830,000 equivalent to Kshs.1,444,320,000 and GoK counterpart funding of Kshs.299,900,000. Section 26.1 of the conditions to the contract provides for final inspection of the Project which was done on 12 September, 2019. The final report that the contractor completed the works satisfactorily and the defects liability period had lapsed. However, Management had not formally closed the Project.

2276) My Opinion is not modified in respect of this matter.

**Submission by the Accounting Officer**

2277) The Accounting Officer submitted that the project was completed and closed following warranty inspection carried out on 12 September, 2019 and issuance of Certificate of Maturity of Warranty Period to the contractor.

**2278) Committee Observations and Findings**

The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Project Closure was satisfactory.

**2279) Committee Recommendation**

**The Accounting Officer must that at all times ensure that during completion of all Donors sponsored projects he/she prepares and keeps either the Project extension or the closure report and provides them for audit review when required.**

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

**2280) Conclusion**

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

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

### 2281) **Conclusion**

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

## EAST AFRICA TRADE AND TRANSPORT FACILITATION PROJECT (IDA CREDIT NO. 4148-KE) – KENYA NATIONAL HIGHWAYS AUTHORITY

### REPORT ON THE FINANCIAL STATEMENTS

### 2282) **Unqualified Opinion**

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

### **Other Matter**

### **638. Pending Bills**

2283) Note 11 to the financial statements reflects pending bills amounting to Kshs.46,964,093 as at 30 June, 2020. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional costs by way of interest and penalties with the continued delay in making the payments.

### **Submission by the Accounting Officer**

2284) The Accounting Officer submitted that the EATTFP project was co-financed by GoK and the International Development Association (IDA) whose credit and financing ended on 30 September 2015 prior to completion of the project. With the exhaustion of development partner financing, it is the sole responsibility of the Government ensure the project is completed for use by the public and to make good the liabilities arising thereof through exchequer budgetary allocations.

2285) The Authority plans to settle the above outstanding bills in the current financial year upon receipt of exchequer. The Committee marked the matter as resolved.

### 2286) **The Committee observations and Findings**



The Committee observed and found that the International Development Association (IDA) credit and financing ended on 30 September 2015 prior to completion of the project it was therefore the sole responsibility of the Government ensure the project is completed for use by the public and to make good the liabilities arising thereof through exchequer budgetary allocations. However, the pending bills amounting to Kshs.46,964,093 were not settled and there was no evidence of availability of funds to settle the bills in time. The Accounting officer was in breach of section 44 (2) (a) of the Public Procurement and Asset Disposal Act 2015 for procuring without a budget allocation.

#### 2287) **Committee Recommendations**

- 1) **The Accounting Officer should ensure that all Procurements are within the Budget as provided for in section 44 (2) (a) of the Public Procurement and Asset Disposal Act 2015 for procuring without adequate budget allocation.**
- 2) **The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

#### 639. **Budgetary Control and Performance**

2288) The statement of comparative budget and actual amounts reflects actual expenditure amounting to Kshs.178,661,449 against estimated expenditure of Kshs.154,372,813 resulting into an over expenditure of Kshs.24,288,636 or 16%. The over expenditure was attributed to release of retention money from the prior year retention fund.

#### **Submission by the Accounting Officer**

2289) The Accounting Officer submitted that the observation which arose following release of retention funds of Kshs.31,318,002 from the project account and thus included as part of expenditure in the financial year. It is important to note that retention amounts are budgeted for during the implementation phase of the project, and the retention funds set aside as recourse against any works defects that may arise prior to end of defects liability period. When these funds are released to the contractor after successful end of defects inspection, the amounts are not re-budgeted, but included as part of expenditure in the year of release.

#### 2290) **The Committee observations and Findings**

- (i) The Committee observed and found that the Accounting officer reported an over expenditure was attributed to the fact that the payment included retention money released to contractors during the year but not factored in the budget.
- (ii) The Projects reporting template issued by the Public Sector accounting Standards Board (PSASB) requires expenditures incurred by development partners (in this case retention refunds) be reflected as receipts in the same financial year. Therefore, being cognizant of the fact the state Department ought to have factored the retentions in the Budget, for its budget to be realistic.

#### 2291) **Committee Recommendations**

**The Committee reprimands the then Accounting Officer for failure to ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012. Further, reprimands the Accounting Officer for failure to ensure that complete financial and accounting records including supporting documents are presented within three (3) after the close of the financial year in breach of Section 9(1) (e) of the Public Audit Act, 2015.**

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

#### 2292) **Conclusion**

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

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

#### 2293) **Conclusion**

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

#### **SIRARI CORRIDOR ACCESSIBILITY AND ROAD SAFETY IMPROVEMENT PROJECT: ISEBANIA-KISII-AHERO (A1) ROAD REHABILITATION-CREDIT NO.2000130015238 – KENYA NATIONAL HIGHWAYS AUTHORITY**

#### REPORT ON THE FINANCIAL STATEMENTS

#### 2294) **Unqualified Opinion**

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

#### **Other Matter**

#### **643. Pending Bills**

2295) Note 11.1 to the financial statements reflects pending bills amounting to Kshs.1,791,580,693 as at 30 June, 2020. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer Releases for prompt payments in the subsequent financial year, the

Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

2296) Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year.

#### **Submission by the Accounting Officer**

2297) The Accounting Officer submitted that in Financial Year 2020/21, the Authority through the Parent Ministry and the National Treasury managed to settle Kshs1.1billion arising from Kshs.1.7billion pending bills accumulated in FY 2019/20. Further in FY 2021/22 a budget of Kshs.2.9billion has been allocated to the project which is adequate to settle the outstanding pending bills. Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

2298) Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year.

#### **2299) The Committee observations and Findings**

- (i) The Committee observed and found that the Accounting Officer did not fully settle the pending bills for 2019/2020 in the subsequent year and therefore they did not form the first charge in that financial year and was therefore in breach of Regulation 42 of the Public Finance Management - National Government Regulations 2015.
- (ii) The Committee also observed that the Accounting officer did not provide the list of the pending bills settled and the criteria used to identify those eligible or not eligible for payment and the basis upon which those paid were identified.

#### **2300) Committee Recommendations**

- 1) **Within three months of tabling and adoption of this report, the Accounting Officer should provide the list of the pending bills settled, the criteria used to identify those eligible or not eligible for payment and the basis upon which those paid were identified to the National Assembly and the Auditor-General for review and reporting to the National Assembly.**
- 2) **The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

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

#### **2301) Conclusion**

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

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

### 2302) **Conclusion**

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

## **MOMBASA-NAIROBI-ADDIS ABABA ROAD CORRIDOR DEVELOPMENT PROJECT NO. P-ZI-DBO-018 (ISIOLO/MERILLE/MOYALE ROAD) – KENYA NATIONAL HIGHWAYS AUTHORITY**

### REPORT ON THE FINANCIAL STATEMENT

#### **Basis for Qualified Opinion**

#### **646. Unsupported Bank Balance**

2303) As reported previously, the statement of financial assets and liabilities reflects cash and cash balances of Kshs.18,682,650 as at 30 June, 2020 which is not supported by a certificate of bank balance. Although Management explained that the project account was closed and the amount is being held in the Kenya National Highways Authority's Exchequer bank account awaiting transfer to The National Treasury, it has not been possible to ascertain existence of the funds since the GoK Exchequer account certificate as at 30 June, 2020 reflects a balance of Kshs.20,779,561,755 which has not been supported by analysis of Projects for which the balance represents.

#### **Submission by the Accounting Officer**

2304) The Accounting Officer submitted that this amount cannot be supported by the bank certificate since the Authority maintains only one exchequer account for funds received across all projects. However we availed the bank statement indicating that indeed this amount was received from the Parent ministry, is being held in our exchequer account and forms part of the Kshs20.7 billion as evidenced by the certificate of bank balance.

#### **2305) Committee Observations and Findings**

- (i) The Committee observed and found that the amount could not be supported by the bank certificate since the Authority maintains only one exchequer account for funds received across all projects.
- (ii) The Committee also observed that although an amount of Kshs20.7 billion is being held in the exchequer account of the parent ministry there was no evidence that the amount includes the Kshs.18,682,650 relating to the Kenya National Highways Authority's Exchequer bank account.

2306) **Committee Recommendations**

**Within three months of tabling and adoption of this report, the Accounting Officer should provide provide to the National assembly and Auditor-General evidence that the amount is included in the Kenya National Highways Authority's Exchequer bank account.**

2307) **Conclusion**

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

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

2308) **Conclusion**

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

**NORTHERN CORRIDOR REHABILITATION PROGRAMME PHASE III (ELDORET-TURBO-WEBUYE-MALABA ROAD IMPROVEMENT PROJECT) – KENYA NATIONAL HIGHWAYS AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

2309) **Unqualified Opinion**

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

**Other Matter**

**650. Pending Bills**

2310) Note 11 to the financial statements reflects pending bills amounting to Kshs.9,458,068 as at 30 June, 2020. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional interest costs and penalties with the continued delay in making payments.

**Submission by the Accounting Officer**

2311) The Accounting Officer submitted that the Project had outstanding bills amounting to Kshs.9,458,068 as at 30 June 2020 which arose from the project's final accounts. We however wish to note that there was great improvement from prior year (30.06.2019) which had pending bills amounting to Kshs.552,705,680. An amount of Kshs.5,356,614 was

subsequently settled in FY 2020/21 with the balance planned for settlement in the current financial year.

#### 2312) **The Committee observations and Findings**

The Committee observed and found that the Accounting officer had settled part of the pending bills in the subsequent year. However, the Accounting Officer did not provide the basis upon which the bills settled were identified in relation to all the outstanding bills.

#### 2313) **Committee Recommendations**

- 1) **Within three months of tabling and adoption of this report, the Accounting Officer should provide the list of the pending bills settled, the criteria used to identify those eligible or not eligible for payment and the basis upon which those paid were identified to the National Assembly and the Auditor-General for review and reporting to the National Assembly.**
- 2) **The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

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

#### 2314) **Conclusion**

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

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

#### 2315) **Conclusion**

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

### **KENYA TRANSPORT SECTOR SUPPORT PROJECT CREDIT NO.4926-KE AND NO.5410-KE – KENYA NATIONAL HIGHWAYS AUTHORITY**

### REPORT ON THE FINANCIAL STATEMENTS

#### 2316) **Unqualified Opinion**

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

## Emphasis of Matter

### 654. Slow Absorption of Project Funds

2317) As disclosed under Note 1.2 of the Project information, the Project was earmarked to close on 31 December, 2018. However, Note 1.7 on funding summary indicates that the Donor had made commitments amounting to Kshs.34,686,030,249, equivalent to USD 352,621,937 as at 30 June, 2020. However, actual drawdowns during the project life amounted to Kshs.29,495,071,705 equivalent to USD 288,324,163, leaving Kshs.5,190,958,544 undrawn. The credit has lapsed without being fully utilized and the project's planned deliverables earmarked for completion using the funding may not be realized. However, Management has not availed for audit review, documentary evidence to show that the closure process has been initiated or any mitigation to secure an extension the Project from the Donor.

2318) My opinion is however not modified based on the effects of the matter mentioned above.

### Submission by the Accounting Officer

2319) The Accounting Officer submitted that the Development partner (IDA) extended a credit towards settlement of road works components to the tune of XDR 234,225,000 (USD 325,621,937 Equivalent). These amounts were fully utilized in settling contractors and consultants fee notes during the credit period and the funds were exhausted prior to completion of all the project components. The Kshs.5,190,958,544 is a Forex revaluation difference arising from depreciation of Kshs against the USD from an average of Kshs.90.5808 during project implementation to Kshs.106.5224 as at close of FY 2019/2020 ( $106.5224 - 90.5808 * 325,621,934 = 5,190,958,544$ ). This therefore does not constitute an actual cash balance.

### 2320) Committee Observations and Findings

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to budget control and performance was satisfactory; and
- (ii) **The Committee therefore marked the matter as resolved.**

## Other Matter

### 655. Pending Bills

2321) Note 11 to the financial statements reflects pending bills amounting to Kshs.1,693,303,263 as at 30 June, 2020. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project



is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

2322) Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

#### **Submission by the Accounting officer**

2323) The Accounting Officer admitted that the project had outstanding bills amounting to Kshs1,693,303,263 on 30 June 2020, which represents a reduction from Kshs.4,259,055,378 that was outstanding in prior financial year (30 June 2019). The KTSSP project was co-financed by GoK and the International Development Association (IDA) whose credit and financing ended on 30 December 2018 prior to completion of all the project components. Following the exhaustion and lapse of the credit from the Development Partner, the Government took up the responsibility of ensuring the projects are financed in order to facilitate their completion for use by the public. In FY 2020/21, the Authority made total payments amounting to Kshs.1,775,647,808 towards settlement of the above outstanding bills as well as bills generated in FY 2020/21. The balance of the bills are planned for settlement in financial year 2021/22, whose budgetary allocation amounts to Kshs.1,010,000,000.

#### **2324) Committee Observations and Finding**

The Committee observed and found that the Accounting officer had settled part of the pending bills in the subsequent year. However, the Accounting Officer did not provide the basis upon which the bills settled were identified in relation to all the outstanding bills.

#### **2325) Committee Recommendations**

- 1) Within three months of tabling and adoption of this report, the Accounting Officer should provide the list of the pending bills settled, the criteria used to identify those eligible or not eligible for payment and the basis upon which those paid were identified to the National Assembly and the Auditor-General for review and reporting to the National Assembly.**
- 2) The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

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

#### **2326) Conclusion**

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

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

2327)

### **Conclusion**

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

## **REGIONAL ROADS COMPONENT (MERILLE-MARSABIT ROAD) (KE/001/09) PROJECT LOAN AGREEMENT NO.KE/FED/2009/021-655 – KENYA NATIONAL HIGHWAYS AUTHORITY**

### REPORT ON THE FINANCIAL STATEMENTS

2328) **Unqualified Opinion**

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

### **Other Matter**

#### **659. Pending Bills**

2329) Note 11.1 to the financial statements reflects pending bills of Kshs.141,566,761 as at 30 June, 2020. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring significant additional interest costs and penalties with the continued delay in making payments.

#### **Submission by the Accounting Officer**

2330) The Accounting Officer submitted that pending bills arose due to inadequate budgetary provisions coupled with delayed Exchequer releases to facilitate prompt contractual payments. However, this project is completed and the road is open to public use, and amounts budgeted are meant to cater for outstanding pending bills. In FY 2021/22 the project has a budgetary provision of Kshs.200 million that will cater for the bills in full. Discussed by the Committee in 2018/2019.

2331) **The Committee observations and Findings**

The Committee observed and found that the pending bills formed the first charge of the financial year 2021/2022. However, the Accounting officer did not provide a list of how much had been settled in year 2019/2020 and has been in breach of Regulation 42 of the Public Finance Management - National Government Regulations 2015 for failing to discharge the bills in 2020/2021.

**2332) Committee Recommendations**

- 1) The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should provide the list of the pending bills settled, the criteria used to identify those eligible or not eligible for payment and the basis upon which those paid were identified to the National Assembly and the Auditor-General for review and reporting to the National Assembly.**

**660. Budgetary Control and Performance**

2333) The statement of comparative budget and actual amounts reflects total receipts of Kshs.231,523,703 against estimated receipts of Kshs.320,485,224 resulting into a shortfall of Kshs.88,961,521 or 28%. Similarly, there was an under-expenditure of an equal amount. Reasons for the receipts shortfall and the under expenditure were not provided.

**Submission by the Accounting Officer**

2334) The Accounting Officer submitted that due to exchequer constraints the Authority was only able to expend Kshs.231,523,703 availed to it. The Authority shall continue liaising with Parent ministry and the National Treasury for adequate budgetary allocation for projects.

**Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to budget control and performance was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.**

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

**2335) Conclusion**

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

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

### 2336) **Conclusion**

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

## **NAIROBI MISSING LINK ROADS AND NON-MOTORISED TRANSPORT FACILITIES (GRANT NO. KE/FED/022-951)– KENYA URBAN ROADS AUTHORITY**

### **REPORT ON THE FINANCIAL STATEMENTS**

### 2337) **Unqualified Opinion**

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

### **Other Matter**

### **664. Pending Bills**

2338) As disclosed in Note 11.1 to the financial statements the Project had pending bills amounting to Kshs.454,310,178 as at 30 June, 2020. Management has not provided reasons for non-payment of the bills. The Project is at risk of incurring significant interest costs and penalties accruing from the continued delay in making payments.

### **Submission by the Accounting Officer**

2339) The Accounting Officer submitted that the pending bills under the project were due to exhaustion of the allocated budget for the project. The pending bills were received towards the end of the Financial Year and were therefore given first consideration for funding under Financial Year 2020-2021 in line with the Treasury Circular No. 10/2020 on prioritization of pending bills.

2340) The Contractor committed to address specific items in the snag list within the three months which were duly attended to. The snag list and any other issue that may arise as a result of the contractor's omission or commission were to be attended to within the 12 months defects liability period elapsing May 2021. All the snag list items were subsequently addressed within the defects liability period. Discussed by the Committee in 2018/2019.

### 2341) **The Committee observations and Findings**

- (i) The Committee observed and found that the Accounting Officer did not address the issue raised by the Auditors on settlement of pending bills relating to 2019/2020. However, the Accounting indicated that the matter had been addressed in the report 2018/2019 a year

before the matter was raised in the report of the Auditor-General in 2019/2020 where the material facts also touches on activities in 2020/2021 and thus misleading.

- (ii) The Committee observed and found that the Accounting officer did not provide the basis upon which any of the bills settled were identified in relation to all the outstanding bills.

**2342) Committee Recommendations**

- 1) **Within three months of tabling and adoption of this report, the Accounting Officer should provide the list of the pending bills settled, the criteria used to identify those eligible or not eligible for payment and the basis upon which those paid were identified to the National Assembly and the Auditor-General for review and reporting to the National Assembly.**
- 2) **The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

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

**Basis for Conclusion**

**665. Delays in Project Implementation**

2343) As disclosed under paragraph 1.2 and 1.7 on Project information and overall performance, the funding summary indicates that the Project was to be implemented within a duration of six and half (6.5) years commencing from 5 May, 2014 to 31 December, 2020, with a total expected credit of Kshs.3,403,800,000 equivalent to US\$311,23,015 from the Donor with counterpart funding amounting to Kshs.1,372,000,000 equivalent to US\$12,495,435. Examination of the latest monthly progress report number 69 of August, 2020 revealed that the Project was incomplete with physical progress of work at 97.5%. This indicative of the project running behind with only six (6) months to the closure of the Project.

2344) Consequently, I am unable to confirm whether the public will receive value for money on the Project.

**Submission by the Accounting Officer**

2345) The Accounting Officer submitted that the pending bills under the project were due to exhaustion of the allocated budget for the project. The pending bills were received towards the end of the Financial Year and were therefore given first consideration for funding under Financial Year 2020-2021 in line with the Treasury Circular No. 10/2020 on prioritization of pending bills.

2346) The Contractor committed to address specific items in the snag list within the three months which were duly attended to. The snag list and any other issue that may arise as a result of the contractor's omission or commission were to be attended to within the 12 months defects liability period elapsing May 2021. All the snag list items were subsequently addressed within the defects liability period.

**2347) The Committee observations and Findings**

The Committee observed and found that the Accounting Officer did not address the issue on Delays in Project Implementation raised by the Auditor General.

**2348) Committee Recommendation**

**Within three (3) months after tabling and adoption of this report, the Accounting Officer should respond to the audit issues raised by the Auditor General.**

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

**2349) Conclusion**

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

**KENYA NAIROBI SOUTHERN BYPASS PROJECT LOAN NO. CHINA EXIM BANK PBC NO.(2011) 32 TOTAL NO.(183) NO.(1420303052011211528) – KENYA NATIONAL HIGHWAYS AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

**2350) Unqualified Opinion**

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

**Other Matter**

**668. Pending Bills**

2351) Note 11 to the financial statements reflects pending bills amounting to Kshs.2,867,324,245 as at 30 June, 2020. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project

is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

#### **Submission by the Accounting Officer**

2352) The Accounting Officer submitted that pending bills arose due to inadequate budgetary allocation to the project. However, it's worth noting that out of the Kshs.2.867bn pending bills, Kshs.2.474bn relates to land compensation to Kenya Wildlife Services. There are envisioned inter-ministerial discussions on how this amount can be waived since both institutions are beneficiaries of the road. Discussed by the Committee in 2018/2019.

#### **2353) The Committee observations and Findings**

The Committee observed and found that the Accounting Officer did not address how he/she will settle the pending bills nor did he/she provide the inter-ministerial discussions report on how this amount can be waived since both institutions are beneficiaries of the road.

#### **2354) Committee Recommendations**

- 1) Within three (3) months after tabling and adoption of this report, the Accounting Officer should address how he/she has settled the pending bills and provide the inter-ministerial discussions report on how this amount will be waived.**
- 2) The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

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

#### **2355) Conclusion**

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

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

#### **2356) Conclusion**

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

## **KENYA NAIROBI-THIKA HIGHWAY IMPROVEMENT PROJECT (LOT 3) GOVERNMENT CONCESSIONAL LOAN AGREEMENT NO. (2009) 39 TOTAL NO. (290) – KENYA NATIONAL HIGHWAYS AUTHORITY**

### **REPORT ON THE FINANCIAL STATEMENTS**



### 2357) **Unqualified Opinion**

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

### **Other Matter**

### **672. Pending Bills**

2358) Note 11 to the financial statements reflects pending bills balances of Kshs.823,181,683 as at 30 June, 2020. The balances relate to disputed claims that arose six years earlier but had not been disclosed as contingent liabilities over the prior periods. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

### **Submission by the Accounting Officer**

2359) The Accounting Officer submitted that a contingent liability can only be recorded if the likelihood of its occurrence and its amount can be reasonably estimated. Both of these were not known until an advisory was obtained from the Office of the Attorney General, subsequent to which both became clear and the same disclosed in the Project's financial statements in financial year 2019/20. Further in financial year 2020/21 an amount of Kshs.707 million was paid leaving a balance of Kshs.116 million. Adequate budgetary allocation has been made to clear the outstanding amounts in the current financial year. Discussed by the Committee in 2018/2019.

### 2360) **The Committee observations and Findings**

The Committee observed and found that the Accounting officer cleared part of the pending bills and the balance did not form the first charge in the financial year 2021/2022. The Accounting officer was therefore in breach of Regulation 42 of the Public Finance Management - National Government Regulations 2015.

### 2361) **Committee Recommendations**

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### 2362) **Conclusion**

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

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

### 2363) **Conclusion**

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

## NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT - IDA CREDIT NO. 5140 - KE – KENYA NATIONAL HIGHWAYS AUTHORITY

### REPORT ON THE FINANCIAL STATEMENTS

### 2364) **Unqualified Opinion**

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

### **Other Matter**

### **676. Pending Bills**

2365) Note 11.1 to the financial statements reflects pending accounts payables totalling Kshs.359,885,751 as at 30 June, 2020. Although Management has committed to liaise with the line Ministry and The National Treasury for timely provision of sufficient budgetary allocations to pay the debts in the subsequent financial year, the Project is at risk of incurring significant interest costs and penalties should the bills not be paid in due time.

### **Submission by the Accounting Officer**

2366) The Accounting Officer submitted that this was attributed to inadequate budgetary allocation in the financial year. However the Authority managed to secure budgetary allocations of Kshs.3.7billion and Kshs.2 billion in financial years 2020/21 and 2021/22 respectively. These provisions were sufficient to cater for the pending bills and onward support the project. Discussed by the Committee in 2018/2019.

### 2367) **The Committee observations and Findings**

(i) The Committee observed and found that the Accounting officer indicated that budgetary allocations of Kshs.3.7billion and Kshs.2 billion in financial years 2020/21 and 2021/22 respectively. However, the Accounting Officer did not address the issue on how Kshs.359,885,751 pending bills were cleared

- (ii) The Committee further, observed and found that, the Accounting officer did not provide a list of how much had been settled in respect of the bills and was therefore in breach of Regulation 42 of the Public Finance Management - National Government Regulations 2015 for failing to discharge the bills in 2020/2021.

**2368) Committee Recommendations**

- 1) Within three months of tabling and adoption of this report, the Accounting Officer should provide the list of the pending bills settled, the criteria used to identify those eligible or not eligible for payment and the basis upon which those paid were identified to the National Assembly and the Auditor-General for review and reporting to the National Assembly.**
- 2) The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

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

**2369) Conclusion**

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

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

**2370) Conclusion**

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

**NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT NO. IDA 5140-KE-KENYA URBAN ROADS AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

**2371) Unqualified Opinion**

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

**Other Matter**

**680. Pending Bills**

2372) As disclosed in Note 11.1 to the financial statements, the Project's financial statements reflect pending bills amounting to Kshs.62,927,931 for construction of civil works as at 30 June, 2020. Management has not provided reasons for non-payment of the bills even though the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

#### **Submission by the Accounting Officer**

2373) The Accounting Officer submitted that the pending bills under the project were due to exhaustion of the allocated budget. The pending Interim Payment Certificates were received towards the end of the Financial Year and were therefore given first consideration for funding under Financial Year 2020-2021 in line with the Treasury Circular No. 10/2020 on prioritization of pending bills.

2374) The pending bills were subsequently settled under the funding received from the Exchequer in the FY 2020-2021. Discussed by the Committee in 2018/2019.

#### **2375) The Committee observations and Findings**

- (i) The Committee observed and found that the Accounting Officer indicated that the matter had been addressed in the report 2018/2019 a year before the matter was raised in the report of the Auditor-General in 2019/2020 where, also the material facts touches on activities in 2020/2021 and thus misleading.
- (ii) The Committee observed and found that the pending bills were subsequently settled under the funding received from the Exchequer in the FY 2020-2021. However, the Accounting officer did not provide the list of the pending bills, the basis upon which the bills settled were identified and any bills outstanding and reasons for non-payment.

#### **2376) Committee Recommendations**

- (i) **Within three months of tabling and adoption of this report, the Accounting Officer should provide the list of the pending bills settled, the criteria used to identify those eligible or not eligible for payment and the basis upon which those paid were identified to the National Assembly and the Auditor-General for review and reporting to the National Assembly.**
- (ii) **The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

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

#### **2377) Conclusion**

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2378) **Conclusion**

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

**NORTHERN CORRIDOR TRANSPORT IMPROVEMENT PROJECT IDA CREDIT NO.3930-KE AND NO.4571-KE – KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

2379) **Unqualified Opinion**

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

**Other Matter**

**684. Pending Bills**

2380) Note 11, of the notes to the financial statements, reflects pending bills balance of Kshs.33,647,688.00 as at 30 June, 2020. Management has not provided reasons for non-payment of the bills. The Project is at risk of incurring significant costs in interest and penalties with the continued delay in making payments.

2381) Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

**Submission by the Accounting Officer**

2382) The Accounting Officer submitted that as explained during the audit these bills relate to individual projects under the Northern Corridor Transport Improvement Project that had attained their budgetary allocations for the year 2019/2020, hence remained as pending to be settled in the financial year 2020/21. It is important to note that in the financial year 2020/21 an amount of Kshs.25,745,130 was settled leaving an outstanding balance of Kshs.7,902,558 which shall be cleared in the current financial year. Discussed by the Committee in 2018/2019.

2383) **Committee Observations and Finding**

The Committee observed and found that the Accounting officer had settled part of the pending bills in the subsequent year. However, the Accounting Officer did not provide the basis upon which the bills settled were identified in relation to all the outstanding bills.

**2384) Committee Recommendations**

- 1) Within three months of tabling and adoption of this report, the Accounting Officer should provide the list of the pending bills settled, the criteria used to identify those eligible or not eligible for payment and the basis upon which those paid were identified to the National Assembly and the Auditor-General for review and reporting to the National Assembly.**
- 2) The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

**685. Budgetary Control and Performance**

2385) The statement of comparative budget and actual amounts reflects total receipts of Kshs.469,025,672 against estimated receipts of Kshs.805,146,398 resulting to underfunding of Kshs.336,120,726 or 42%. Similarly, the statement reflects actual expenditure totalling to Kshs.480,951,034 against estimated expenditure of Kshs.805,146,398 resulting into an under-expenditure of Kshs.324,195,364 or 40%.

2386) Management has attributed the under-performance and under expenditure to the project being complete and already put into use and budgetary allocations were for settlement of the outstanding bills.

**Submission by the Accounting Officer**

2387) The Accounting Officer submitted that although the budget amounted to Kshs.805 million, the Authority only managed to realize exchequer amounting Kshs.481 million in the same period, hence the underperformance. However this project is complete and open to public use and any budgeted amounts are targeted to pay outstanding bills.

**2388) Committee Observations and Finding**

The Committee observed and found that the Authority only managed to realize exchequer amounting Kshs.481 million out of the budgeted amount of Kshs.805 million, , hence the underperformance. . However, although the project is complete and open to public use, the Accounting Officer did not provide the supporting documents for the payment of outstanding bills.

**2389) Committee Recommendations**

- 1) Within three months of tabling and adoption of this report, the Accounting Officer should provide supporting documents for the payment of outstanding bills to the**

**National Assembly and the Auditor-General for review and reporting to the National Assembly.**

- 2) **The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

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

##### 2390) **Conclusion**

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

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

##### 2391) **Conclusion**

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

#### **REGIONAL MOMBASA PORT ACCESS ROAD PROJECT (LOAN NO. 27459, CREDIT NO. 84010 AND GRANT NO. 202061919) – KENYA NATIONAL HIGHWAYS AUTHORITY**

#### REPORT ON THE FINANCIAL STATEMENTS

##### 2392) **Unqualified Opinion**

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

##### **Other Matter**

##### **689. Pending Bills**

2393) Note 11.1 to the financial statements reflects pending bills totalling Kshs.15,028,891 as at 30 June, 2020. Management has not provided reasons for non-payment of the bills even though the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.



2394) Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

#### **Submission by the Accounting Officer**

2395) The Accounting Officer submitted that this amount represents outstanding land compensation payments as adjudged by the National Lands Commission. The amounts remain outstanding as details of the project affected person for plot no. MN/VI/169/ has not been provided by the National Lands Commission. A taskforce drawing its membership from the Authority, National lands Commission and the Presidential Delivery Unit has been formed whose aim is to resolve all pending land compensation issues in order to facilitate smooth implementation of project. Discussed by the Committee in 2018/2019.

#### **2396) The Committee observations and Findings**

The Committee observed and found that the pending bills represents outstanding land compensation payments as adjudged by the National Lands Commission. A taskforce drawn from the Authority, National lands Commission and the Presidential Delivery Unit had been formed to resolve all pending land compensation issues in order to facilitate smooth implementation of project. However, the list of the land owners to whom Kshs.15,028,891 is owed was not provided.

#### **2397) Committee Recommendations**

- 1) Within three months of tabling and adoption of this report, the Accounting Officer should provide the list of the land owners to whom Kshs.15,028,891 is owed to the National Assembly and the Auditor-General for review and reporting to the National Assembly. The Auditor General should perform forensic Audit to ascertain the genuineness of the land compensation claims in the state department.**
- 2) The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

#### **690. Delays in Project Implementation**

2398) Note 1.7 to the annual report on funding indicates the Project implementation period as 41 months commencing August, 2017 to December, 2020. The total Project commitment from Development Partners and counterpart funding from the Government of Kenya amounts to Kshs.18,112,866,000 with only Kshs.454,346,843 (2.56%) having been drawn as at 30 June, 2020 leaving a balance of Kshs.17,658,519,157 as undrawn balance.

2399) Although Management has indicated that there is minimal progress as the procurement for the contractor is underway, the risk of the Project not realizing the envisaged objectives is high with the continued delay in implementation of the Project.

### **Submission by the Accounting Officer**

2400) Delay in implementation has been due to prolonged procurement process for the works contractor occasioned by numerous requirements by the financier. The Authority has however finalized the procurement process and is currently waiting for the financier to give a no objection for the signing of the contract. Further, the Authority through the Parent Ministry has initiated the process of extension of the credit agreement.

### **2401) Committee observations and findings**

- (i) The Committee observed that the value for money has not been achieved since the facility has not been completed and put to use; and
- (ii) The Committee observed that the under expenditure of Kshs.17,658,519,157 was due to prolonged procurement process arising from the Development Partner requirements. However, the Committee observed that the delay could be attributed to lack of proper planning or lack of essential technical knowhow/ technical capacity of the State Department;
- (iii) The matter therefore remains unresolved.

### **2402) Committee Recommendation**

**Within three (3) months upon adoption of this report, the Accounting Officer must ensure that he/she avails the revised project work plan and budget giving details of the project end and closure dates. Also provide procurement documents showing the prolonged process.**

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

### **2403) Conclusion**

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

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

### **2404) Conclusion**

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

## **UPGRADING OF “GILGIL MACHINERY” ROAD PROJECT– KENYA RURAL ROADS AUTHORITY**

## **REPORT ON THE FINANCIAL STATEMENTS**

2405) **Unqualified Opinion**

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2406) **Conclusion**

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2407) **Conclusion**

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

**DUALLING OF NAIROBI - DAGORETTI CORNER ROAD C60/C61 (PHASE 2)-  
PROJECT-JICA GRANT NO.1760220 – KENYA URBAN ROADS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

2408) **Unqualified Opinion**

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

**Other Matter**

**697. Pending Bills**

2409) Note 11.1 to the financial statements discloses pending bills balances of Kshs.88,486,748 as at 30 June, 2020. Although Management has committed to liaising with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent year, the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

**Submission by the Accounting Officer**

2410) There were no submissions from the Accounting Officer.

**2411) Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

**2412) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

**698. Budgetary Control and Performance**

2413) The statement of comparative budget and actual amounts reflects final budget and actual on comparable basis of Kshs.100,000,000 and Kshs.1,533,474,035 respectively resulting to an over-funding by 1533%. The project also overspent by a similar margin of the budget. Management explained that it did not have control of offshore payments as the Project is fully funded by JICA.

2414) Consequently, the budget did not give full information.

**Submission by the Accounting Officer**

2415) There were no submissions from the Accounting Officer.

**2416) Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

**2417) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

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

**2418) Conclusion**

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

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

### 2419) **Conclusion**

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

## **KENYA NAIROBI WESTERN BYPASS PROJECT CREDIT NO. CHINA EXIM BANK GCL NO. (2017) 28 TOTAL NO. (633) – KENYA NATIONAL HIGHWAYS AUTHORITY**

## REPORT ON THE FINANCIAL STATEMENTS

### 2420) **Unqualified Opinion**

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

### **Other Matter**

### **702. Pending Bills**

2421) Note 11.1 to the financial statements discloses pending bills amounting to Kshs.2,574,282,080 as at 30 June, 2020. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial years, the Project is at risk of incurring significant interest cost and penalties with the continued delay in making payments.

### **Submission by the Accounting Officer**

2422) The Accounting Officer submitted that the amounts were outstanding due to constrained budgetary allocation to the project. In the FY 2021/22 the Authority managed to secure Kshs.3.65bn budgetary allocation for the project which is adequate to fully settle the pending bills.. Discussed by the Committee in 2018/2019.

### 2423) **The Committee observations and Findings**

The Committee observed and found that the Authority managed to secure Kshs.3.65bn budgetary allocation for the project In the FY 2021/22 which is adequate to fully settle the

pending bills. However, the Accounting did not provide documentation to show how the pending bills of 2,574,282,080 formed the first charge of the financial year 2021/2022.

**2424) Committee Recommendations**

- 1) Within three months of tabling and adoption of this report, the Accounting Officer should provide the list of the pending bills and the corresponding programme based budget for pending bills treated as a first charge in the budget for the financial year 2021/2022.**
- 2) The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

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

**2425) Conclusion**

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

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

**2426) Conclusion**

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

**ARUSHA-NAMANGA-ATHI RIVER ROAD DEVELOPMENT PROJECT NO. P-Z1-DB0-040 – KENYA NATIONAL HIGHWAYS AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

**2427) Unqualified Opinion**

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

**Other Matter**

**706. Pending Bills**

2428) Note 11 to the financial statements discloses pending bills balances of Kshs.83,344,955 as at 30 June, 2020. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer

releases for prompt payments in the subsequent financial year, the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

#### **Submission by the Accounting Officer**

2429) The Accounting Officer submitted that the project had pending bills amounting to Kshs.83,344,955 as at 30 June 2020 which arose due lack of adequate supporting documents from the contractor to facilitate settlement of the of the pending bills. The Authority is duty bound to ensure that all claims made for payment are fully supported and meet all the necessary requirements to facilitate payments. The supporting documents were not availed by the contractor hence the claim remained outstanding as at close of the financial year.

2430) We further wish to note that the bills do not attract interest on delayed payments until they are duly supported to enable settlement, hence such will not lead to any escalation of project costs. Any further delay in proper documentation of the claim will lead to a write back which will extinguish any liability thereon. Discussed by the Committee in 2018/2019.

#### **2431) The Committee observations and Findings**

The Committee observed and found that the pending bills amounting to Kshs.83,344,955 as at 30 June 2020 arose due lack of adequate supporting documents from the contractor to facilitate their settlement. However, the Accounting officer did not provide documents to support availability of the funds for payment upon provision of supporting documents. The project inspection certificates and invoices raised as approve of work done to warrant treatment of the amount as pending bill without supporting documents.

#### **2432) Committee Recommendations**

- 1) Within three months of tabling and adoption of this report, the Accounting Officer should provide supporting documents in respect of project inspection certificates and invoices raised by the contractors as a prove of work done to warrant treatment of the amount as pending bill to the National Assembly and the Auditor-General for review. The Auditor-General should review the claims to ascertain the genuineness and report to the National Assembly.**
- 2) The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

### **707. Budgetary Control and Performance**

2433) The statement of comparative budget and actual amounts reflects total receipts of Kshs.18,903,530 against estimated receipts of Kshs.83,376,172 resulting into shortfall of



receipts of Kshs.64,472,642 or 77%. Similarly, the statement reflects actual expenditure totalling Kshs.20,007,418 against estimated expenditure of Kshs.83,376,172 resulting into an under-expenditure of Kshs.59,368,754 or 71% under acquisition of non-financial assets. The under expenditure was attributed to the project having been completed and put into use with limited budgetary allocations for settlement of outstanding bills.

#### **Submission by the Accounting Officer**

2434) The Accounting Officer submitted that it was true that the Project's expenditure amounted to Kshs.24,007,418 against estimated expenditure of Kshs.83,376,172. This is attributed to the following:

- a) The planned expenditure amounting to Kshs.83,376,172 was meant to cater for settlement of the outstanding pending bills. The contractor however submitted bills with inadequate supporting documents hence the Authority was not able to settle them. The Authority is duty bound to ensure that all payments are fully supported and meet all the necessary requirements to facilitate payments.
- b) Any further delay in full documentation of the claim will lead to a write back which will extinguish any liability thereon.

#### **2435) The Committee observations and Findings**

The Committee observed and found that the Project's expenditure amounted to Kshs.24,007,418 against estimated expenditure of Kshs.83,376,172, an amount meant to cater for settlement of the outstanding pending bills. However, they were unsettled due lack of adequate supporting documents from the contractor to facilitate their settlement. However, the Accounting officer did not provide documents to support the basis upon which the amounts were attributed to pending bills in absence of contractor invoices.

#### **2436) Committee Recommendations**

- 1) Within three months of tabling and adoption of this report, the Accounting Officer should provide supporting documents in respect of project inspection certificates and invoices raised by the contractors as a prove of work done to warrant treatment of the amount as pending bill to the National Assembly and the Auditor-General for review. The Auditor-General should review the claims to ascertain the genuineness and report to the National Assembly.**
- 2) The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

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

#### **2437) Conclusion**

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

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

### 2438) **Conclusion**

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

## AFRICA REGIONAL TRANSPORT, TRADE AND DEVELOPMENT FACILITATION PROJECT IDA CREDIT NO.5638-KE – KENYA NATIONAL HIGHWAYS AUTHORITY

### REPORT ON THE FINANCIAL STATEMENTS

### 2439) **Unqualified Opinion**

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

### **Other Matter**

### **711. Pending Bills**

2440) Note 11.1 to the financial statements reflects pending bills amounting to Kshs.1,225,792,738 as at 30 June, 2020. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

2441) Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

### **Submission by the Accounting Officer**

2442) The Accounting Officer submitted that this is attributed to inadequate GoK budgetary allocation in the financial year. In the subsequent financial year 2020/21, the Authority made payments amounting to Kshs.1,136,113,162 towards settlement of the above pending bills as well as new bills generated by the contractors in the financial year. However, the project is ongoing, hence as at close of FY 2020/21, the project had pending bills amounting

to Kshs.1,540,700,413 which will be settled using the current FY 2021/22 Budget amounting to Kshs.10,502,387,987.

2443) The Authority will continue liaising with the parent ministry and the National Treasury to ensure that adequate budgetary allocations are made to facilitate project completion for public use. Discussed by the Committee in 2018/2019.

**2444) Committee Observations and Finding**

The Committee observed and found that the Accounting officer had settled part of the pending bills in the subsequent year. However, the Accounting Officer did not provide the basis upon which the bills settled were identified in relation to all the outstanding bills.

**2445) Committee Recommendations**

- 1) **Within three months of tabling and adoption of this report, the Accounting Officer should provide the list of the pending bills settled, the criteria used to identify those eligible or not eligible for payment and the basis upon which those paid were identified to the National Assembly and the Auditor-General for review and reporting to the National Assembly.**
- 2) **The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

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

**2446) Conclusion**

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

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

**2447) Conclusion**

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

**MECHANICAL AND TRANSPORT FUND**

**REPORT ON THE FINANCIAL STATEMENTS**

**Basis for Qualified Opinion**

#### **714. Cash and Cash Equivalents.**

2448) The statement of financial position reflects cash and cash equivalents of Kshs.34,676,685. However, the bank reconciliation statement contained long outstanding items comprising Kshs.12,833,366.00 receipts in cash book not in bank statement, payments in cashbook not in bank statement amounting to Kshs.4,248,066 and receipts in the bank statement not in cashbook of 33,874,527. In circumstances, the accuracy of the reported cash and cash equivalents balance of Kshs.34,676,685 could not be confirmed.

#### **Submission by the Accounting Officer**

2449) The anomaly raised by the auditor was based on a defective bank reconciliation presented. However upon realization of the same, the bank reconciliation was redone and corrections were done accordingly as attached. Further the outstanding items in the redone bank reconciliation have been cleared.

#### **2450) Committee Observations and Findings**

- (i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;**
- (ii) The Committee further observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;**
- (iii) However, the Committee observed that the reconciliations were subsequently done to correct the outstanding issue; and**
- (iv) The Committee marked the matter as resolved.**

#### **715. Trade and Other Payables- Pending Bills.**

2451) According to note 16 to the financial statements, the statement reflects trade and other payables totaling to 70,469,907 as at 30th June. The balance constitutes pending bills balance Kshs.56,382,898.00 and unrefunded deposits amounting to Kshs.14,087,009.

#### **Submission by the Accounting Officer**

2452) The Accounting Officer submitted that:

- i. The Accounting Officer admitted that the pending bills of Ksh.56,382,898.00 was occasioned by late deliveries by the suppliers and late processing of payments. However, these pending bills were formed as a first charge and have since been settled
- ii. The unclaimed deposits amounting to Kshs.14,087,009 is evidenced by a deposit general ledger F.O. 40. A copy of the Ledger was availed for perusal by the Committee.

#### **2453) Committee Observations and Findings**

- i. The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;**
- ii. The Committee observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and**
- iii. The matter remained unresolved.**

#### **716. Outstanding Imprest**

- 2454) The statement of financial position reflects outstanding imprest of Kshs.1,336,898 as at 30th June, 2020. However the imprest provided for audit review reflected total outstanding imprest of Kshs.4,549,966, resulting to an unexplained variance of Kshs.3,213,068.
- 2455) Further the balance includes an amount of Kshs.4,549,966 which has been outstanding from various staff for over six months. Failure to surrender imprest is contrary to regulation 93(5) of the Public Finance Management Regulations, 2015 which requires imprest to be surrendered or accounted for within 7 working days after returning to duty station.

#### **Submission by the Accounting Officer**

- 2456) This was as a result of non-updating of the imprest register regularly which has so far been updated. The unexplained variance of Kshs.3,213,068 are as a result of cancelled imprests as attached. Further, the above anomaly has been corrected by updating the imprest register accordingly to reflect the true position. In addition the outstanding imprest of Ksh.1,336,898 have so far been surrendered.

#### **Committee Observations and Findings**

- (i) The Committee observed that the evidence of surrender was not presented;**
- (ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;**
- (iii) The matter remained unresolved.**

#### **717. Budgetary Control**

- 2457) The statement of comparison of budget and actual amount reflects final receipts budget and actual on comparison basis of 1,000,000,000 and Kshs.701,179,614 respectively resulting to a deficit of Ksh.298, 820,386 or 30% of the budget. Similarly the fund spent an amount of Kshs.706,834,470 against an approved budget of ksh.1,000,000,000 resulting to under expenditure of Kshs.293,165,530 or 29.3% of the budget. The funds expenditure was limited to the amount realized.

- 2458) The revenue deficit and under expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

### **Submission by the Accounting Officer**

2459) The Accounting Officer admitted that the fund collected Kshs.701,179,614 from hire of equipment and sale of boarded items, failing to meet the budgeted revenue of Kshs.1,000,000,000 was due to stiff competition from the private sector. The under expenditure was guided by the revenue realized.

2460) The expenditure of the fund is usually guided by the reserves the fund has in place as the institution does not receive any exchequer from the national government.

### **2461) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Budget Control and Performance was satisfactory; and**
- (ii) The Committee marked the matter as resolved.**

### **718. Unresolved Prior Years Audit Matters**

2462) In the audit report of the previous year, a number of issues were raised under the Report on Financial Statements. However, Management has not resolved the issues nor disclosed all the prior year matters as provided by the Public Sector Accounting Standards Board, (IPSASB) templates and The National Treasury's Circular Ref: PSASB/1/12 Vol.1(44) of 25 June, 2019.

### **Submission by the Accounting Officer**

2463) The Accounting Officer submitted that the unresolved prior year matters relate to the Financial Year 2017/2018 and beyond. The Public Accounts Committee (PAC) has since issued a report on these prior year matters and the State Department is working on implementation of the recommendations. As discussed in our previous years' appearance before the PAC, it is our submission that with the report on the same issues having been issued by the PAC, the same matters should therefore not be discussed.

2464) The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was issued therein

### **719. Compliance with the Public Procurement and Asset Disposal Act, 2015**

2465) The statement of financial performance reflects a balance of Kshs.192,919,891 under routine maintenance of vehicles which includes an amount of Kshs.1,560,000 being repairs through LPO number 976310 which was signed on 10th January, 2020. However, the post-inspection report was dated 6th January, 2020 indicating that the inspection was done before the LPO was signed contrary to the Public procurement and asset disposal act, 2015.

### **Submission by the Accounting Officer**

2466) The Accounting Officer submitted that the post inspection report date was erroneously typed as 6th January 2020 rather than 16th January 2020. The error is highly regretted.

**2467) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to compliance to procurement law was satisfactory; and**
- (ii) The Committee marked the matter as resolved.**

**720. Lack of Audit Committee**

2468) Section 73(5) of the Public Finance Management Act, 2012 provides that every national government public entity shall establish an audit committee whose composition and functions shall be as prescribed by the regulations. However the fund did not have an Audit committee in place.

2469) In the circumstances, the effectiveness of internal controls, risk management and governance of the fund could not be confirmed.

**Submission by the Accounting Officer**

2470) There is a ministerial audit committee in place which is used to evaluate the effectiveness of internal controls risk management and governance of the fund.

**2471) Committee observations and findings**

- (i) The Committee observed that the Accounting officer did not provide evidence of approval by National Treasury to use the Ministerial Audit Committee; and**
- (ii) The matter remained unresolved.**



## 19. STATE DEPARTMENT FOR TRANSPORT

### REPORT ON THE FINANCIAL STATEMENTS – VOTE 1092

**Mr. Solomon Kitungu, the Principal Secretary and Accounting Officer for State Department for Transport (Vote 1092) appeared before the Committee on 15<sup>th</sup> July, 2021 to adduce evidence on the audited financial statement for the State Department of Transport (Vote 1092) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                         |   |                           |
|-------------------------|---|---------------------------|
| 1. Ms. Priscila Karanja | – | Head of accounting unit   |
| 2. Ms. Esther Gachange  | – | Principal economist       |
| 3. Mr. Nahum Nyawara    | – | Principal finance officer |

And submitted as follows:

#### 2472) **Unqualified Opinion**

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

#### **Emphasis of Matter**

#### **725. Pending Bills**

2473) Note 15.1 to the financial statements reflects pending bills balance of Kshs.6,168,771,533 (2019-Kshs.13,694,139). Management has not explained why the bills were not settled during the year they occurred. The Department is at risk of incurring significant interest costs and penalties arising from continued delay in payment. Further, review of documents in support of the pending bills balances revealed that bills totaling Kshs.78,339,537 were not adequately supported, hence casting doubt on the validity of the disclosed balances.

2474) Failure to settle bills in the year to which they relate adversely affect the implementation of the subsequent year's budgeted programs as the pending bills form a first charge on the budget.

#### **Submission by the Accountant Officer**

2475) The Accountant Officer submitted that apart from the historical pending bills, all the other pending bills were fully supported and settled in the subsequent financial period. The historical pending bills relates to Kshs.4.5 billion being VAT element in relation to SGR and Kshs.1.57 billion being refundable VAT in relation to East Africa Trade And Transport

Facilitation Project (EATFP MOT/KRC). In line with Executive Order No. 5 of 2020, these pending bills have been transferred to the National Treasury.

**2476) Committee Observation and Findings**

- (i) **The Committee observed that the historical pending bills of Kshs.4.5 billion and Kshs.1.57 billion relates to SGR VAT element and refundable VAT for East Africa Trade And Transport Facilitation Project (EATFP MOT/KRC) respectively. The pending bills have been transferred to the National Treasury as per Executive Order No. 5 of 2020; and**
- (ii) **The Committee therefore marked the matter as resolved.**

**2477) Committee Recommendations**

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

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

**2478) Conclusion**

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

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

**2479) Conclusion**

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

**DONOR FUNDED PROJECTS**

**NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT CREDIT NO. 5140-KE (MOT COMPONENT)**

**REPORT ON THE FINANCIAL STATEMENTS**

**2480) Unqualified Opinion**

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

## **Emphasis of Matter**

### **729. Under Absorption of Project Funds**

2481) As disclosed under Note 1.7 in the funding summary, the project implantation period was six years commencing from 2012 and ending 2018. As at 30 June, 2020, out of the total commitment of Kshs.1,152,400,000 from International Development Association (IDA), the Project had withdrawn Kshs.935,649,481 or 81%. Similarly, out of the total commitment from GoK counterpart funding of Kshs.347,600,000, the Project had received only Kshs.108,544,369 or 31%.

2482) In view of the continued funding deficit and with the Project period having lapsed on 31 December, 2018, the envisioned objectives of the Project may not be fully achieved.

### **Submission by the Accountant Officer**

2483) The Accountant Officer submitted that it was true that out of the total commitment of Kshs.1,152,400,000 from International Development Association (IDA), the Project had withdrawn Kshs.935,649,481 or 81% as at 30 June, 2019. Similarly, out of the total commitment from GoK counterpart funding of Kshs.347,600,000, the Project had received only Kshs.97,686,797 or 28%.

2484) It is also true that the strategic goals of the project may not have been fully achieved then. The Project was unexpectedly terminated in December 2018 at the request of the Government vide letter Ref. No EA/FA/62/240/75 (64) dated 21st December 2018. The reason given, among others was poor performance of the project.

### **2485) Committee Observations and Findings**

- (i) **The Committee observed that is issue was deliberated by the committee in 2018/2019 and found that the explanation given by the Accounting Officer with regards to Procurement of Services was satisfactory; and**
- (ii) **The Committee marked the matter as resolved.**

### **730. Prior Year Matter - Procurement of Services**

2486) As reported in 2018/2019 the Project procured conference facilities at a cost of Kshs.1,800,000 through requests for quotations method of procurement. Although the request was sent to three bidders, only one bidder responded. The single quotation was evaluated and the bidder consequently awarded the contract contrary to Section 106 (2) (d) of Public Procurement and Asset Disposal Act, 2015 which provides that at least three persons shall submit their quotations prior to evaluation and Section III of the Financing Agreement that requires competitive bidding. Further, no evidence was provided on the procurement procedure followed to identify the resource persons who facilitated the training and who were paid Kshs.1,353,000.

2487) A review of the position during the year under review indicates that Management has not resolved the issues and remained unresolved as at 30 June, 2020.

#### **Submission by the Accountant Officer**

2488) The Accountant Officer submitted that this activity was organized under the State Department of Housing on behalf of Nairobi Metropolitan Area Transport Authority (NaMATA). NaMATA was one of the beneficiary institutions of the project under the State Department of Transport component. The objective of the workshop was to build capacity and create awareness for the stakeholders in the PSV industry on the establishment and the role of NaMATA.

2489) It was also true that the project procured conference facilities at a cost of Kshs. 1,800,000 through the request for quotations method of procurement. Three bidders were invited to participate in the bidding process and all of them responded. Two indicated that they were fully booked. The Leopard Beach Resort South was recommended and given the go ahead to offer the Conference Facility. World Bank gave no objection of the same vide Letter dated 24th October 2018.

2490) The State Department for Housing and Urban Development initiated and finalized the procurement process, paid the bills and sought reimbursement from the State Department for Transport. Kenya Bus Rapid Transport (BRT) stakeholder workshop was to be facilitated by experts specialized in the area of transport who had carried out such training before.

2491) The resource persons were identified through a proposal submitted by Africa Rapid Transit Systems. The request for submission was done vide letter referenced MTHUD/HUD/ADM/1/1/1200 of 17th October, 2018. Response indicating the areas to be covered was submitted vide letter dated 24th October 2018.

#### **2492) Committee Observations and Findings**

- (i) The Committee observed that is issue was deliberated by the committee in 2018/2019 and found that the explanation given by the Accounting Officer with regards to Procurement of Services was satisfactory; and**
- (ii) The Committee marked the matter as resolved.**

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

#### **2493) Conclusion**

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

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

### 2494) **Conclusion**

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

## EAST AFRICA TRADE AND TRANSPORT FACILITATION PROJECT IDA CREDIT NO. 4148-KE AND CREDIT NO. 4977-KE (MOT COMPONENT)

### REPORT ON THE FINANCIAL STATEMENTS

### 2495) **Unqualified Opinion**

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

### **Other Matter**

### **734. Unresolved Prior Year Matter - Construction of Transport Data Centre**

2496) As reported previously, the State Department for Transport entered into an agreement with a local firm on 30 September, 2014 for supply, installation, testing and commissioning of a Transport Data Centre, networking, software and hardware at a cost of Kshs.130,739,261. The State Department for Transport further entered into another agreement with a local university firm for consultancy services for the establishment of the Transport Data Repository Centre Resolution at a contract sum of Kshs.22,390,000. The consultancy services included designing of the Transport Data Repository Centre System; preparation of bid documents for supply and installation; supervision and capacity building of staff to man the data centre. The consultancy agreement dated 4 July, 2012 was to run for a period of sixty-four (64) weeks with effect from the commencement/agreement date ending on 25 September, 2013.

2497) A review of the Project in 2019/2020 financial year revealed that the contract agreement had expired and the contractor and the consultant had been paid Kshs.120,252,245 and Kshs.16,792,500 representing 92% and 75% of the contract sums respectively. Further, Note 11.1 to the financial statements reflects a contingent liability of Kshs.36 Million relating to the establishment of the Data Centre and supervision of the consultancy services. However, adequate supporting documents for the liability and approval for the variation of the contracts as required under Section 139 of the Public Procurement and Asset Disposal Act, 2015 were not provided for audit.

2498) Under the circumstances, it was not possible to ascertain the fairness of the contingent liability and whether the State Department for Transport obtained value for the total amount of Kshs.137,044,745 paid to the contractor and the consultant.

#### **Submission by the Accountant Officer**

2499) The Accountant Officer submitted that it was true the Data Centre stalled in 2016 upon expiry of the World Bank Donor Credit and that the GoK was to finance completion of the project.

2500) It is also true that the project was not fully completed. It was then 95% completed. Last financial year (2020/21), the State Department for ICT was invited to evaluate the equipment in the data centre. Following the evaluation, they recommended replacement of one server, training of technical staff and renewal of licenses. From the evaluation, it is also clear that the data centre has significant capacity that can be used by a number of Ministries and State Departments in addition to the one earlier proposed for it. There is also room for expansion to cater for additional functions.

2501) Following the advise by the ICT State Department; agreement has been reached with the contractor and consultant to complete the project upon payment of Ksh.15 million (total) to the contractor and the consultant. This will enable the contractor to replace one of the servers and to procure current licenses and undertake technical training. In the financial year 2020/2021, an approval for a reallocation of Ksh. 15 million was obtained from the National Treasury to meet this expenditure but the amount was not paid due to delay in exchequer release. The State Department for Transport is reorganizing its budget for the financial year 2021/2022 to meet the expenditure and to settle the other remaining amount.

2502) Meanwhile, SDT has commenced a procurement process that will address the contingent liability.

#### **2503) Committee Observations and Findings**

**The Committee had deliberated on the matter in 2018/2019 and observed that;**

- (i) The Committee observed that the data center is at 95% completion; and,
- (ii) The Committee further observed that despite resources amounting to Kshs.137,044.745 being incurred by 2016, the public has not derived any value to date; and,
- (iii) In addition, the Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012.

#### **2504) Committee Recommendations**

**The Accounting Officer should within three (3) months of tabling and adoption of this report, report to the National Assembly on results of measures taken to ensure the data center is operational.**

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

### 2505) **Conclusion**

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

## REPORT ON EFFECTIVENESS OF INTERNAL ONTROLS, RISK MANAGEMENT AND GOVERNANCE

### 2506) **Conclusion**

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

## EAST AFRICA TRADE AND TRANSPORT FACILITATION PROJECT (MOT/KRC COMPONENT) CREDIT NO.4148-KE AND CREDIT NO. 4977-KE

## REPORT ON THE FINANCIAL STATEMENTS

### 2507) **Unqualified Opinion**

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

### **Other Matter**

#### **738. Pending Accounts Payable**

2508) Note 11.1 to the financial statements reflects pending accounts payable balance of Kshs.1,517,967,848 as at 30 June, 2020 which relates to Value Added Tax (VAT) refunds on the project whose refund is contingent on verification and certification by the Kenya Revenue Authority and the Kenya Railways Corporation. Management has not provided reasons for the delay in undertaking the verification and certification of the refunds even though the Project is at risk of incurring significant interest costs and penalties with the continued delay.

### 2509) **Committee Observations and Findings**

**The Committee observed that the matter had been deliberated in 2018/2019 but even after disclosure, the verification and certification process has not been undertaken by the Kenya Revenue Authority and the Kenya Railways Corporation.**

### 2510) **Committee recommendations**



**The Kenya Revenue Authority and the Kenya Railways Corporation should within three (3) months of tabling and adoption of this report, undertake verification and certification exercise and report to the Auditor-General for review and further reporting to the National Assembly.**

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

### 2511) **Conclusion**

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

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

### 2512) **Conclusion**

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

## KENYA TRANSPORT SECTOR SUPPORT PROJECT CREDIT NO. 4926-KE AND NO. 5410-KE (MOT COMPONENT)

## REPORT ON THE FINANCIAL STATEMENTS

### 2513) **Unqualified Opinion**

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

### **Other Matter**

### **742. Pending Bills**

2514) Note 11.1 to the financial statements reflects pending bills of Kshs.22,716,642 as at 30 June, 2020. Management has not provided reasons for non-payment of the balances. This is despite refunding an amount of Kshs.29,649,678 (USD 276,980) held in the special account to the World Bank in May, 2020 upon winding up of the Project.

### **Submission by the Accountant Officer**

2515) The Accountant Officer submitted that it was true that Note 11.1 to the financial statements reflects pending bills of Kshs.22,716,642 as at 30 June,2020. The challenge was with the reconciliation of documentation in the CLIENT CONNECTION platform leading to the lapse of grace period deadline for payments; however, the amounts have since been reconciled and payments have been made as evidenced by communicating the re allocation

and transfer to Kenya Railway Corporation (KRC) of the amounts for the settlement of the pending bills.

**2516) Committee Observation and Findings**

- (i) **The Committee observed that the challenge was with the reconciliation of documentation in the CLIENT CONNECTION platform leading to the lapse of grace period deadline for payments which have since been reconciled and payments made; and**
- (ii) **The Committee therefore marked the matter as resolved.**

**2517) Committee Recommendations**

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

**743. Ineligible Expenditure**

2518) As reported in 2018/2019, the Project Management procured various ICT equipment at a total cost of Kshs.3,970,000 that exceeded the budget ceiling of Kshs.1,801,600 approved by the World Bank. There is no evidence of supplementary approval having been granted in the year under review for the unapproved over-expenditure of Kshs.2,168,400.

**Submission by the Accountant Officer**

2519) The Accountant Officer submitted that it was true that the project expenditure on the ICT items procured by the project exceeded the estimated amount approved by the donor in the procurement plan. The procurement of quantities procured was initiated on the basis of the approved requisitions and procurement plan. Procurement through the World Bank funded projects is monitored through the STEP platform. At every stage of the procurement process, documents are uploaded on the platform to support the process. From the time of plan approval to the actual procurement, the market changed which led to price fluctuations thus the higher prices.

2520) At each stage of the procurement through STEP, the approvals in STEP represented approval of the actual market price.

**2521) Committee observations and findings**

**The Committee deliberated on the matter in 2018/2019 and observed that;**

- (i) **The Accounting Officer incurred unapproved over-expenditure of Kshs.2,168,400.**
- (ii) **The Accounting Officer did not provide evidence to clearly demonstrate the price fluctuations by 120%.**

2522) **Committee recommendations**

**The committee in 2018/2019 recommended that;**

- 1) The Committee reprimands the Accounting Officer for failure to seek approval on the expenditure amounting to Kshs.2,168,400.**
- 2) Within three months of tabling and adoption of this report, the DCI should institute investigations on the legality of the expenditure. Any officer found culpable, the Office of the DPP to initiate prosecution with a view to recover the amount.**

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

2523) **Conclusion**

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

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

2524) **Conclusion**

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

**NORTHERN CORRIDOR TRANSPORT IMPROVEMENT PROJECT CREDIT NO. 3930-KE (MOT COMPONENT)**

**REPORT ON THE FINANCIAL STATEMENTS**

2525) **Unqualified Opinion**

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

**Emphasis of Matter**

**747. Project Closure**

2526) As disclosed under the Project Funding Summary at Note 1.5 to the financial statements, the Project was to run for a period of eleven (11) years from 2004 to 2015. Management has however, not availed for audit review, documentary evidence to show that the closure process has been initiated despite the project being dormant throughout the year. Further, a bank balance of Kshs.18,323,405 as at 30 June, 2020 has not been refunded to the Donor through The National Treasury but continues to incur bank charges.

2527) My opinion is however not modified based on the effects of the matter mentioned above.

#### **Submission by the Accountant Officer**

2528) The Accountant Officer submitted that it was true that the Funding Summary indicated that the project was run for a period of eleven (11) years from 2004 to 2015. As evidenced by the bank certificates herein attached, the Bank Account has been closed and the balances transferred to the National Treasury.

#### **2529) Committee Observations and Findings**

- (i) **The Committee deliberated on the matter in 2018/2019 and observed that the explanation given by the Accounting Officer with regards to Project Closure was satisfactory; and**
- (ii) **The Committee therefore marked the matter as resolved.**

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

#### **2530) Conclusion**

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

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

#### **2531) Conclusion**

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

### **OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR TRANSPORT**

#### **NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT CREDIT NO. IDA 5140-KE (KRC COMPONENT) – KENYA RAILWAYS CORPORATION**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **2532) Unqualified Opinion**

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

#### **Other Matter**

## **751. Pending Bills**

2533) Note 10.1 to the financial statements reflects pending bills amounting to Kshs.40,804,058 as at 30 June, 2020. Management has explained, under Section 1.8 under Project information and Overall Performance section of the annual report that a Project cancellation letter from the World Bank was received on 27 December, 2018 and the credit account closed. As a result, the Project has experienced challenges in settling the pending bills and is engaging the National Government to settle all pending bills amicably. However, the Project is at risk of incurring additional significant interest costs and penalties with the continued delay in making payments.

### **Submission by the Accountant Officer**

2534) The Accountant Officer submitted that the State Department for Transport communicated to Kenya Railways Corporation vide letter. Ref. No.MOT&I/CRAIL/7/2 VOL XVII (52) of 7th May, 2020 to inform all contractors on the process for certification of the VAT refundable. Thereafter Kenya Railways Corporation requested for guidance from the State Department for Public Works on the applicable rates for interest and penalties. The State Department for Public Works advised KRC on the rates in the month of July 2021 and KRC has advised the consultants on the same.

### **2535) Committee Observations and Findings**

**The Committee deliberated on the matter in 2018/2019 and observed that the Accounting Officer indicated that the outstanding balance is Kshs.3,900,000. However, the subsequent disclosure of Kshs.40,804,058 in 2019/2020 financial statement and the submission by the Accounting Officer are contradictory.**

### **2536) Committee recommendations**

- 1) The Committee reprimands the Accounting Officer for failure to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012; And**
- 2) The Accounting Officer should within two (2) months of tabling and adoption of this report, give a comprehensive report to the National Assembly on the status of the pending bills.**
- 3) Within three (3) months of tabling and adoption of this report, the Auditor General should review the comprehensive report and advise the National Assembly accordingly.**

## **752. Low Absorption of Project Funds**

2537) Sections 1.2 and 1.7 under Project information and Overall Performance section of the annual report, indicates that the Project was to be implemented within a duration of six (6) years from 2012 to 2018, with a total expected Donor credit of Kshs.1,071,552,600 equivalent to US\$11,930,000. However, only Kshs.117,813,333 or 11% of the expected

credit had been received from the Donor as at 30 June, 2020, leaving a balance of Kshs.953,739,267 or 89% undrawn. Similarly, out of the expected receipts of Kshs.332,324,000 from the Government of Kenya, only a sum of Kshs.109,337,077 has been received leaving a balance of Kshs.222,996,923 or 67% undrawn. Under the circumstances, the Project's strategic goals may not be achieved.

**Submission by the Accounting officer.**

2538) The submissions were made in 2018/2019.

**2539) Committee Observations and Findings**

**The Committee deliberated on the matter in 2018/2019 and;**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regards to low absorption of project funds was satisfactory; and**
- (ii) **The Committee however expresses displeasure with the Accounting Officer for failing to take measures to ensure activities identified as important were carried despite availability of funds.**
- (iii) **The Accounting Officer entered into contract at the tail end of the project period leaving the contract unfinanced and risking interest and penalties.**

2540) **Committee in 2018/2019 made the following recommendations**

- 1) The Accounting Officer to ensure that proper measures are taken to ensure challenges to project implementation are addressed in time and activities carried out to ensure service delivery is not compromised.**
- 2) Within three (3) months of tabling and adoption of this report, the Accounting Officer to report to the National Assembly on the circumstances that led to the contract being entered into at the tail end of the project in December 2018 and how it will be financed to avoid future penalties and interest by public.**

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

**2541) Conclusion**

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

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

**2542) Conclusion**

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

**KENYA AVIATION MODERNIZATION PROJECT (PREPARATION ADVANCE NO. V0440) - KENYA AIRPORTS AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

**2543) Unqualified Opinion**

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

**Emphasis of Matter**

**756. Outstanding Disputed Claim**

2544) On 19 April, 2017, consulting services for the Rehabilitation of Existing Passenger Terminal Facilities at Jomo Kenyatta International Airport (JKIA) was awarded to a consulting firm at a contract sum of Kshs.454,337,996 (USD.4,498,396). The contract entailed the provision of preliminary and detailed design for the rehabilitation of existing passenger terminal facilities. However, examination of the records revealed that there exists an outstanding claim amounting to Kshs.79,799,191 (US\$, 790,091) by the consultant which has been disputed by Management on the basis that the claim was disapproved by the Project Steering Committee. However, no evidence was availed to confirm whether this decision or position was communicated to the consultant or subsequent agreement was reached with the consultant. Consequently, the project is faced with the risk of penalties or legal action with the continued delay in resolving the matter amicably.

2545) My opinion is not modified due to the effects of the matter described above.

**2546) Committee Observations and Findings**

The committee deliberated on the matter in 2018/2019 and observed that the Accounting Officer communicated to the consultant the dispute in regard to outstanding claim.

**2547) Committee recommendations**

**Within three months of tabling and adoption of this report, the Accounting Officer to ensure the dispute is resolved with the consultant in order to protect the public from future escalated claims with heavy penalties and interest and report the outcome to the National Assembly.**

**Other Matter**

**757. Budgetary Control and Performance**

2548) The statement of comparative budget and actual amounts indicates that the Project realised all the approved budgeted receipts of 70,000,000. Similarly, the statement reflects



actual expenditure totaling Kshs.55,282,000 against estimated expenditure of Kshs.70,000,000 resulting into an under-expenditure of Kshs.14,718,000 or 11% of the budget. Management has attributed the low absorption to the recovery from the contractor to offset the advance paid earlier.

2549) In the circumstances, the under absorption of the approved budget is an indication of the activities not implemented by the project management leading to non-provision of services to the stakeholders.

**2550) Submission by the Accounting Officer**

No submissions.

**2551) Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

**2552) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The Auditor General should then review the responses and report on the status to the National Assembly.**

**758. Pending Bills**

2553) As disclosed under Note 11.9 to the financial statements, the Project had pending payables balance of Kshs.194,223,000 as at 30 June, 2020. Management has not provided reasons for non-payment of the bills. The Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

2554) Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year.

**2555) Submission by the Accounting Officer**

No submissions.

**2556) Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

#### 2557) **Committee Recommendations**

- 1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The Auditor General should then review the responses and report on the status to the National Assembly.**

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

##### 2558) **Conclusion**

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

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

##### 2559) **Conclusion**

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

#### **KENYA TRANSPORT SECTOR SUPPORT PROJECT (IDA CREDIT NO. 4926-KE AND 5410-KE) - KENYA CIVIL AVIATION AUTHORITY**

#### REPORT ON THE FINANCIAL STATEMENTS

##### 2560) **Unqualified Opinion**

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

#### **Other Matter**

##### **762. Budgetary Control and Performance**

2561) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.120,840,711 and Kshs.64,975,108 respectively resulting to an under-funding of Kshs.55,865,603 or 46% of the budget. Similarly, the Project expended Kshs.143,996,091 against the approved budget of Kshs.120,840,711 resulting to an over expenditure of Kshs.23,155,380 or 19% over the budgetary provision.

2562) In particular, the Management has not explained the utilization of Kshs.16,000,000 under other grants and transfers that had not been budgeted for.

**2563) Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regard to Budgetary Over-expenditure was satisfactory; and**
- (ii) **The Committee marked the matter as resolved.**

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

**2564) Conclusion**

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

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

**2565) Conclusion**

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

**KENYA TRANSPORT SECTOR SUPPORT PROJECT (CREDIT NO. 4926-KE AND NO. 5410-KE) - KENYA AIRPORTS AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

**2566) Unqualified Opinion**

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

**Other Matter**

**766. Low Absorption of Project Funds**

2567) Note 1.7 on the funding summary indicates that the Project was to be implemented within a duration of eight (8) years from 2011 to 2018 with further extension of 1 year to December, 2019. The total expected credit was US\$110,000,000 equivalent to Kshs.10,038,000,000 at the agreed exchange rate. However, only Kshs.5,414,000,000 or 54% of the total expected credit had been received as at 30 June, 2020, leaving a balance of Kshs.4,624,000,000 or 46% undrawn.

2568) Despite the one (1) year extension granted, the Project has been unable to complete its activities and attain its objectives and expected outcomes.

### **Submission by the Accounting Officer**

2569) No submissions.

### **2570) Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

### **2571) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The Auditor General should then review the responses and report on the status to the National Assembly.**

### **Prior year Matters**

#### **767. Non-Compliance with Public Procurement and Asset Disposal Act, 2015**

2572) As reported previously, the contract for the supply of firefighting equipment was awarded to an international firm in January, 2018 at a contract sum of Kshs.209,000,000 through direct procurement. However, the specifications of the equipment to be supplied were varied on 13 October, 2018, nine (9) months after the contract award contrary to Section 139(4) of the Public Procurement and Asset Disposal Act, 2015 which provides that a variation of a contract should only be considered after twelve (12) months from the date of signing the contract and only if specified conditions are met.

2573) Management has not explained how it has resolved the above matter.

### **Submission by the Accounting Officer**

2574) No submissions.

### **2575) Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

### **2576) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at**

least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.

- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The Auditor General should then review the responses and report on the status to the National Assembly.

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

##### 2577) **Conclusion**

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

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

##### 2578) **Conclusion**

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

#### MULTI-NATIONAL LAKE VICTORIA MARITIME COMMUNICATIONS AND TRANSPORT PROJECT (ADF LOAN NO. 2100150036247) – KENYA MARITIME AUTHORITY

#### REPORT ON THE FINANCIAL STATEMENTS

##### 2579) **Unqualified Opinion**

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

#### **Other Matter**

##### **771. Budgetary Control and Performance**

2580) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.13,261,000 and Kshs.0 respectively resulting to an under-funding of Kshs.13,261,000 or 100% of the budget. Similarly, the Project expended Kshs.6,830,791 against an approved budget of Kshs.13,261,000 being 51.5% of the amount budgeted during the year under review resulting to an overall under absorption of Kshs.6,430,209 or 48.5% of the budget. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

2581) Management attributed the non-disbursements of fund to delays in takeoff of civil works for SAR Centres and non-attendance of training on SAR management due to COVID-19 Pandemic.

**Submission by the Accounting Officer**

2582) No submissions.

**2583) Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

**2584) Committee Recommendations**

- 1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The Auditor General should then review the responses and report on the status to the National Assembly.**

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

**Basis of Conclusion**

**772. Opening Bank Account Without Approval from The National Treasury**

2585) As previously reported, Kenya Maritime Authority opened and operates Multi-National Lake Victoria Maritime Communications and Transport Project bank account at Kenya Commercial Bank (Kilindini Branch) for Project related activities. However, no documentary evidence was provided to confirm that approval of The National Treasury was obtained for opening and operating the bank account as required under Section 28(1) of the Public Finance Management Act, 2012.

2586) In the circumstances, the Management is in breach of the Law.

**Submission by the Accounting Officer**

2587) No submissions.

**2588) Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

2589) **Committee Recommendations**

- 1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The Auditor General should then review the responses and report on the status to the National Assembly.**

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

2590) **Conclusion**

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

**SAFE ROADS/USALAMA BARABARANI PROGRAMME (EU GRANT NO. KE/FED/037-778) FOR THE YEAR ENDED 30 JUNE, 2020 - NATIONAL TRANSPORT AND SAFETY AUTHORITY**

**REPORT ON THE FINANCIAL STATEMENTS**

2591) **Unqualified Opinion**

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

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

2592) **Conclusion**

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

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

2593) **Conclusion**

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

**RAILWAY DEVELOPMENT LEVY FUND (OPERATIONS ACCOUNT)**



## REPORT ON THE FINANCIAL STATEMENTS

### 2594) **Unqualified Opinion**

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

### **Other Matter**

### **778. Budgetary Control and Performance**

2595) The statement of comparative budget and actual amounts reflects total receipts of Kshs.63,792,219,146 against estimated receipts of Kshs.63,050,686,811 resulting into over collection of receipts of Kshs.741,532,336. Similarly, the statement reflects actual expenditure totaling Kshs.63,792,219,146 against estimated expenditure of Kshs.63,050,686,811 resulting into an over-expenditure of Kshs.741,532,336 which mainly occurred under acquisition of non-financial assets. Although Management explained that the expenditure had been incurred by the time the budget reduction was effected, the legality of the expenditure could not be confirmed.

### **Submission by the Accountant Officer**

2596) The Accountant Officer submitted that it was true that the approved final budget on acquisition of assets was Kshs.63,050,686,811.00 however, the financial statements prepared as at 30<sup>th</sup> June, 2020 and presented for audit indicated an actual expenditure amounting to Kshs.63,792,219,146.00 leading to an over expenditure amounting to Kshs.741,532,336. This over expenditure was occasioned by budget cut after expenditure on the development of Mombasa-Nairobi Standard Gauge Railway had been incurred. Upon realization of the aforementioned fact regularization to the extent of the over expenditure on the budget was sought from the National Treasury, however this was not addressed.

### 2597) **Committee Observations and Findings**

- (i) **The Committee observed that the explanation given by the Accounting Officer with regard to Budgetary Over-expenditure was satisfactory; and**
- (ii) **The Committee marked the matter as resolved.**

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

### 2598) **Conclusion**

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

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

### 2599) **Conclusion**

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

## **RAILWAY DEVELOPMENT LEVYFUND (HOLDING ACCOUNT)**

### REPORT ON THE FINANCIAL STATEMENTS

#### **Basis for Qualified Opinion**

##### **781. Discrepancy in Receipts Balance**

2600) The statement of receipts and payments reflects an amount of Kshs.23,528,463,126 being receipts from the Kenya Revenue Authority. However, records maintained by the Kenya Revenue Authority indicates that a total of Kshs.23,421,650,520 was transferred to the Fund during the year under review. The resultant difference of Kshs.106,812,606 between the two sets of records has not been reconciled or explained.

2601) Under the circumstances, the accuracy of the reported receipts balance of Kshs.23,528,463,126 could not be confirmed.

#### **Submission by the Accountant Officer**

2602) The Accountant Officer submitted that it was true that the statement of receipts and payments reflects an amount of Kshs.23,528,463,126 being receipts from the Kenya Revenue Authority (KRA). This amount indicated the total collection as of 3<sup>rd</sup> July 2020 whereas KRA reflected their transfer to the Fund as of 30<sup>th</sup> June 2020. The difference of Kshs.106,812,606 was the collection/transfer to the Fund for the period 1<sup>st</sup> July to 3<sup>rd</sup> July 2020.

#### **2603) Committee Observations and Findings**

- (i) The Committee observed that the difference of Kshs.106,812,606 was the collection/transfer to the Fund for the period 1<sup>st</sup> July to 3<sup>rd</sup> July 2020; and**
- (ii) The Committee also observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.**

#### **2604) Committee Recommendation**

- 1) **The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.**
- 2) **The Committee reprimands the Accounting Officer for violation of the provisions of Article 229 (4)(h) of the Constitution and Section 81(4)(a) of the Public Finance Management Act 2012.**

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

##### 2605) **Conclusion**

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

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

##### 2606) **Conclusion**

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

## 20. STATE DEPARTMENT FOR MARITIME AND SHIPPING AFFAIRS

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1093

**Ms. Nancy Karigithu, the Principal Secretary and Accounting Officer for State Department for Shipping & Maritime (Vote 1093), appeared before the Committee on 15<sup>th</sup> September, 2021 to adduce evidence on the audited financial statement for the State Department for Shipping & Maritime (Vote 1093) for the Financial Year 2019/2020. She was accompanied by the following officers:**

- |                             |   |                                    |
|-----------------------------|---|------------------------------------|
| 1. Mr. Adan G. Harakhe, HSC | - | Director Administration            |
| 2. Mr. John Boaco M. Maingi | - | Principal Accountant               |
| 3. Mr. Mustafa Yassin       | - | Senior Supplies Management Officer |
| 4. Mr. Ferdinand Wandera    | - | Head of Procurement.               |

And submitted as follows

#### **2607) Unqualified Opinion**

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

#### **Other Matter**

#### **785. Unresolved Prior Year Issue- Unconfirmed Motor Vehicle Maintenance Cost**

2608) As reported in 2018/2019, the statement of receipts and payments an amount of Kshs.86,282,596 under use of goods and services which, as disclosed under Note 3 to the financial statements, included an expenditure of Kshs.3,784,997 on routine maintenance - vehicles and other transport equipment. The latter balance included an expenditure of Kshs.1,974,371 on account of motor vehicles repairs for GKA 665V. However, there was no proof of the repairs having been undertaken by way of pre and post repairs report by the engineer, Mechanical and Transport Fund detailing out the nature of repairs to be undertaken or confirmation of works done. Further, the vehicle has been grounded since July, 2018 casting doubt on whether the repairs were undertaken.

2609) Consequently, the accuracy of the expenditure on use of goods and services of Kshs.86,282,596 for the year ended 30 June, 2019 cannot be ascertained.

#### **Submission by the Accounting Officer**

2610) The Accounting Officer submitted that as responded earlier, the vehicle no. GKA 665V was allocated to the Principal Secretary, State Department for Shipping and Maritime by the State Department for Transport. The vehicle was repaired by the dealer (Toyota Kenya)

at the cost of Kshs.1,974,371 and payment was made vide payment voucher number (0449) as reflected in bank statement dated 11th April, 2019. Pre-repair inspection and post inspection of the vehicle was done by the Chief Mechanical Transport Engineer vide inspection report dated 14th June 2018 and 12th July 2018. The vehicle has been operational as shown by the work tickets which were provided for perusal by the Committee.

**2611) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Unresolved Prior Year Issue- Unconfirmed Motor Vehicle Maintenance Cost was satisfactory;
- (ii) The Committee further observed that the vehicle has been operational as shown by the work tickets which were provided for perusal by the Committee; and
- (iii) The Committee marked the matter as resolved.

**786. Pending Bills**

2612) As disclosed under Note 14 to the financial statements, the State Department for Shipping and Maritime had pending bills totaling Kshs.8,667,707 as at 30 June, 2020. Failure to settle bills during the year to which they relate will adversely affect the budget provisions for the subsequent year. Further, bills of Kshs.674,800 were paid during the year for the purchase of ICT goods delivered in the financial year 2017/2018. However, review of the state department did not reflect the amount as pending bills in the two preceding financial years. Consequently, the accuracy of the disclosed pending bills balances of Kshs.8,667,707 as at 30th June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

2613) The Accounting Officer submitted that it was true that the State Department had pending bills totaling Kshs.8,667,707 as a result of budget cuts in Supplementary I of financial year 2019/2020. On the pending bill as earlier explained, the National Treasury vide letter dated 30th July 2019 advised the State Department to rationalize its budget for 2019/20 and provide for the pending bill. The State Department wrote to National Treasury requesting for re-allocation to cater for payment of the pending bill which was granted.

2614) Further Kshs.674,800 related to the pending bills reflected in the financial statement of 2018/2019 and was subsequently paid in the financial year 2019/2020 vide payment voucher no. 239 of Kshs.640,000 for ICT and voucher no. 240 of Ksh.34,800 respectively.

**2615) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Pending Bills was satisfactory;

- (ii) The Committee further observed that the Kshs.674,800 related to the pending bills reflected in the financial statement of 2018/2019 and was subsequently paid in the financial year 2019/2020 vide payment voucher no. 239 of Kshs.640,000 for ICT and voucher no. 240 of Ksh.34,800 respectively; and
- (iii) The Committee marked the matter as resolved.

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

### Basis for Conclusion

#### 787. Contracts without Performance Security

2616) During the year under review, the State Department contracted the provision of cleaning, sanitary and security services at contract sums of Kshs.3,250,520 and Kshs.1,760,000 respectively for its offices at NSSF Annex Building. However, there was no performance security from the service providers. This was contrary to Clause 3.6 of the conditions of the contract which stipulated that within thirty (30) days of receipt of the notification of contract award, the successful tenderer shall furnish to the procuring entity the performance security where applicable in the amounts specified in the special conditions of contract.

2617) To the extent, the State Department is in breach of the law.

#### Submission by the Accounting Officer

2618) The Accounting Officer submitted that it was true that the State Department entered into contract with AIMAT Company Ltd for provision of cleaning and sanitary services and GYTO SUCCESS COMPANY LTD for provision of security services at contract sums of Kshs.3,215,520 and Kshs.1,776,000 respectively.

2619) In the tender document, under special conditions of contract, the firms were required to provide ten percent (10%) of the contract sum as performance security. Section 142 (3) of the Public Procurement and Disposal Act 2015 waives the requirement of submitting performance security to firms registered under AGPO. The firms are registered under AGPO.

#### 2620) Committee Observations and Findings

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Contracts without Performance Security was satisfactory;
- (ii) The Committee further observed that AIMAT Company Ltd for provision of cleaning and sanitary services and GYTO SUCCESS COMPANY LTD for provision of security services at contract sums of Kshs.3,215,520 and Kshs.1,776,000 respectively were all registered under AGPO; and

(iii) The Committee marked the matter as resolved.

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

### **Basis for Conclusion**

#### **788. Lack Of Audit Committee**

2621) Contrary to provisions of Section 74(1) (a) of the Public Finance Management Act, 2012 the State Department does not have an Audit Committee in place. Further, the internal audit function did not prepare quarterly reports as required by Section 173(1) of the Public Finance Management (National Government) Regulations, 2015. The State Department is therefore in breach of the law.

#### **Submission by the Accounting Officer**

2622) The Accounting Officer submitted that Section 174 (8) of the PFM Regulations requires that each Accounting Officer of a Ministry to ensure that the Audit Committee is properly funded and supported. A Ministry wide Audit Committee is in place as required by PFM Act 2012 and regulations. The Committee serves the five State Departments in undertaking oversight, risk control, governance and associated assurance. Owing to tight austerity measures, the Committee has not met as regularly as required. The State Department for Shipping and Maritime is not required to have its own separate Audit Committee. However, the accounting officer is required to ensure that the Audit Committee is adequately funded and supported. The five State Departments have an arrangement to pool resources to ensure that the Committee meets and carries out its mandate as required. A copy of the appointment letter of the Committee was provided for perusal by the Committee.

#### **2623) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Lack Of Audit Committee was satisfactory;
- (ii) The Committee further observed that AIMAT Company Ltd for provision of cleaning and sanitary services and GYTO SUCCESS COMPANY LTD for provision of security services at contract sums of Kshs.3,215,520 and Kshs.1,776,000 respectively were all registered under AGPO; and
- (iii) The Committee marked the matter as resolved.



## 21. STATE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1094

**Mr. Charles Hinga, the Principal Secretary and the Accounting Officer State Department for Housing and Urban Development (Vote 1094) appeared before the Committee on 9<sup>th</sup> November, 2021 to adduce evidence on the audited financial statement for the State Department of Housing and Urban Development (Vote 1094) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                           |   |                                   |
|---------------------------|---|-----------------------------------|
| 1. Ms. Evelyn O. Nyakwara | – | Senior Chief Finance Officer.     |
| 2. Ms. Joyce Mutugi       | - | Senior Deputy Accountant General. |
| 3. Mr. Julius Wairagu     | - | Ag, D/CSHD.                       |
| 4. Mr. Kassius Kuslenel   | - | Director of Estate Management.    |

And submitted as follows:

#### 2624) **Unqualified Opinion**

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

#### **Other Matters**

##### **790. Budgetary Control and Performance**

2625) The summary Statement of Appropriation-Recurrent and Development combined reflects a final receipts budget and actual on a comparable basis of Kshs.28,805,231,686 and Kshs.25,792,593,103 respectively resulting in a shortfall of Kshs.3,012,638,583 or 10% of the approved budget. Further, the statement reflects a final expenditure budget and actual on a comparable basis of Kshs.28,805,231,686 and Kshs.26,179,742,023 respectively, resulting in underutilization of Kshs.2,625,489,663 or 9% of the approved budget. The underfunding and underperformance may have negatively affected service delivery to citizens due to failure to implement the planned programmes

#### **Submission by the Accounting Officer**

2626) The Accounting Officer submitted that it was true that the summary statement of Appropriation - Recurrent and Development combined reflected final receipts budget and actual on a comparable basis of Kshs.28,805,231,686 and Kshs.25,792,593,103 respectively resulting in a shortfall of Kshs.3,012,638,583 or 10% of the approved budget.

2627) Further, this was occasioned by the exchequer under issues of Kshs.1,821,822,480 shortfall in collection of AIA-Rental income of Kshs.275,700,805 and unrealized proceeds from Borrowing of Kshs.915,115,298 during the financial year. It was also true that the expenditure for 2019/2020 was Kshs.26,179,742,023 against the approved Budget of Kshs.28,805,231,686 hence under absorption of Kshs.2,625,489,663.

2628) The under absorption was occasioned mainly by a shortfall in collection of Appropriation in Aid from Rental income, unrealized proceeds from Borrowing and exchequer under issues during the Financial Year.

**2629) Committee Observations and Findings**

- (i) The Committee observed that under absorption was occasioned mainly by a shortfall in collection of Appropriation in Aid from Rental income, unrealized proceeds from Borrowing and exchequer under issues during the Financial Year.
- (ii) **The committee marked the matter as resolved**

**2630) Committee Recommendations**

**The Committee recommends that the Accounting Officer prepares a realistic Budget going forward.**

**791. Unbalanced Budget**

2631) The summary statement of appropriation-recurrent and development combined reflects actual receipts of Kshs.25,792,593,103 and actual expenditure of Kshs.26,179,742,023 resulting in a budget deficit of Kshs.387,148,920 contrary to Regulation 33(e) of the Public Finance Management (National Governments) Regulations, 2015 which provides that the total budget revenue shall cover the total budget expenditure.

**Submission by the Accounting Officer**

2632) The Accounting Officer submitted that it was true that the summary Statement of Appropriation Recurrent and Development combined reflects actual receipts of Kshs.25,792,593,103 and actual expenditure of Kshs.26,179,742,023 resulting in spending more than the exchequer receipts for the 2019/2020 Financial Year by Kshs.387,148,920.

2633) The expenditure of Kshs.387,148,920 relates to donor-funded projects for Kenya Urban Project and Nairobi Metropolitan Services Improvement Project where closing bank balances for the 2018/2019 financial year were rolled over to 2019/2020 and used to finance the Budget for 2019/2020. This anomaly is highly regretted and we will ensure that in future all unutilized balances for donor funds are re-voted before they are spent.

**2634) Committee Observations and Findings**

- i. The Committee observed that the actual receipts of Kshs.25,792,593,103 against actual expenditure of Kshs.26,179,742,023 resulted to an over-spending in 2019/2020 Financial Year by Kshs.387,148,920.
- ii. The amount of Kshs.387,148,920 related to closing bank balances for the 2018/2019 financial year on donor-funded projects rolled over and used to finance the Budget for 2019/2020 without re-voting and approval. The Accounting Officer failed to surrender the resources to the National Treasury who ought to ensure that the funds are re-voted for the projects in the following financial year in order to continue the implementation

of the said projects contrary to Regulation 117 of the Public Finance Management - National Government Regulations 2015.

**2635) Committee Recommendations**

**The Committee reprimands the Accounting Officer for breach of Regulation 117 of the Public Finance Management - National Government Regulations 2015 by utilizing un-approved budget.**

**792. Pending Bills**

2636) Note 16 to the financial statements reflects pending bills amounting to Kshs.1,189,505,411 including Kshs.749,033,051 brought forward from the 2018/2019 financial year. These bills were not paid during the year under review but were instead carried forward to the 2019/2020 financial year. Management has not explained why the bills were not settled during the year in which they occurred. Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

**Submission by the Accounting Officer**

2637) The Accounting Officer submitted that it was true that the Financial Statements reflected pending bills amounting to Kshs.1,189,505,411.14 including Kshs.749,033,051 brought forward from the 2018/2019 Financial Year which were not paid during the year under review but were instead carried forward to 2019/2020.

2638) The pending bills of Kshs.1,189,505,411.14 were mainly unpaid certificates for the ongoing contracts for markets and police housing which were not funded during the financial year and hence not payable during the 2019/2020 financial year. All the pending bills relating to the 2019/2020 financial year were cleared in the 2020/2021 Financial Year except Kshs.237,402,424.35 being arbitral awards to Nyoro Construction of Kshs.197,500,000 and Sarajevo Kshs.26,868,445.55. Other suppliers are Makro Consultancy Kshs.1,939,056 and M/s Tai Kshs.11,094,923. It is confirmed that funds have been set aside in 2020/2021 to clear the debt and the payment process was ongoing.

**2639) Committee Observations and Findings**

- (i) The Committee observed that pending bills for 2018/2019 did not for first charge in 2019/2020 and hence delay in clearance.
- (ii) The committee further observed that arbitral awards amounting to Kshs.237,402,424.35 had not been settled and may attract further penalties and interest on unsettled amounts.

**2640) Committee Recommendations**

**1) The Committee recommends that the Accounting Officer provides documentations in support of settlement of the arbitral awards in the financial year 2020/2021.**

- 2) **The Committee further recommends that Parliament should enact regulations, laws, and policy guidelines that can be used consistently to ensure timely settlement of judgments and arbitral awards against the government which should restrict interest on judgments against government and state agencies.**

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

### Basis for Conclusion

#### 793. Failure to Collect Rent on Government Houses

2641) The total number of government houses across the forty-seven (47) Counties stood at fifty-six thousand eight hundred and ninety-two (56,892) houses with an expected monthly rental income of Kshs.127,048,750 resulting in an annual rent potential of Kshs.1,524,585,000 assuming full occupancy. However, rent collections on Government houses for the financial year 2019/2020 amounted to Kshs.724,299,195 leading to underperformance of Kshs.800,285,805 or 52% of the potential. Further, for Government houses occupied by the County Governments' staff, deductions totaling Kshs.113,409,750 were made through the respective payrolls but only a total of Kshs.16,377,978 was remitted to the State Department resulting in unremitted revenue of Kshs.97,031,772 as at 30 June 2020.

2642) Consequently, the State Department failed to put in place measures to ensure that all rent income due was collected in accordance with Regulation 43(c) of the Public Finance Management (National Government) Regulations, 2015 which requires an Accounting Officer to ensure that all Appropriations-In-Aid due to a national government entity are collected and properly accounted for in accordance with the relevant laws, rules and regulations.

#### Submission by the Accounting Officer

2643) The Accounting Officer submitted that it was true that there is the potential of collecting a total of Kshs.1,524,585,000 per year from all houses under the inventory. However, this target has not been realized due to the following challenges:

- a) A total of 1,469 houses have been alienated irregularly and litigation is ongoing regarding ownership. From these houses, an estimated Kshs.52,884,000 rental income money is lost annually. Some residential houses have been converted to other uses through boarding and are yet to be removed from the inventory. For instance, 143 houses were boarded in six surveys comprising an estimated rent of Kshs.3,832,800 per year in 2020. Changes in the register to remove the boarded houses has been initiated. Board of surveys reports were availed to the Committee for perusal.
- b) Various Ministries, Departments and Agencies deducted rent monies from tenants but failed to remit the same to the State Department. A request was sent to the Head of

Public Service and demand letters were sent to the MDAs. Positive responses have been realized as this has resulted in an increased collection of Appropriation in Aid in the 2020/2021 Financial Year.

- c) County Governments have not been remitting deductions from County Officers occupying National government houses. A demand letter was addressed to the Council of Governors for payment of arrears.

**2644) The Committee observed and found that:**

- (i) The Committee observed that the Accounting Officer failed to observe Regulation 43(c) of the Public Finance Management (National Government) Regulations, 2015 which requires an Accounting Officer to ensure that all Appropriations-In-Aid due to a national government entity are collected and properly accounted for in accordance with the relevant laws, rules and regulations
- (ii) The Committee further noted that various Counties, Ministries, Departments and Agencies deducted rent monies from tenants but failed to remit the same to the State Department.

**2645) The Committee recommended that:**

**Within sixty days upon adoption of this report, the Accounting Officer should initiate the recovery of the rent revenue due and outstanding and submit the report to the Auditor-General for further audit review.**

**794. Abandoned Projects**

2646) As previously reported, the construction of 100 housing units at Emali AP Training camp at a cost of Kshs.136,705,536 had been abandoned at 85% completion stage. Management has not provided any evidence of efforts towards resumption of the works.

2647) In the circumstances, it has not been possible to confirm if and when the value for money will be realized from the public funds committed to the project.

**Submission by the Accounting Officer**

2648) The Accounting Officer submitted that the above project comprises the construction of 100 units at Emali AP camp. The project was awarded to M/S Buildmart Solutions Ltd under Phase 1A of Police Housing Projects. The Contractor requested for a 4th extension of the contract period of 135 weeks up to 31st December 2020. The request was declined by the State Department given that the Contractor had performed poorly on the other extensions granted. The contractor abandoned the site without giving notice to the Project Manager.

2649) The Project Manager (State Department for Public Works) then issued a default notice to the contractor on 2nd March 2021 but the Contractor failed to respond within 14 days period as required under the contract. The Project Manager recommended for termination of the contract vide their letter to the Principal Secretary, State Department for Housing and Urban Development dated 13th May 2021.

2650) Following the above, the State Department responded to the Project Manager and requested for a detailed project brief to enable the Department to seek concurrence on termination from the Attorney General's office and the same is being awaited. Once the termination process is cleared by the office of the Attorney General, the Contract shall be terminated and procurement for outstanding works fast-tracked to enable completion of the project.

**2651) Committee Observations and Findings**

The Committee observed that the process of contract termination was still ongoing and once the termination process is cleared by the office of the Attorney General, the Contract shall be terminated and procurement for outstanding works fast-tracked to enable completion of the project

**2652) Committee Recommendations**

- 1) The National Assembly should allocate adequate funds to all the incomplete housing projects before allocating more funds to initiate new projects.**
- 2) The Accounting Officer should within sixty days upon adoption of this report, ensure that they fast track the completion of the remaining works in the housing projects and forward completion certificate to the Auditor General for audit verification.**
- 3) Within six months upon adoption of this report, the Auditor-General should verify the status of the housing projects and report the findings to the National Assembly.**

**795. Lack of Updated Market Rates**

2653) Regulation 43 (d) of the Public Finance Management (National Government) Regulations, 2015 provides that an Accounting Officer shall manage, control and ensure that policies are carried out efficiently and wastage of public funds is eliminated. However, the government house rents were last reviewed in the year 2001 and are therefore not aligned to current market rent rates. This is despite the civil servants' house allowances having been reviewed severally to reflect the cost of living and the market rates for the rent. Consequently, the Government is losing out on revenue with the continued application of outdated rental rates.

**Submission by the Accounting Officer**

2654) The Accounting Officer submitted that the last comprehensive review of rent for government houses was done in 2001. However, since 2019, the State Department commenced the process of inspecting all houses with a view to revising rents based on maintenance status and age. Most of the houses were found to be beyond economic life. New rent books for most police houses have been compiled and implemented. The balance of houses will be reviewed progressively. A review of others is in progress.

**2655) Committee Observations and Findings**



- (i) The Committee observed that the State Department had commenced the process of inspecting all houses with a view to revising rents based on maintenance status and age and that most of the houses were found to be beyond economic life. However, no report on the number of houses that are beyond economic life was provided for review.
- (ii) The Committee further observed that a new rent books for most police houses have been compiled and implemented and the balance of houses will be reviewed progressively and
- (iii) The matter remained unresolved.

**2656) Committee recommendations**

- 1) The Accounting office should ensure that the houses that were found to be beyond economic life are vacated, demolished and the National Assembly allocates funds to rebuild modern Houses.**
- 2) The Accounting Officer should provide the new rent books for most police houses and the final market rates survey report to the Auditor-General for review and reporting to the National Assembly.**

**796. Gaps in Government Residential Houses Register**

2657) According to the inventory of Government houses availed for audit review, the Government had a total of 56,892 houses categorized into institutional, police and pool houses. The houses were further categorized into low, medium and high grades. However, the register maintained by the State Department did not contain key information such as the dates of occupancy and vacancy, occupants' details and reason for non-occupancy. The register was also incomplete as some police houses were not included. ,

2658) Failure to maintain a comprehensive register makes it difficult to keep track of government houses and tenants in relation to occupancy, vacancy of the houses, houses with rent arrears and their respective maintenance costs. It is contrary to Regulation 139(1)(a) of the Public Finance Management Regulations, 2015 which provides that the Accounting Officer of a national government entity shall take full responsibility and ensure that proper controls systems exist for assets and that preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse.

**Submission by the Accounting Officer**

2659) The Accounting Officer submitted that there are gaps in the various components of the inventory of government residential houses. The Department has put in place mechanisms to ensure that the inventory is finalized and updated continuously.

2660) The State Department has since instructed the County Directors of Housing to update the inventory and forward copies to the headquarters. The Department has received the complete inventories which are being compiled.

**2661) Committee Observations and Findings**



The Committee observed that there are gaps in the various components of the inventory of government residential houses and that there are mechanisms put in place to ensure that the inventory is finalized and updated continuously.

**2662) Committee recommendations**

**Within sixty days upon adoption of this report, the Accounting Officer should finalize the inventory and update the inventory of government residential houses and ensure that there are mechanisms put in place to ensure continuous update of the inventory. The inventory records should be provided to the Auditor-General**

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

**Basis for Conclusion**

**797. Lack of Government Houses Rent Policy**

2663) One of the mandates of the State Department is the development and management of the Government houses. The Accounting Officer constituted an informal committee referred to as the Housing and Allocation Committee (HAC) in February 2019. However, guidelines to manage the allocation of vacant houses in different counties were not availed for audit review.

**Submission by the Accounting Officer**

2664) The Accounting Officer submitted that the Department has developed House allocation guidelines which are in draft format pending public participation. The Department has also formulated and issued tenancy guidelines for all government residential houses in the country.

**2665) Committee Observations and Findings**

- (i) The Committee observed that the House Allocation Guidelines is yet to be developed; and
- (ii) The matter remained unresolved.

**2666) Committee recommendations**

**Within sixty days upon adoption of this report, the Accounting Officer should have fully developed the House Allocation Guidelines including public participation and present a copy to the National Assembly and the Auditor General for review.**

**798. Digitization of Estate Management**

2667) The management of Government houses and collection of rent is largely done manually. The department has not digitized its systems thereby making it difficult to establish how much rent to expect from which Ministry, Department or Agency. This system has led to gaps and may lead to loss of revenue due to the unreliability of the manual system. To enhance efficiency, effectiveness and economy in the management of government houses

the State Department should computerize invoicing, rent collections, recordings, reconciliations and maintenance of houses among other operations.

#### **Submission by the Accounting Officer**

2668) The Accounting Officer submitted that the Department runs on largely manual systems in managing its activities. However, efforts have been put in place towards procuring and commissioning an Enterprise Resource Planning System for the activities and functions of the department. The Department advertised for an ERP system but did not find a responsive bidder. Re-advertisement will be done to ensure a suitable ERP is installed.

#### **2669) Committee Observations and Findings**

The Committee observed that the state Department is yet to procure and commission an Enterprise Resource Planning System for computerized invoicing, rent collections, recordings, reconciliations and maintenance of houses among other operations.

#### **2670) Committee recommendations**

**Within sixty days upon adoption of this report, the Accounting Officer should ensure completion of the procurement and commissioning of the Enterprise Resource Planning System aimed computerizing invoicing, rent collections, recordings, reconciliations and maintenance of the houses.**

### **DONOR FUNDED PROJECTS**

#### **KENYA INFORMAL SETTLEMENT IMPROVEMENT PROJECT NO. P113542**

#### **REPORT ON THE FINANCIAL STATEMENTS**

#### **2671) Unqualified Opinion**

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

#### **Emphasis of Matter**

#### **800. Special Account Reconciliation**

2672) The statement of receipts and payments reflects proceeds from domestic and foreign grants of Kshs.1,558,304,909 and as disclosed under Note 10.5 to the financial statements. However, this excludes amounts withdrawn but unclaimed of USD 12,998,243.20 equivalent to Kshs.1,335,530,325 as at 30 June 2020 reflected in the Project Special account statement. The amount represents cumulative funds transfers to the Project bank account, but whose expenditure returns had not been submitted to the National Treasury by the close of the financial year.

#### **Submission by the Accounting Officer**

2673) The Accounting Officer submitted that the expenditure returns had not been submitted to the National Treasury by the close of the Financial Year. The expenditure returns were later submitted to the National Treasury and all expenditures were documented.

**2674) Committee Observations and Findings**

The Committee observed that, the Accounting Officer explained that the expenditure returns had not been submitted to the National Treasury by the close of the Financial Year but returns were later submitted to the National Treasury.

**2675) Committee Recommendations**

**The Committee reprimands the Accounting Officers for failing to ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also, for failing to ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

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

**2676) Conclusion**

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

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

**2677) Conclusion**

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

**NAIROBI METROPOLITAN SERVICES IMPROVEMENT PROJECT (IDA CREDIT NO. 5102-KE)**

**REPORT ON THE FINANCIAL STATEMENTS**

**2678) Unqualified Opinion**

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

**Other Matter**

**804. Pending Bills**

2679) Note 9.1 to financial statements reflects pending bills of Kshs.13,482,306 as at 30 June 2020. Management has not provided reasons for non-payment of the bills even though the

Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments. Further, failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

**Submission by the Accounting Officer.**

2680) The pending bills occurred due to inadequate budget provisions in the Financial Year ended 30th June 2020. The pending bills formed the first charge in the 2020/2021 Financial Year.

**2681) Committee Observations and Findings**

The Committee observed that the Accounting Officer indicated that the pending bills occurred due to inadequate budget provisions in the Financial Year ended 30th June 2020. The pending bills formed the first charge in the 2020/2021 and have since been settled. The fact that the Accounting officer indicated that there was inadequate budget provisions implies that the State Department incurred expenditure without Authority or approved Budget.

**2682) Committee Recommendations**

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

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

**Basis for Conclusion**

**805. Delay in Taking over Completed Projects**

2683) Review of Project implementation documentation revealed that Kangundo and Mathira fire stations, Athi River, Dandora, Donholm and Embakasi railway stations were complete and the defect liability period had lapsed but they were yet to be taken over from the contractor. Under the circumstances, the Projects' assets have not been put to their intended use. Value for money may not be realized from the investment with the delay intaking over the assets.

**Submission by the Accounting Officer**

**2684) Fire stations**

- a) The Nairobi Metropolitan Services Improvement Project constructed Kangundo Road and Waithaka fire stations. The two fire stations are under the mandate of the Nairobi City County Government.
- b) The Kangundo Road fire station was substantially completed on 2<sup>nd</sup> August 2019 and the Defects Liability Period was 6 Months which expired on 31<sup>st</sup> March 2020.
- c) The Waithaka fire station was substantially completed on 26<sup>th</sup> March 2020 and the six months defect liability period expired on 25<sup>th</sup> September 2020.

- d) The Nairobi City County Government has since deployed their personnel and equipment to the two fire stations. These facilities have been in use since December 2020.

2685) **Railway Stations**

- a) Donholm Station, Athi River, Dandora & Embakasi Village Commuter Rail Stations; the works were completed and inspected at the end of the defect's liability period.
- b) Kenya Railways has since deployed security and station masters to take charge of the security and operations in the stations.

2686) **Committee Observations and Findings**

The Committee observed that the projects have been taken over by the respective user department to ensure that Value for money is realized from the investment without the delay in taking over the assets.

2687) **Committee Recommendations**

**The Committee recommends that the Accounting Officer manages the assets in a way which ensures that the entity achieves value for money in acquiring, using and disposing of those assets in accordance with section 72 (1) (b) of the PFM Act 2012.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2688) **Conclusion**

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

**KENYA URBAN SUPPORT PROGRAM (IDA CREDIT NO.6134-KE)**

REPORT ON THE FINANCIAL STATEMENTS

**Basis for Qualified Opinion**

**807. Unsupported Transfers to Counties**

2689) As disclosed under Note 10.7A to the financial statements, the statement of receipts and payments reflects transfers to counties amounting to Kshs.8,515,676,121. However, there were no expenditure returns from the County Governments to show utilization of the funds transferred to them. Consequently, the accuracy of transfers to the counties amounting to Kshs.8,515,676,121 for the year ended 30 June 2020 could not be ascertained.

**Submission by the Accounting Officer**

2690) The Accounting Officer submitted that the statement of Receipts and Payments as at 30 June 2020 are transfers to the 45 County Governments amounting to Kshs.8,515,676,121.

These amounts comprise of Urban Development Grant (UDG) funds Kshs.8,128,476,121 and Urban Institutional Grant (UIG) funds Kshs.387,200,000.

2691) Further, the expenditures from the Counties are shown by the Statement of Expenditure (SOEs) summary returns which the Counties submit to the National Program Coordination Team (NPCT).

2692) **Committee Observation and Findings**

The Committee observed that there is no clear framework on how the above monies are disbursed, supervised and accounted for.

2693) **Committee Recommendations**

- 1) **The Cabinet Secretary National Treasury should develop and have approved framework on how the monies are disbursed, supervised and accounted for.**
- 2) **The Accounting Officer should within sixty days upon adoption of this report, ensure that the expenditure returns are provided to the Auditor General for audit verification.**
- 3) **The Cabinet Secretary National Treasury should determine whether the situation constitutes a serious material breach or persistent material breach requiring stopping of transfer of funds under Article 225 (3) of the Constitution.**

**808. Motor Vehicles Without Log Books**

2694) As disclosed in Note 10.6 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.10,620,000 under acquisition of non-financial assets which includes the cost of two project motor vehicles GKB 851V and GKB 852B for which log books were not made available for audit review. Consequently, the rightful ownership to the vehicles could not be established.

**Submission by the Accounting Officer**

2695) The Accounting Officer submitted that it was true that the logbooks to motor vehicles GK B851V and GK B852V were not availed to the auditor at the time of the audit. This is because the logbooks were yet to be released by the National Transport Authority. The logbooks to the vehicles have been obtained and the copies are now available for audit.

2696) **Committee Observations and Findings**

The Committee observed that the logbooks to motor vehicles GK B851V and GK B852V were not availed to the auditor at the time of the audit. However, the logbooks were later produced and the Committee considered the matter resolved.

2697) **Committee Recommendations**

**The Committee recommends that the Accounting Officer be responsible for the management of the entity's assets and liabilities and manage those assets in a way which**

**ensures that the entity achieves value for money in acquiring, using and disposing of those assets in accordance with Section 72 of the PFM Act 2012.**

## **Other Matter**

### **809. Pending Bills**

2698) Notes 11.1 to the financial statements reflects pending bills of Kshs.2,661,615 as at 30 June, 2020. Management has not provided reasons for non-payment of the bills which exposes the Project to the risk of incurring significant interest costs and penalties for the continued delay in making payments.

#### **Submission by the Accounting Officer**

2699) The Accounting Officer submitted that it was true that the financial statements reflected a pending bill totaling Kshs.2,661,615 as of 30 June 2020. This pending bill was occasioned by delays in the procurement process. The pending bill formed the first charge in the 2020/2021 Financial Year.

#### **2700) Committee observation and finding**

The explanation given by the Accounting Officer with regard to pending bills was satisfactory; and the Committee marked the matter as resolved.

#### **2701) Committee Recommendations**

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

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

### **Basis for Conclusion**

#### **810. Disbursement of Funds to Counties**

2702) As previously reported, according to Section V (Withdrawal of Credit Proceeds) of the Financing Agreement between the International Development Association (IDA) and the Republic of Kenya, funds were to be disbursed in two tranches. The first tranche was to facilitate formation of County Program Coordination Teams, which, among other responsibilities is to manage the use of Urban Institutional Grants (UIG) and also to provide support to participating County Governments for the formulation of Urban Development Plans including the establishment and operation of Urban Institutional Arrangements such as Charters, Board administration and operation of Urban Institutional Arrangements and for the initial preparation of Urban Infrastructure Investments.



2703) However, during the year under review, Urban Development Grants (UDG) amounting to Kshs.8,128,476,121(2019-Kshs.11,464,702,500) was released to the participating Counties. The Urban Institutional Grants (UIG) of Kshs.387,200,000 (2019-Kshs.1,854,000,000) was also released during the year, indicative of release of Urban Development Grants (UDG) preceding the Urban Institutional Grants (UIG) contrary to the Financing Agreement.

#### **Submission by the Accounting Officer**

2704) The Accounting Officer submitted that the Kshs.387,200,000 of Urban Institutional Grant (UIG) was released during the Financial Year 2019/2020 at the same time as the UDG funds. The UIG funds could not be released earlier than the Urban Development Grants (UDG) funds of Kshs.8,128,476,121 because they were both to be released after the Annual Performance Assessment II (APA II) which gave the different amounts to the different Counties based on their performance on minimum conditions and the performance indicators. This APA report was conducted in 2020 and comprised of both the UDG and UIG.

2705) As per the Kenya Urban Support Program (KUSP) Program Operation Manual (POM) Volume I, section 3.2 on UIG allocation for each County Government, the UIG was to put in place the necessary foundation for institutionalizing urban governance. The UIG was to be availed to the Counties in the first three years of the Program only (i.e. FY 2017/18, FY 2018/19 and FY 2019/20).

2706) The UIG was to be made available as a flat amount for all County Governments that had signed up for the Programme upon meeting the minimum conditions set out in the POM. The amounts per County were as under;

- i. FY 2017/18: USD 200,000 (roughly around Kshs.20,000,000)
- ii. FY 2018/19: USD 200,000 (roughly around Kshs.20,000,000)
- iii. FY 2019/20: USD 100,000 (roughly around Kshs.10,000,000)

2707) During the FY 2019/2020, as per the Program Operation Manual, the Program disbursed a total of Kshs.387,200,000 which was Kshs.8,800,000 per County except for Samburu County which had not met all the minimum conditions as required in the POM paragraph 3.2 UIG allocation for each County Government. However, we have since disbursed the Kshs.8,800,000 to Samburu County having met the minimum conditions.

#### **2708) Committee Observation and Findings**

The Committee observed that the matter has since been regularized.

#### **2709) Committee Recommendations**

**The National Treasury should ensure that the Donor Funding factored by the Accounting Officers in annual budgets are realistic and achievable.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

2710) **Conclusion**

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

**OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR HOUSING AND URBAN DEVELOPMENT**

**KISUMU URBAN PROJECT (PROJECT ADVANCE ACCOUNT)-CKE 1035.01.G - COUNTY GOVERNMENT OF KISUMU**

REPORT ON THE FINANCIAL STATEMENTS

**Basis for Qualified Opinion**

**812. Inaccuracies in the Financial Statements**

**812.1 Statement of Financial Assets**

2711) The statement of financial assets reflects a balance of Kshs.823,593,699 which differs with the net financial position balance of Kshs.845,169,035 by Kshs.21,575,336. No explanation has been provided for the difference.

**Submission by the Accounting Officer**

2712) No submissions.

**2713) Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

**2714) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide supporting documentation on the reconciliations of the balance to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The Auditor General should then review the responses and report on the status to this committee.**

**812.1.1 Fund Balance**

2715) The statement of financial assets reflects an aggregate fund balance of Kshs.670,945,090, as detailed in Note 9.10 to the financial statements. However, summation of the account balances included in the balance in Note 9.10 yields a sum of Kshs.823,593,699 resulting to a difference of Kshs.152,648,609 which has not explained.

2716) In the circumstance, the completeness, accuracy and validity of the fund balance totalling Kshs.670,945,090 reflected in the statement of financial assets as at 30 June, 2020 has not been confirmed.

#### **Submission by the Accounting Officer**

2717) No submissions.

#### **2718) Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

#### **2719) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide supporting documentation on the reconciliations of the balance to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

### **812.2 Statement of Receipts and Payments**

#### **812.2.1 Transfers from Department of Housing and Urban Development**

2720) The statement of receipts and payments reflects transfers from the Department of Housing and Urban Development totalling Kshs.805,926,100 as detailed at Note 9.3 to the financial statements. However, the special accounts statement of the Kisumu Urban Project report reflects a transfer of EUR 7,000,000, equivalent to Kshs.806,206,400, resulting to a difference of Kshs.280,300, which Management has not explained.

2721) In the circumstance, the completeness, accuracy and validity of transfers from government entities totaling Kshs.805,926,100 for the year under review has not been confirmed.

### **Submission by the Accounting Officer**

2722) No submissions.

### **2723) Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

### **2724) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide supporting documentation on the reconciliations of the balance to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

### **812.2.1.1 Cumulative Funding to Date**

2725) The statement of receipts and payments reflects cumulative funding balance of Kshs.2,658,509,300. However, the funding summary in Note 1.7 to the financial statements reflects funding totaling Kshs.3,962,000,000 resulting to a difference of Kshs.1,303,490,700 which Management has not explained.

2726) In the circumstance, the completeness, accuracy and validity of transfers from government entities totaling Kshs.2,658,509,300 reflected in the statement of receipts and payment for the year ended 30 June, 2020 has not been confirmed.

### **Submission by the Accounting Officer**

2727) No submissions.

### **2728) Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

### **2729) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**

- 2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide supporting documentation on the reconciliations of the balance to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

#### **812.2.2 Acquisition of Non-Financial Assets**

2730) The statement of receipts and payments reflects an acquisition of non-financial assets balance totaling Kshs.301,141,525, as detailed in Note 9.6 to the financial statements. However, summation of the amounts included in the balance yields a sum of Kshs.302,141,525 resulting to a variance of Kshs.1,000,000 which, however, has not been explained.

2731) In the circumstance, completeness and accuracy of the acquisition of non-financial assets balance amounting to Kshs.301,141,525 reflected in the statement of receipts and payments for the year ended 30 June, 2020 has not been confirmed.

#### **Submission by the Accounting Officer**

2732) No submissions.

#### **2733) Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

#### **2734) Committee Recommendations**

- 1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide supporting documentation on the reconciliations of the balance to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**

#### **812.3 Anomalies in the Cash flow Statement**

2735) The statement of cash flow for the year ended 30 June, 2020 reflects the following anomalies:

#### **812.3.1 Cash and Cash Equivalent**

2736) The statement reflects Kshs.723,901,685 as cash and cash equivalents at the beginning of the year which, however, varies from the comparative balance amounting to Kshs.669,144,199 shown in Note 9.8 to the financial statements. The difference of Kshs.54,757,486 between the two sets of records has not been explained.

2737) In addition, the statement of cash flow reflects cash and cash equivalents at the end year totalling Kshs.898,125,630 which varies with the account's balance amounting to Kshs.822,287,913 reflected in the statement of financial assets. The difference of Kshs.75,837,717 between the two balances expected to tally has not been explained. Further, the increase in accounts receivables amounting to Kshs.1,022,986 has been omitted in the statement of Cash flow.

2738) In the circumstance, the completeness, accuracy and authenticity of the cash and cash equivalents balance amounting to Kshs.898,125,630 reflected in the statement of cash flow for the year ended 30 June, 2020 has not been confirmed.

#### **Submission by the Accounting Officer**

2739) No submissions.

#### **2740) Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

#### **2741) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide supporting documentation on the reconciliations of the balance to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee. Also, provide accurate cashflow records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

#### **812.3.2 Refund of Performance Bond**

2742) The statement of cash flow reflects a comparative balance of Kshs.10,851,362 under refund of performance bond. However, the balance was not reflected in the audited financial statements for year ended 30 June, 2019.

2743) In the circumstance, validity of the comparative balance has not been confirmed.

### **Submission by the Accounting Officer**

2744) No submissions.

### **2745) Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

### **2746) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide supporting documentation on the reconciliations of the balance to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee. Also, provide accurate cashflow records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

### **812.4 Fixed Assets Register**

2747) The fixed assets register at Annex 3 reflects assets valued at Kshs.430,738,274 for the year ended 30 June, 2020. However, summation of the amounts in the aggregate balance yielded assets totaling to Kshs.554,761,710 resulting to an unreconciled variance of Kshs.124,023,436 which the Management has not explained. Further, the register reflects additions of motor vehicles and motor cycles totalling Kshs.13,166,198 and Kshs.588,500 respectively, totalling to Kshs.13,754,698 which balance however, is not reflected as expenditure in the statement of receipts and payments for the year under review. Therefore, the expenditures reflected in the statement of receipts and payments are understated.

2748) In addition, the fixed assets register reflects cumulative closing assets totalling Kshs.430,738,274 while the cumulative acquisition of non-financial assets reflected in the statement of receipts and payments amounts to Kshs.1,230,026,660 resulting to an unexplained variance of Kshs.799,288,386 which suggests that the fixed assets register is not updated regularly.

2749) In the circumstance, the completeness, accuracy and authenticity of the reported balanced of Kshs.430,738,274 reflected in Annex 3 of the summary of fixed assets register has not been confirmed.

### **Submission by the Accounting Officer**



2750) No submissions.

**2751) Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to this paragraph.

**2752) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and provide supporting documentation including reconciliations of the balances to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee. Also, provide accurate cashflow records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

**813. Presentation of the Financial Statements**

2753) The statement of receipts and payments and statement of cash flows are labeled 'for the period ended 30 June, 2020' instead of 'for year ended 30 June, 2020' to which they relate. As a result, the presentation of the accounting period under review is not correct.

2754) Consequently, the financial statements are not prepared in accordance with Accounting Standards as prescribed by IPSAS.

**2755) Committee Observations and Findings**

- (i) The Committee observed that the Accounting Officer did not prepare financial statements for the financial year in a form prescribed by the Accounting Standards Board.
- (ii) The Committee further observed that the Accounting Officer did not respond to this paragraph.

**2756) Committee Recommendations**

**The Committee reprimands the accounting officer for failing to comply with the requirements of the Accounting Standards Board when preparing the financial statements for the financial year.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**Basis for Conclusion**

## **814. Acquisition of Assets**

2757) The statement of receipts and payments reflects acquisition of assets balance totaling Kshs.301,141,525 for the year ended 30 June, 2020, as detailed in Note 9.6 to the financial statements. However, examination of the respective expenditure records revealed the following anomalies:

## **815. Construction of Roads**

### **815.1 Proposed Completion of Low Volume Access Roads- (Kemri-Otonglo-Tiengere-Rota Road)**

2758) Included in the construction of roads balance totalling Kshs.302,141,525 in Note 9.6 to the financial statements is expenditure totalling Kshs.5,841,397 spent on construction of low volume access roads namely the 5.5 (five and a half ) kilometres long Kemri-Otonglo-Tiengere-Rota Road. However, physical verification of the works in October, 2020 revealed the following:

- i. The drainage works done in all the sections along the road were of poor quality and further, some sections of the murrum laid had been washed off by floods.
- ii. Works on construction of the bridge/box culvert at Tiengere were abandoned by the contractor before completion.
- iii. The contractor was not on site and the site office had been abandoned.
- iv. All the access culverts along the road were not backfilled.
- v. Gravel on some sections of the road was swept off by flood waters due to poor drainage.
- vi. A section measuring 0.005 Kilometers from Tiengere was not graded and graveled. Further no drainage works were done at the said section.
- vii. Monthly progress of work reports indicated that challenges facing the Project included inadequate materials, equipment and labor mobilization, slow execution of work. No plausible explanation was provided by Management for the anomaly.
- viii. In August, 2019, the contractor requested for an extension of the contract period from 30 September, 2019 to 31 December, 2019. However, the request was not approved by the Tender Evaluation Committee as regulations require.

2759) In the circumstances, it has not been possible to confirm that value for money was achieved on the expenditure totaling Kshs.5,841,397 spent on the works.

### **2760) The Committee in their report for 2018/2019 made the following Observation and Findings**

- (i) That there was Poor workmanship in the drainage works in all the sections along the road was noted and some sections of the murrum had been cut off by floods.**

- (ii) That there was poor workmanship in stone pitching and some sections were falling off.
- (iii) That there was an electric pole in the middle of the road as at the time audit no mention on the status of the pole was provided in the submissions.
- (iv) That the Construction works of the bridge/box culvert had been abandoned.
- (v) That the contract was terminated and consolidated into Low volume access roads which were at 65% completion.

2761) The Committee recommended that;

**Within sixty days upon adoption of this report, the Accounting officer should provide the contract termination documents that are legally binding between the parties thereto, completion certificate for the project to the National Assembly and the Auditor-General should verify the status of the project and report the findings to the National Assembly.**

#### **815.1.1 Construction of Nairobi Road-Nyamasaria-KFW Primary School-Sije Road**

2762) Similarly, a sum of Kshs.29,328,404 was spent on the construction of the 2.139 kilometres long Nairobi Road-Nyamasaria-KFW Primary School-Sije Road contracted at Kshs.99,489,639. The contract was to commence on 15 January, 2018 and be completed on 14 October, 2018. Addendum 1 to the contract indicates that the contract sum was increased by Kshs.24,872,409.75 to Kshs.125,362,048. No justification was provided by Management for the increase equivalent to 25% of the original contract price.

2763) However, physical verification of the project in the month of October, 2020 revealed the following:

- i. Only about 1.1km of the road had been tarmacked.
- ii. The contractor built one instead of the two bridges contracted to be built over River Auji.
- iii. As per letter reference number AGC/KUP/NYAM/PN/2018/141 of 12 August, 2020, the contractor requested for extension of the completion date to 30 November, 2020. However, no evidence was availed to confirm that the Tender Evaluation Committee approved the request.
- iv. The progress of work report availed for audit indicated that the works were 71% complete but the contractor's frequent absence from the project site had delayed their completion.

2764) In the circumstances, it has not been possible to confirm that value for money was obtained on the expenditure amounting to Kshs.29,328,404 spent on the road project during the year under review.

**2765) The Committee in their Report for 2018/2019 made the following Observations and Findings**

- (i) There were some lapses on the part of the management in adherence to the rules and regulations governing the contract management.**
- (ii) The project was 95% completed.**

**2766) The Committee recommended the following;**

**Within sixty days upon adoption of this report, the Accounting Officer should provide the completion certificate for the project to the National Assembly and the Auditor-General should verify the status of the project and report the findings to the National Assembly.**

**815.1.2 Construction of Family Planning-Naselica Roads**

2767) The expenditure records further indicated that Kshs.8,230,386 was spent on construction of Family Planning Naselica Road at a cost of Kshs.15,803,864. The contract period commenced on 28 February, 2018 and was to end by 25 February, 2019. However, Addendum 1 to the contract indicates that the date was changed to 30 January, 2020 and the Project cost increased to Kshs.18,820,911. No explanation was provided for the increase. However, physical verification of the project in October, 2020 revealed the following:

- i. The contractor was not on site and no works were ongoing.
- ii. A section of the road measuring about eighty (80) meters along a supermarket building had no walkway and side drains because the supermarket had, allegedly, encroached on the road. However, no documentary evidence was presented to confirm the encroachment.
- iii. The Bills of Quantities (BQs) included cost of two (2) project publicity road signs worth Kshs.100,000 but only one was on site.
- iv. Stone pitching on both sides of the drains measuring about one hundred and fifty (150) meters of the road was not done.
- v. Contrary to provisions in the Bills of Quantities, only a small portion of the walkway had cabro stone installed.
- vi. Although the project was 71% complete, the Progress of works report availed for audit indicated that frequent absence of the contractor from the site was the main cause for the delayed completion of the works.
- vii. The Tender Committee meeting held on 23 January, 2020 allowed the contractor's request to extend the contract period to 30 January, 2020 and increase the contract cost further by Kshs.3,017,047. However, there was no evidence of approval for any further extension of the contract even though the works were reported as ongoing in November 2020.

2768) In the circumstances, it has not been possible to confirm whether taxpayers obtained value for money on expenditure amounting to Kshs.8,230,386 spent on the project up to 30 June, 2020.

**2769) Committee Observation and Findings**

The committee observed that there was poor workmanship on the part of the contractor and the contractor failed to fulfill his/her contractual obligations as observed by the Auditor General.

**2770) Committee Recommendations**

**The Committee expresses displeasure with the accounting officer for failing to adhere to the rules and regulations governing the contract management as per the Public Procurement and Asset Disposal 2015.**

**815.1.3 Construction of Otonglo-Prison-Auji and Auji-Pundo Roads**

2771) The records further indicate that a sum of Kshs.45,106,657 was incurred on construction of 3.9 kilometres of Otonglo-Prison-Auji and Auji-Pundo Roads. The contract was valued at Kshs.108,513,615 in aggregate with works set to start on 13 October, 2015 and be completed by 12 May, 2016. Audit review of Addendum No. 3, indicated that the completion date was reset for 31 December, 2019 and the contract sum increased by Kshs.26,303,745 or 24% of the original contract cost, to Kshs.134,685,860. No adequate explanation was provided by Management for the cost increase. Records available indicate that in late 2019, the original contractor sub-contracted the incomplete works to another company in late 2018 at a sum of Kshs.40,000,000. However, physical verification, of the project in October, 2020 revealed the following:

- i. Audit review of Addendum No. 3 indicated that the completion date of the contract was moved to 31 December, 2019 and the contract sum increased by Kshs.26,303,745 to Kshs.134,685,860.
- ii. The contractor was not on site and there was no site office or machinery to indicate that the works were ongoing.
- iii. Culverts constructed on the roads were blocked and as a result, sections of the road were washed away and cut-off by run-off waters.
- iv. A section of about one hundred (100) meters from the railway line to Pundo Market was not graveled and proper drainage works were not done.
- v. Progress reports availed for audit indicated that works were 95% complete and cited the contractor's absence as the main reason for the delay in their completion.
- vi. In April, 2019, the contractor requested for extension of the completion date to 31 December, 2019 and the request was approved by the Tender Committee.
- vii. The performance guarantee provided by the contractor expired on 5 August, 2019 but no evidence of its renewal was availed for audit review.

viii. Included in the assessed works was Interim Payment Certificate No. 5 for preliminary and supervisory/support services costed at Kshs.4,457,633. However, the expenditure was not supported with documentary evidence and as a result, its validity and accuracy could not be confirmed.

2772) In the circumstances, taxpayers may not have obtained value for money on the expenditure amounting to Kshs.45,106,657 spent on the project as at 30 June, 2020.

**2773) Committee Observation and Findings**

The committee observed that there was poor workmanship on the part of the contractor and the contractor failed to fulfill his/her contractual obligations as observed by the Auditor General.

**2774) Committee Recommendations**

**The Committee expresses displeasure with the accounting officer for failing to adhere to the rules and regulations governing the contract management as per the Public Procurement and Asset Disposal 2015.**

**815.1.4 Construction of Impala-Dunga-Nanga-Five Ways Road**

2775) Expenditure totalling Kshs.124,686,364 was incurred on construction of Impala-Dunga-Nanga-Five Ways Road contracted at a cost of Kshs.301,145,590. The contract agreement had scheduled the works to start in April, 2018 and end on 12 April, 2019. However, Addendum No. 1 to the contract indicates that the contract completion period and cost were revised to 30 November, 2019 and the contract sum increased by Kshs.31,377,728 or 9% to Kshs.332,523,317. Other records indicated that the completion date for the contract was moved forward to 30 November, 2019 after additional works to install street lights were added to the contract during the defects liability period. However, physical verification of the project in October, 2020 revealed the following:

- i. The street lights installation works were not carried out and the contractor was not on site.
- ii. Preliminaries and general expenses of Kshs.14,288,004 included in the Interim Payment Certificate No. 8 were not supported with documentary evidence. As a result, the validity and propriety of the expenditure could not be confirmed.

2776) In the circumstances, it has not been possible to confirm that tax payers obtained value for money on the expenditure amounting to Kshs.124,686,364 spent on the project as at 30 June, 2020.

**2777) Committee Observation and Findings**

- (i) There were some lapses on the part of the management by failing to observe contractual obligations as observed by the Auditor General.



- (ii) The initial project was already completed and handed over to the client.

**2778) Committee Recommendations**

**Within sixty days upon adoption of this report, the Accounting Officer should provide the completion certificate for the project to the National Assembly and the Auditor-General should verify the status of the project and report the findings to the National Assembly.**

**815.1.5 Construction of Car Wash-Sije Road**

2779) A sum of Kshs.44,528,395 was incurred on construction of Impala-Dunga-Nanga-Five Ways Road. The works were contracted at Kshs.97,166,159. The contract period was expected to take forty (40) weeks from 19 July, 2018 to 25 April, 2019. However, audit verification of the works in October, 2020 revealed the following:

- i. Only a short section of about eight hundred (800) meters out of a total of 2.12Km contracted had been tarmacked.
- ii. Records availed for audit indicated that the contractor requested for extension of the contract period by 310 days. However, there was no evidence to confirm whether the extension was approved by the Tender Evaluation Committee.
- iii. The progress of works report availed for audit indicated that the works were at 55% level of completion. However, the report cited absenteeism as the main cause for the slow pace of work. There was no evidence of the actions taken by Management to compel the contractor to respect the timelines set for the works.

2780) In the circumstances, it has not been possible to confirm whether taxpayers obtained value for money on expenditure amounting to Kshs.44,528,395 spent on the project for the year ended 30 June, 2020.

**2781) Committee Observation and Findings**

- (i) Only a short section of about eight hundred (800) meters out of a total of 2.12Km contracted had been tarmacked.
- (ii) The contractor requested for extension of the contract period by 310 days. However, there was no evidence to confirm whether the extension was approved by the Tender Evaluation Committee.
- (iii) The progress of works report indicated that the works were at 55% level of completion. However, the report cited absenteeism as the main cause for the slow pace of work. There was no evidence of the actions taken by Management to compel the contractor to respect the timelines set for the works.

**2782) Committee Recommendations**



**Within three (3) months upon adoption of this report, the Accounting Officer should provide the completion certificate for the project to the National Assembly and the Auditor-General should verify the status of the project and report the findings to the National Assembly.**

#### **815.1.6 Renovation of Kisumu Urban Project Offices**

2783) Examination of payment records, in addition, indicated that Kshs.1,608,157 was spent on purchase of materials and labour used in renovating the Kisumu Urban Project offices. However, the procurement records and specifications for the works, issues and receipt vouchers were not availed for audit. In the circumstance, the occurrence and propriety of the expenditure could not be confirmed.

#### **Submission by the Accounting Officer**

2784) There were no submissions from the accounting officer.

#### **2785) Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph. The Accounting Officer did not provide the procurement records and specifications for the works, issues and receipt vouchers to the Auditor-General.

#### **2786) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

#### **815.1.7 Idle Road Sweeper Tractor**

2787) The project purchased a road sweeper tractor at a cost of Kshs.3,718,412 during the year. However, verification of the purchase in October, 2020 revealed that the tractor was not put to use but was instead left to idle at the City Works Unit yard. In the circumstances, no value was obtained out of the public funds totaling Kshs.3,718,412 spent on purchase of the tractor.

#### **Submission by the Accounting Officer**

2788) There were no submissions from the Accounting Officer.

#### **2789) Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph. The Road Sweeper Tractor was left to idle at the City Works Unit yard. The value for money on the Public funds amounting to Kshs.3,718,412 spent on purchase of the tractor was not obtained. This is wastage of Public Funds. The tractor has continued to suffer deterioration from preventable causes which could be avoided by putting it to use contrary to section 165 (3) of the Public Procurement and Asset Disposal Act 2015.

#### **2790) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

#### **815.1.8 Outstanding Imprests**

2791) The statement financial assets reflects accounts receivables totalling Kshs.1,305,786 being outstanding imprests and advances. However, a review of the financial documents presented for audit indicated that some of the imprests were issued in the year 2019. Failure to recover the imprests contravenes Regulation 93(6) of Public Financial Management (National Government) Regulations, 2015 which requires the Accounting Officer to recover overdue imprest from the salary of the defaulting officer and charge interest at the prevailing Central Bank of Kenya rates. The schedule also indicated that some officers were issued with more than one imprest contrary to Regulation 93(4)(c) which prohibits the issue of new imprests to Officers with outstanding imprests.

2792) In the circumstances, Management is in breach of the law.

2793) In addition, the respective imprest warrants were not availed for audit and as a result, the accuracy and validity of the balance could not be confirmed.

#### **Submission by the Accounting Officer**

2794) There were no submissions from the accounting officer.

#### **2795) Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

#### 2796) **Committee Recommendations**

- 1) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**
- 2) **The Accounting Officer should take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.**

#### **815.1.9 Unsupported Receivables from Related Parties**

2797) The statement of receipts and payments reflects a balance of Kshs.3,146,405 as at 30 June, 2020 in respect of receivables from third parties, as detailed in Note 9.11 to the financial statements. However, examination of records on the expenditure indicated that cash expenditure totalling Kshs.3,078,819 out of a total of Kshs.3,146,405 was incurred through Project Advance Account (PAA) without authority (No Objection) by the lender as required by Clause 3.4.3(a), Paragraph 3 of the Credit Facility Agreement. Further, no documents were availed to support the expenditure.

2798) In the circumstances, the occurrence and validity of the expenditure has not been confirmed. Further, Management is breach of the Financing Agreement and the expenditure of Kshs.3,078,819 may not be a proper charge on public funds.

#### **Submission by the Accounting Officer**

2799) There were no submissions from the accounting officer.

#### 2800) **Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph. The cash expenditure totalling Kshs.3,078,819 was incurred without authority (No Objection) by the lender as required by Clause 3.4.3(a), Paragraph 3 of the Credit Facility Agreement and the expenditure was not supported.

#### 2801) **Committee Recommendations**

- (i) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- (ii) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

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

### 2802) **Conclusion**

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

## **KISUMU URBAN PROJECT (CASH EXPENDITURE FUND) - CKE 1035.01.G - COUNTY GOVERNMENT OF KISUMU**

### REPORT ON THE FINANCIAL STATEMENTS

#### **Basis for Qualified Opinion**

#### **817. Unconfirmed Balances in the Financial Statements**

##### **817.1 Statement of Financial Assets**

2803) The statement of financial assets reflects a financial asset balance totalling Kshs.6,273,235 which however, differs from the net financial position balance of Kshs.6,461,695 reflected in the statement resulting in a difference of Kshs.188,460 between the two balances which should tally. No explanation has been provided by Management for the anomaly.

2804) In the circumstance the accuracy of the statement of financial assets as at 30 June, 2020 has not been confirmed.

#### **Submission by the Accounting Officer**

2805) There were no submissions from the accounting officer.

#### **2806) Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph. The variance of Kshs.188,460 was not explained.

#### **2807) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit**

**review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

### **817.2 Fund Balance**

2808) The statement of financial assets as at 30 June, 2020 reflects a net financial position balance amounting to Kshs.6,461,695. However, the sum of the comparative (2018/19) fund balance component accounts reflected in Note 9.7 to the financial statements is Kshs.6,009,299 against Kshs.6,518,027 reflected in the audited financial statements for the previous year. The variance of Kshs.508,728 between the two sets of records has not been explained.

2809) In the circumstance, the accuracy of the statement of financial assets as at 30 June, 2020 has not been confirmed.

### **Submission by the Accounting Officer**

2810) There were no submissions from the accounting officer.

### **2811) Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph. The variance of Kshs.508,728 was not explained.

### **2812) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

### **817.3 Cash and Cash Equivalents**

2813) The statement of cash flow reflects cash and cash equivalents credit balance at the year-end of Kshs.(733,175) which is at variance with the account's debit balance amounting to Kshs.9,572 reflected in the statement of financial assets. The difference amounting to Kshs.(742,747) between the cash and cash equivalents balances reflected in the two statements has not been explained.

2814) In the circumstance, the accuracy of the cash and cash equivalents balance amounting to Kshs.9,572 reflected in the statement of financial assets as at 30 June, 2020 has not been confirmed.

**Submission by the Accounting Officer**

2815) There were no submissions from the accounting officer.

**2816) Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph. The variance of Kshs.(742,747) was not explained.

**2817) Committee Recommendations**

- 1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

**817.4 Transfers from Kisumu Urban Project Advance Account**

2818) The statement of receipts and payment reflects cumulative transfers from the Project Advance Account (PAA) totalling Kshs.52,147,613 by the year ended 30 June, 2020. However, the funding summary at Note 1.7 to the financial statements reflects transfers totalling Kshs.59,045,119 resulting to a difference of Kshs.6,897,506. No explanation has been provided for the anomaly.

2819) In the circumstance, the accuracy of the cumulative transfers from the PAA totalling Kshs.52,147,613 as at 30 June, 2020 has not been confirmed.

**Submission by the Accounting Officer**

2820) There were no submissions from the accounting officer.

**2821) Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph. The variance of Kshs.6,897,506 was not explained.

**2822) Committee Recommendations**

- 1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

### **817.5 Presentation of the Financial Statements**

2823) The statement of receipts and payments is labeled 'for the period ended' instead 'for year ended'. The label does not tally with the operations of the Project under audit review which are for the year ended 30 June, 2020.

### **Submission by the Accounting Officer**

2824) There were no submissions from the accounting officer.

### **2825) Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph. The Committee observed that the Accounting Officer did not prepare financial statements for the financial year in a form prescribed by the Accounting Standards Board.

### **2826) Committee Recommendations**

- 1) **The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

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

### **Basis for Conclusion**

#### **818. Purchase of Goods and Services-Expenditure on Fuel**

2827) Examination of expenditure records indicated that Kshs.1,200,518 was spent on purchase of fuel, oils and lubricants during the year under review as disclosed in Note 9.4 to the financial statements. The fuel records presented for audit indicated that the fuel was used on heavy machinery such as excavators, landfill compactors and fire engines.



However, work tickets for the machines and the vehicles were not availed for audit and as a result, it was not possible to validate the records. Also, the nature of work done by the excavators and landfill compactors in particular was not clear since all road construction work under the project was contracted out. Further, the purchase of fuel was not included in the procurement plan for the year contrary to Section 45(3)(a) of the Public Procurement and Asset Disposal Act, 2015.

2828) In the circumstances, the purchase of the fuel by the Project was irregular. In addition, there is no confirmation that the expenditure totaling Kshs.1,200,518 was a proper charge on public funds.

#### **Submission by the Accounting Officer**

2829) There were no submissions from the accounting officer.

#### **2830) Committee Observations and Findings**

- (i) The work tickets for the excavators, landfill compactors and fire engines were not availed for audit to validate the fuel records.
- (ii) All road construction works under the project was contracted out and therefore, the nature of work done by the excavators and landfill compactors was not clear.
- (iii) Further, the fuel purchase was not included in the procurement plan for the year contrary to Section 45(3)(a) of the Public Procurement and Asset Disposal Act, 2015.

#### **2831) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

#### **819. Outstanding Imprests**

2832) The statement of financial assets reflects accounts receivables totalling Kshs.6,263,663 being imprests and advances, as further disclosed in Note 9.8. to the financial statements. However, a review of the financial documents presented for audit indicated that some of the imprests were issued in the year 2015 and had therefore, remained outstanding for five years. Also, imprest warrants were not provided to support the outstanding imprests and as a result, their validity could not be confirmed. The delay in surrender of the imprests contravenes Regulation 93(6) of the Public Finance (National Government) Regulations,

2015 which requires Accounting Officers to recover imprests from the salaries of defaulters and charge interest on delayed surrenders at the prevailing Central Bank of Kenya rates. The schedule also indicated that some officers were issued with multiple imprests contrary to Section 93(4)(c) of the Regulations.

2833) In the circumstances, Management is in breach of the law and further, recoverability of the imprest totalling Kshs.6,263,663 is doubtful.

#### **Submission by the Accounting Officer**

2834) There were no submissions from the accounting officer.

#### **2835) Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

#### **2836) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this committee.**
- 3) The Accounting Officer should take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.**

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

#### **2837) Conclusion**

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

### **CIVIL SERVANTS HOUSING SCHEME FUND**

#### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Qualified Opinion**

## **821. Cash and Cash Equivalents**

2838) As previously reported, and as disclosed in Note 14 to the financial statements, the statement of financial position reflects a balance of Kshs.2,848,427,463 under cash and cash equivalents. However, there were unbanked receipts amounting to Kshs.263,875,422, out of which receipts amounting to Kshs.37,454,290 were for more than one (1) year. In addition, payments in the bank statement not in the cash book amounted to Kshs.13,373,209 while payments in the cash book not in the bank statement amounted to Kshs.33,092,751 of which Kshs.16,911,231 related to the period earlier than 30 June, 2019.

2839) Further, the cash and bank balance of Kshs.2,848,427,463 reflected in the statement of financial position is as per the bank balance and not as per the cash book balance. This is contrary to basic accounting principles.

2840) In the circumstances, it has not been possible to confirm the accuracy and completeness of the reported cash and cash equivalents balance of Kshs.2,848,427,463 as at 30 June, 2020.

### **Submission by the Accounting Officer**

2841) The Accounting Officer submitted that the cash and bank balance of Kshs.2,848,427,463 as reflected in the Statement of Financial Position is as per the bank balance which was not in agreement with the balance in the cash book balance.

2842) The State Department has since updated the Bank Reconciliation Statement and all hanging items cleared.

### **2843) Committee Observations and Findings**

The Committee observed that the State Department has since updated the Bank Reconciliation Statement and all hanging items cleared.

### **2844) Committee Recommendations**

**The Committee cautions the Accounting Officers for failing to ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also, for failing to ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

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

### **Basis for Conclusion**

## **822. Delay in Completion of Machakos Housing Project**

2845) As reported in the previous year, the contract for the project was awarded on 25 August, 2017 at a sum of Kshs.706,500,000 for a duration of ninety-six (96) weeks ending on 21

June 2019. An extension of time was subsequently granted to 20 November, 2020. As at 12 July, 2020, the value of work done and certified amounted to Kshs.687,415,007 representing 97% completion status. This is indicative of the project being behind schedule and the likelihood of cost escalation is high. The Fund has not rendered satisfactory explanation for the delays and the measures being put in place to ensure completion within the revised timelines.

2846) Further, payments amounting to Kshs.10,639,982 was paid out from the contract without adequate supporting documents contrary to Section 99(3) of the Public Finance Management (National Government) Regulations, 2015.

#### **Submission by the Accounting Officer**

2847) The Accounting Officer submitted that there was a delay in the implementation of the Machakos project. The delay in implementation of the project was occasioned by the slow pace of the contractor's performance, delay in supply of meters by Kenya Power and unfavorable weather conditions. The Machakos housing project was practically completed on 12th August 2020.

2848) It was also true that supporting documents for Kshs.10,639,982 were not availed during the time of the audit. The breakdown of the payment is as listed below and supporting documents are available for audit.

<b>Details</b>	<b>Amount(Kshs)</b>	<b>Submission by the Accounting Officer</b>
Clerk of works	1,350,000	Payment for 20 months at Kshs. 65,000 per month. Employment letter attached
Subsistence Allowance	4,500,000	Duly signed schedules attached
Air time	420,000	Duly signed schedules attached
Project Management	4,419,982	Schedule of instructions to contractor to purchase items attached
<b>Total</b>	<b>10,639,982</b>	

#### **2849) Committee Observations and Findings**

- (i) The Committee observed that the Machakos Housing Project has since been completed;**
- (ii) The Committee also observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;**

#### **2850) Committee Recommendations**

**The Accounting Officer to provide the completion certificate and handing over report for the project to the Auditor-General and National Assembly. The Auditor-General to review the certificate, physically verify the project and report to the National Assembly.**

## **822.1 Delay in Completion of Embu Housing Project**

2851) The contract for the project was awarded at a sum of Kshs.843,932,665 for a duration of ninety-six (96) weeks ending on 31 May, 2018. As at August 2020 the value of work done and certified amounted to Kshs.714,176,978 representing 84% completion status. This is indicative of the project being behind schedule and the likelihood of cost escalation is high. The Fund has not rendered satisfactory explanation for the delays and the measures being put in place to ensure completion within the revised timelines.

### **Submission by the Accounting Officer**

2852) The Accounting Officer submitted that the delay in the implementation of the project was occasioned by the slow pace of the contractor's performance and the delay in supply of meters by Kenya Power. There has been close supervision of the works to ensure the project is completed without further delay. The project is at 98% completion level.

2853) There was also a change of scope by the inclusion of new works like retaining walls which was not envisioned at the start of the project. This also took time to execute which was catered for in the request for an extension of the contract period.

### **2854) Committee observations and findings**

The Committee observed that the project is at 98% complete; and there was also a change of scope by the inclusion of new works like retaining walls which was not envisioned at the start of the project.

### **2855) Committee Recommendations**

**The Accounting Officer to provide the completion certificate and Handing over report for the project to the Auditor-General and National Assembly. The Auditor-General to review the certificate, physically verify the project and report to the National Assembly.**

## **822.2 Delay in Completion of Kiambu Housing Project**

2856) The contract for the project was awarded at a contract sum of Kshs.684,859,645 for a duration of ninety-six (96) weeks ending on 21 June, 2019. As at 12 July, 2020, the value of work done and certified amounted to Kshs.415,912,245 representing 65% completion status. This is indicative of the project being behind schedule and the likelihood of cost escalation is high. The Fund Management has not rendered satisfactory explanation for the delays and the measures being put in place to ensure completion within the revised timelines.

### **Submission by the Accounting Officer**

2857) The Accounting Officer submitted that the delay in implementation of the project was occasioned by the slow pace of the contractor's performance and the delay in supply of

meters by Kenya Power. There has been close supervision of the works to ensure the project has been completed without further delay. The project is at 94% completion level.

**2858) Committee observations and findings**

The Committee observed that the project is at 94% complete and the delay in implementation of the project was occasioned by the slow pace of the contractor's performance and the delay in supply of meters by Kenya Power to the project.

**2859) Committee Recommendations**

**The Accounting Officer to provide the completion certificate and Handing over report for the project to the Auditor-General and National Assembly. The Auditor-General to review the certificate, physically verify the project and report to the National Assembly.**

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

**2860) Conclusion**

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

**STATE OFFICERS HOUSE MORTGAGE SCHEME FUND**

**REPORT ON THE FINANCIAL STATEMENTS**

**Basis for Qualified Opinion**

**824. Non-Performing Loans**

2861) The statement of financial position reflects mortgage interest receivable of Kshs.10,267,863 and long-term receivables from exchange transactions (mortgage recoverable) of Kshs.2,677,058,237. However, a review of loans records revealed that loans totalling Kshs.111,087,255 due from six (6) individuals were not being serviced and had accumulated arrears amounting to Kshs.8,040,701 as at 30 June, 2020. No evidence of measures taken by Management to recover the loans was provided for audit and no provision for doubtful debts has been made against the receivables.

2862) Consequently, the recoverability of loans amounting to Kshs.111,087,255 included in the long-term receivables balance of Kshs.2,677,058,237 and of mortgage interest receivable of Kshs.10,267,863 could not be confirmed.

**Submission by the Accounting Officer**

2863) The Accounting Officer submitted that Kshs.10,267,863, Kshs.111,087,255 and Kshs.8,040,701 was accrued mortgage interest for the fourth quarter, Loans and Arrears

respectively of the financial year 2019-2020. The interest accrued of Kshs.10,267,863, was subsequently received in July 2020.

2864) The table below shows the six officers reported have accumulated loan arrears.

Name	Arrears Amount KShs.	Amount Outstanding	No of Due Days.
Thomas Kagwe Mbugua	4,591,697	26,147,620	813
Patrick Omutia Otulia	1,811,221	10,992,610	204
Wilson Irungu Nyakera	629,798	32,713,692	86
Keneth Kamotho Waiganjo	231,741	9,831,565	82
Sammy A S Itemere	409,854	17,367,965	82
Rose Mghoi Macharia	366,390	14,033,803	51
<b>Total</b>	<b>8,040,701</b>	<b>111,087,255</b>	

2865) The current status of outstanding Loans and arrears on six individuals are as tabulated on the table below:

Name	Arrears Amount KShs.	Amount Outstanding	No of Due Days	Comments
Thomas Kagwe Mbugua	6,411,301	26,273,310.63	1153	Former commissioner IPPOA <ul style="list-style-type: none"> <li>• Auction has not been successful</li> <li>• Customers appointment at IPPOA ended while loan balance was still high</li> </ul>
Patrick Omutia Otulia	3,277,284.60	9,653,712.02	361	Advisor, ODP. Full monthly repayment reinstated in July 2021, Loans arrears to gradually go down.
Wilson Irungu Nyakera	177,855.40	30,951,683.80	30	Former, PS. Loans had fallen into arrears but has now substantially reduced arrears position and he is servicing his loans.
Keneth Kamotho Waiganjo	Nil	9,239,147.25	0	Former Commissioner, Commission for the Implementation of the constitution. Loans up to date.
Sammy A S Itemere	Nil	Nil	N/A	Former Ps Loans paid off in July 2021



Rose Mghoi Macharia	Nil	12,345,495.49	0	Former EACC Commissioner. Loans Up to date.
<b>Total</b>	<b>9,688,586</b>	<b>88,463,349.19</b>		

### **Mortgage Recoverable of Kshs.2,677,058,237**

2866) Due diligence on the loans issued and management of recoveries are done by KCB. The loans are issued on the basis of collateral security provided by the mortgagees.

### **2867) Committee observations and findings**

The committee observed that due diligence on the loans issued and management of recoveries were not properly done and the Government is likely to lose on outstanding amounts. The Accounting officer did not indicate which measures or legal action taken against defaulters.

### **2868) Committee Recommendations**

**Within sixty days upon adoption of this report, the Accounting Officer should initiate legal action against defaulters who have no formal appointment and loan recovery in the other instances.**

### **825. Overstated Long -Term Receivables**

2869) The statement of financial position reflects an amount of Kshs.2,677,058,237 in respect of long-term receivables from exchange transactions. However, the supporting schedule provided for audit reflected long-term receivables amounting to Kshs.2,508,421,496 as at 30 June, 2020 resulting to an unexplained difference of Kshs.168,636,741.

2870) In the circumstances, the accuracy of the reported balance of Kshs.2,677,058,237 for long-term receivables could not be confirmed.

### **Submission by the Accounting Officer**

2871) The Accounting Officer submitted that the statement of financial position reflects an amount of Kshs.2,677,058,127 in respect of Long-Term Receivables from exchange transactions which was not in agreement with the supporting schedules provided for audit amounted to Kshs.2,508,421,496 as of 30th June 2020. The schedule which was provided for the audit was not updated by the time of the audit. However, the correct schedule of Kshs.2,677,058,127 is now available for audit review.

### **2872) Committee Observations and Findings**

The Committee observed that the explanation given by the Accounting Officer with regard to Overstated Long-Term was satisfactory.

### **2873) Committee Recommendations**

**The Accounting Officers should always ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

#### **Other Matter**

#### **826. Budgetary Control and Performance**

2874) The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,810,029,774 and Kshs.873,465,318 respectively resulting to an under-funding of Kshs.936,564,456 or 52% of the budget. Similarly, the Fund spent a total of Kshs.514,684,136 against an approved budget of Kshs.1,808,380,000 resulting to an under-expenditure of Kshs.1,293,695,864 or 72% of the budget. No explanation was provided for the material differences.

#### **Submission by the Accounting Officer**

2875) The Accounting Officer submitted that it was true that the statement of comparison of budget and actual amounts reflects final receipt budget and actual on a comparable basis of Kshs.1,810,029,774 and Kshs.873,465,318 respectively resulting in under-funding of Kshs.936,564,456 or 52% of the budget. This was mainly occasioned by lack of exchequer to finance 2019/2020 approved budget of Kshs.800,000,000.

2876) It was also true that the fund spent a total of Kshs.514,684,136 against an approved budget of Kshs.1,808,380,000 resulting in under-expenditure of Kshs.1,293,695,864 or 72% of the budget. I wish to report that the Scheme did receive the GOK component of the Budgeted grant/subsidy and most of those who applied for a mortgage during the year did not qualify resulting in under expenditure.

#### **2877) Committee Observations and Findings**

**The Committee marked the matter as resolved.**

#### **2878) Committee Recommendations**

**The Committee recommends that the Accounting Officer prepares a realistic Budget going forward.**

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

#### **2879) Conclusion**

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

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

### 2880) **Conclusion**

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

## KENYA SLUM UPGRADING LOW COST HOUSING AND INFRASTRUCTURE TRUST FUND (KENSUF)

### REPORT ON THE FINANCIAL STATEMENTS

#### **Basis for Qualified Opinion**

##### **829. Long Outstanding Mortgage Arrears**

2881) The statement of financial position reflects receivables from exchange transactions balance of Kshs,750,379,608. Included in this amount are mortgage arrears amounting to Kshs.36,830,313 which has been outstanding for long and whose recoverability remains doubtful. Management has not provided any evidence of measures taken to recover the arrears.

#### **Submission by the Accounting Officer**

2882) The Accounting Officer submitted that it was true mortgage arrears amounting to Kshs.36,830,313 have been outstanding for long and whose recoverability remains doubtful. The arrears of Kshs.36,830,313 were occasioned by job losses and loss of income by tenants as a result of the global pandemic - Covid 19. Reminders and demand letters have been issued to defaulters. Payment plans have also been made. Currently, the arrears have been reduced to Kshs.10,476,099 which we hope to have collected before the end of the 2020/2021 financial year.

#### 2883) **Committee observations and findings**

The committee observed that due diligence on the loans issued and management of recoveries were not properly done and the Government is likely to lose on outstanding amounts. The Accounting officer did not indicate which measures or legal action taken against defaulters.

#### 2884) **Committee Recommendations**

**Within sixty days upon adoption of this report, the Accounting Officer should initiate legal action against defaulters who have no formal appointment and loan recovery in the other instances.**

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

### **Basis for Conclusion**

### **830. Outstanding Temporary Imprest**

2885) The statement of financial position reflects a balance of Kshs.2,326,379,681 under current assets which includes an amount of Kshs.3,056,430 being outstanding imprest as at 30 June, 2020. The temporary imprest was not accounted for within the stipulated time of 7 days after returning to duty station contrary to Regulation 93(6) of the Public Finance Management (National Government) Regulations, 2015. Management is in breach of law.

#### **Submission by the Accounting Officer**

2886) The Accounting Officer submitted that it was true that the imprest register as of 30th June 2020 revealed outstanding amounting to Kshs.3,056,430. All the outstanding imprests have been accounted for and cleared in the 2020/2021 Financial Year.

#### **2887) Committee Observations and Findings**

The committee observed that the Accounting Officer did not take any action in line with Regulation 92 (5), (6) and (8) of the PFM (National Government) Regulations, 2015 for the failure to account for or surrender the imprest on the due date and issuing a second imprest before surrender of the first one.

#### **2888) Committee Recommendations**

**The Accounting Officer must at all times ensure that;**

- 1) The holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station.**
- 2) In the event of the imprest holder failing to account for or surrender the imprest on the due date, the he/she shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.**
- 3) In order to effectively and efficiently manage and control the issue of temporary imprests, no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

#### **2889) Conclusion**

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

## 22. STATE DEPARTMENT FOR PUBLIC WORKS

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1095

**Maj. Gen (Rtd). Gordon O. Kihalangwa, the Principal Secretary and Accounting Officer for State Department for Public Works (Vote 1095), appeared before the Committee on 21<sup>st</sup> September, 2021 to adduce evidence on the audited financial statement for the State Department for Public Works (Vote 1095) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                         |   |
|-------------------------|---|
| 1. Ms. Emma Kirungu     | - Deputy Director Supply Chain Management   |
| 2. Mr. Michael O. Nzigo | - Deputy Head of Accounting Unit            |
| 3. Mr. Samwel Kungu     | - Head of Accounting Unit                   |
| 4. Arch. James Murigu   | - Senior Principal Superintending Architect |
| 5. Mr. George N. Magoye | - Head of Supplies Branch                   |

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **832. Cash and Cash Equivalents**

2890) As disclosed in Note 9A to the financial statements, the statement of assets and liabilities reflects a cash and cash equivalents balance of Kshs.729,336,006 comprised of Kshs.2,259,045, Kshs.30,054,514 and Kshs.697,022,447 under recurrent, development and deposit accounts respectively. However, review of the records in support of the balances revealed various inconsistencies as follows:

##### **832.1 Recurrent Bank Account**

2891) The recurrent bank account amount of Kshs.2,259,045 differed with the cash book balance of Kshs.3,120,236 resulting to an unexplained variance of Kshs.681,191. The balance did not also agree with the trial balances negative amount of Kshs.71,234,209 resulting to an unexplained variance of Kshs.73,493,254.

##### **Submission by the Accounting Officer**

2892) It is true that recurrent bank account amount of Ksh.2,259,045 differed with the cash book balance of Kshs.3,120,236 resulting in unexplained variance of Kshs.681,191. The actual cashbook balance is Kshs.2,259,045 which has being rectified after posting all the transactions.

##### **832.2 Deposit Bank Account**

2893) The deposit account balance of Kshs.697,022,447 also differed with the cash book balance of Kshs.14,982,686 resulting to an unexplained variance of Kshs.682,039,761. Further, bank reconciliation statements in support of the balance were not provided for audit verification.

**Submission by the Accounting Officer**

2894) It is not true that the deposit account balance of Kshs 697,022,447 also differed with the cash book balance of Kshs 14,982,686 resulting to an unexplained variance of Kshs 682,039,761. Further, bank reconciliation statements in support of the balance were not provided for audit verification. The bank reconciliation statements have now been provided for audit verification.

2895) I wish to state that the cashbook balance, the bank balance and the trial balance is Kshs.697,022,447 and there's no variance as indicated.

**832.3 Cash in Hand**

2896) Note 9B to the financial statements reflects a nil cash balance while the trial balance presented in support of the financial statements reflected a balance of Kshs.163,896,334 resulting in an unexplained difference of Kshs.163,896,334.

2897) In the circumstance, it has not been possible to confirm the accuracy and fair statement of the reported cash and cash equivalents balances of Kshs.729,336,006 as at 30 June, 2020.

**Submission by the Accounting Officer**

2898) It is true that Note 9B to the financial statements reflects a nil cash balance while the trial balance presented in support of the financial statements reflected a nil balance.

**2899) Committee Observations and Findings**

**The committee observed that the Accounting Officer had reconciled the Cash and Cash Equivalents balances after the Audit exercise.**

**833. Unresolved Prior Year Audit Matters**

2900) Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues. Further, the status of prior year audit issues has not been reflected in the progress on follow up of prior years' auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

**2901) Committee observations and findings**

The Committee discussed the issues in 2018/2019 and made the following observations and findings:

- (i). The management was in the process of restructuring the fund by ensuring that the inventories held at Nairobi and various regions are confirmed and correct balances recorded in the books.
- (ii). Further, the management intend to approach various Government departments to purchase some of the inventories since some of them are in good order.
- (iii). In addition, during the financial year 2020/2021, the fund management carried out stock take where inventories worth kshs70,870,569 were confirmed and recorded in various stock sheets.
- (iv). The Accounting officer started the restructuring process of the fund to ensure that the fund has adequate staff to support the fund operations.

#### 2902) **Committee Recommendations**

**Within three months of adoption of this report, the Accounting Officer present to the National assembly and the Auditor-General the status report of the restructuring process of the fund, inventories that have been disposed off to other government departments and the status of staffing of the fund. The Auditor-General shall review the status reports and report to the National Assembly.**

#### **Other Matter**

#### **834. Budgetary Control and Performance**

2903) The summary statement of appropriation-recurrent and development combined reflects a final receipts budget and actual on comparable basis of Kshs.3,551,055,543 and Kshs.3,382,760,539 respectively resulting to an under-funding of Kshs.168,295,004. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.4,704,927,605 and Kshs.3,347,327,415 respectively resulting to an under-expenditure of Kshs.1,357,600,190 or 29% of the budget which occurred mainly under transfers to other government units. The State Department may not have implemented all planned activities and this may have negatively impacted on service delivery to the public.

#### **Submission by the Accounting Officer**

2904) There were no submissions from the accounting officer.

#### 2905) **Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

#### 2906) **Committee Recommendations**

- 3) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting**



documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.

- 4) **Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

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

### **Basis for Conclusion**

2907) A review of sampled projects undertaken by the State Department revealed a number of shortcomings in the projects implementation as follows:

#### **835. Construction Projects**

2908) As previously reported, the proposed completion of Voi Pool Housing contract was awarded at a contract sum of Kshs.747,290,699 for a contract period of one hundred and four (104) weeks commencing 1 December, 2012. The estimated completion date of 30 November, 2014 was later revised to 31 December, 2019. However, as at 30 June, 2020 the works progress was at 51.5% indicating that the project was significantly behind schedule. Further, an amount of Kshs.19,479,450 had already been incurred on interest payments due to late settlement of certified works.

##### **835.1 Completion of Voi Pool Housing Contract**

2909) As previously reported, the proposed completion of Voi Pool Housing contract was awarded at a contract sum of Kshs.747,290,699 for a contract period of one hundred and four (104) weeks commencing 1 December, 2012. The estimated completion date of 30 November, 2014 was later revised to 31 December, 2019. However, as at 30 June, 2020 the works progress was at 51.5% indicating that the project was significantly behind schedule. Further, an amount of Kshs.19,479,450 had already been incurred on interest payments due to late settlement of certified works.

#### **2910) Committee Observations and Findings**

The committee observed that issue was addressed in the report for 2018/2019 and made the following observations and recommendations;

**The Committee observed that the explanation given by the Accounting Officer with regard to construction of Voi pool house was satisfactory. However, the public continued to incur unnecessary interest on delayed payments which escalate the cost of projects.**

#### **2911) Committee recommendations**

- 1) **The Accounting Officer should ensure payment for certified works is prioritized to avoid interest on delayed payment which can lead to project cost escalation.**
- 2) **The Accounting Officer should consider not entering into further contracts without assurance of full financing of the project.**
- 3) **The National Treasury should, within three months, come up with strategy to fully fund for these delayed payments to avoid further interest and/or charges on delayed payments and report to Parliament on the progress.**
- 4) **Any further interest incurred as a result of unwarranted delays by the Accounting Officer shall be individually borne by him/herself.**

### **835.2 Completion of Lamu Police Station and Management Housing**

2912) As reported previously, the proposed completion of Lamu Police Station and Management Housing project was awarded at a contract sum of Kshs.615,848,997, for a duration of seventy-two (72) weeks. The estimated completion date was to be 19 February, 2014 which was later revised to 19 January, 2017. However, the project progress report dated 14 December, 2017 indicated that an amount of Kshs.267,196,753 representing 46% of the contract sum had been certified and that the project was behind schedule. Further, an amount of Kshs.12,952,170 had been incurred on interest on payments due to late settlement of certified works. Management did not avail any progress reports on the project and it was not possible to ascertain the status of the Project as at 30 June, 2020.

#### **2913) Committee Observations and Findings**

**The committee observed that issue was addressed in the report for 2016/17 and 2018/2019 and made the following observations and 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**
- (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.**

#### **2914) Committee recommendations**

- 1) **The Accounting Officer should ensure payment for certified works is prioritized to avoid interest on delayed payment which can lead to project cost escalation.**
- 2) **The Accounting Officer should consider not entering into further contracts without assurance of full financing of the project.**
- 3) **The National Treasury should, within three months, come up with strategy to fully fund for these delayed payments to avoid further interest and/or charges on delayed payments and report to Parliament on the progress.**

### **835.3 Proposed Headquarters for Nyandarua County at Ol Kalou**

2915) The contract was awarded at a contract sum of Kshs.617,644,564 for a duration of 104 weeks beginning 16 March, 2017 and ending on 23 May, 2019 but was terminated on 25 March, 2019 at a completion stage of 16%. At the time of termination, payments amounting to Kshs.101,623,125 had already been made to the contractor of which Kshs.13,078,306 was for installation of lifts for a structure that had stalled at the foundation level. Further, the contractor had filed claims amounting to Kshs.112,871,385 for idle labor and removal of equipment which Management indicated was under arbitration. As at 30 June, 2020 a total of Kshs.181,625,240 had been paid to the contractor.

#### 2916) **Committee Observations and Findings**

The Accounting Officer appeared before the committee on 21<sup>st</sup> September, 2021 and the committee observed that;

- 1) **The parties to the contract namely the Nyandarua County Government, State Department for Public Works and the Contractor Highpoint Agencies under the initiative of the Ministry of Interior negotiated for the resumption of the works in June 2020.**
- 2) **The works were in progress with columns and walling on third floor ongoing but had been hampered by delays in payment with an amount of Kshs.50,269,850.38 being unpaid as at 30th June, 2021.**
- 3) **The materials for the construction of the roadworks have also been delivered to the site and the physical progress was 35%.**
- 4) **The Accounting Officer did not provided explanations in regard to an amount of Kshs.13,078,306 for lifts installation for a structure that stalled at the foundation level;**
- 5) **The Accounting Officer did not provided explanations in regard to an amount of Kshs.112,871,385 being claim filed by the Contractor; And**
- 6) **The matter remained unresolved.**

#### 2917) **Committee recommendations**

- 1) **The Accounting Officer should within three months of tabling and adoption of this report provide information to the National Assembly on how the amount of Kshs13,078,306 paid for lifts installation for a building that stalled at foundation will be recovered.**
- 2) **The Accounting Officer should report to National Assembly within three months of tabling and adoption of this report on measures taken to resolve the claims of Kshs.112,871,385 filed by the Contractor.**
- 3) **The Accounting Officer should ensure payment for certified works is prioritized to avoid interest on delayed payment which can lead to project cost escalation.**
- 4) **The National Treasury should, within three months upon adoption of this report, come up with strategies to fully settle these delayed payments to avoid further interest and/or charges on delayed payments and report to Parliament on the progress.**

### **835.4 Proposed Completion of Migori District Headquarters**

2918) The contract was awarded at a contract sum of Kshs.639,707,128 for a duration of 16 weeks commencing 31 July, 2009 and ending on 27 July, 2011. The total payments as at 30 June, 2020 amounted to Kshs.614,306,179 with completion status of 80% with 315% of time lapsed. The project is significantly behind schedule on its completion. From the foregoing, the Projects are behind schedule and the likelihood of cost escalations is high. Further, no satisfactory explanations have been provided for the delays in completing the projects. It has therefore, not been possible to confirm whether public resources have been used in an effective manner.

#### **Submission by the Accounting Officer**

2919) The project is behind schedule with the completion status of 80% executed within a period of 328 weeks out of the initial completion period of 104 weeks translating to 315% of the period. This has been occasioned by inadequate funding and thus the contractor slowed down on execution of the works. The Project Manager has prioritized the works and the following buildings have been completed and are being prepared for handing over and occupation: DC's residence (1 unit); 3 no type E flats (36 units); 1 no type D flat (8 Units); 3 no blocks type C maisonettes (3 units). The administration block is at 35% completion and requires additional time to complete based on the availability of funds.

#### **2920) Committee Observations and Findings**

- i) The Committee observed that the project is behind schedule with the completion status of 80% executed within a period of 328 weeks out of the initial completion period of 104 weeks translating to 315% of the period.
- ii) The Committee further, observed that the DC's residence (1 unit); 3 no type E flats (36 units); 1 no type D flat (8 Units); 3 no blocks type C maisonettes (3 units) have been completed while the administration block was at 35% completion and required additional time and funds to complete.

#### **2921) Committee recommendations**

- 1) **The Accounting Officer should seek full funding for the completion of the project from the National Treasury or partial funding for completed phases.**
- 2) **The Accounting Officer should ensure payment for certified works is prioritized to avoid interest on delayed payment which can lead to project cost escalation.**
- 3) **The Accounting Officer should consider not entering into further contracts without assurance of full financing of the project.**
- 4) **The National Treasury should, within three months, come up with strategy to fully fund for these delayed payments to avoid further interest and/or charges on delayed payments and report to Parliament on the progress.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT  
AND GOVERNANCE

2922) **Conclusion**

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

**Paragraph 836 to 845 on STORES AND SERVICES FUND**

**THE PARAGRAPHS RELATES TO STORE FUNDS WHICH SHALL BE EXAMINED  
BY SPECIAL FUND ACCOUNTS COMMITTEE.**

FINAL REPORT 2019/2020

## 23. MINISTRY OF WATER AND SANITATION

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1107

**Mr. Joseph W. Irungu, the Principal Secretary and Accounting Officer for the State Department for Water Services (Vote 1107) appeared before the Committee on 29<sup>th</sup> November, 2021 to adduce evidence on the Audited Financial Statements for the State Department for Water Services (Vote 1107) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                         |   |                                  |
|-------------------------|---|----------------------------------|
| 1. Eng. S. A. O. Alima  | - | Water Secretary                  |
| 2. Eng. Simon G. Mwangi | - | Project Manager – KCVSCAP.       |
| 3. Mr. Wilfred Amwata   | - | Project Chief Controller – WSDP. |
| 4. Mr. Daniel Jihara    | - | Chief Finance Officer.           |
| 5. Mr. Wycliffe Ojukwo  | - | Director/ Head of Accounts.      |
| 6. Mr. Tom Okello       | - | Finance Manager, Twake.          |
| 7. Ms. Agnes W. Waweru  | - | Head of Accounting Unit.         |
| 8. Eng. David Onyango   | - | Program Coordinator, Twake.      |

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **846. Unconfirmed Direct Payments**

2923) The statement of receipts and payments reflects transfers to other government units amounting to Kshs.44,537,950,942 which; as disclosed in Note 7 to the financial statements, includes direct payments totalling Kshs.14,302,775,320 made by the Ministry on behalf of various self-reporting entities. However, Management has not provided documentary confirmations of payments amounting to Kshs.9,294,463,628 by the receiving entities for audit verification.

2924) In the circumstances, it has not been possible to ascertain the completeness and accuracy of the reported direct payments balance of Kshs.14,302,775,320.

#### **Submission by the Accounting Officer**

2925) The Accounting Officer submitted that it was true that the statement of receipts and payments reflects transfers to other government units amounting to Kshs.44,537,950,942 which includes direct payments totalling 14,302,775,320 made by the Ministry on various self-reporting entities.

2926) It was also true that no documentary confirmations of payments amounting to Kshs.9,294,463,628 had been made by the receiving entities. He stated that the said amounts

have now been confirmed as per the table below and documents availed to the auditor for verification.

**2927) Committee Observations and Findings**

- (i) **The Committee observed that the Accounting Officer has now been able to confirm all payments transferred to other entities under State Department.**
- (ii) **The Committee further observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015. However, the Committee observed that the explanation given by the Accounting Officer with regard to Unconfirmed Direct Payments was satisfactory.**
- (iii) **The Committee therefore marked the matter as resolved.**

**2928) Committee Recommendations**

**The Accounting Officer should always ensure proper records are maintained as required by the Public Finance Management Act, 2012 and availed to the Auditor General during audit as required by Section 9(1) (e) of the Public Audit Act, 2015.**

**847. Variances between Financial Statements and Confirmations from Other Government Agencies**

2929) Included in transfers to other government units balance of Kshs.44,537,950,942 are transfers made to various self-reporting entities. However, some of the transfers differ with the balances confirmed received by the receiving entities as detailed below:

<b>Government Agency</b>	<b>Financial Statements (Kshs.)</b>	<b>Confirmation from Receiving Entities (Kshs.)</b>	<b>Variance (Kshs.)</b>
Tanathi Water Works Development Agency (Development)	594,486,283	591,956,283	2,530,000
Rift Valley Water Works Development Agency (Development)	2,341,250,000	2,042,500,000	298,750,000
National Water Harvesting and Storage Authority (Development)	1,709,485,831	1,531,485,831	178,000,000
Thwake Multipurpose Project (Development)	4,558,562,930	4,550,837,635	7,725,295
Kenya Water Security and Climate Resilience Project (Development and AIA)	2,891,773,892	3,303,403,461	(411,629,569)



Coastal Region Water Security and Climate Resilience Project (Development and AIA)	2,560,291,339	2,550,676,785	9,614,554
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2930) In the absence of explanation or reconciliation of the differences between the two sets of records, it has not been possible to confirm the accuracy of the reported balance of Kshs.44,537,950,942 under transfers to other government units. Similarly, it has not been possible to confirm the accuracy of the Kshs.4,558,872,930 reflected in the financial statements under acquisition of assets.

#### **Submission by the Accounting Officer**

2931) The Accounting Officer submitted that it was true that included in the transfers to other government units is an amount of Kshs.44,537,950,942 and that some of the transfers differ with the balances confirmed by the receiving entity. He stated that reconciliation has been done and the differences have been explained and verified by the auditors.

#### **2932) Committee Observations and Findings**

- (i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
- (ii) The Committee further observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015. However, the Committee observed that the explanation given by the Accounting Officer with regard to Variances between Financial Statements and Confirmations from Other Government Agencies was satisfactory.

#### **2933) Committee Recommendation**

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

#### **Other Matter**

#### **848. Budgetary Control and Performance**

2934) The summary statement of appropriation recurrent and development combined reflects total budgeted receipts of Kshs.61,006,675,053 against actual receipts of Kshs.49,720,190,456 resulting to underfunding of Kshs.11,286,484,598 or 19%. Similarly, the Statement reflects final expenditure budget and actual on comparable basis of Kshs.61,006,675,053 and Kshs.49,720,171,437 respectively resulting to an under-expenditure of Kshs.11,286,503,616 or 19% of the budget which occurred mainly under transfers to other government units. Although Management attributed the underfunding to lack of Exchequer releases from The

National Treasury and lengthy procurement process, the Ministry may not have implemented all planned activities, impacting negatively on delivery of services to the public.

#### **Submission by the Accounting Officer**

2935) The Accounting Officer submitted that it was true that the statement of appropriation – Recurrent and development combined reflects receipts of Kshs.61,006,675,053 against actual receipts of Kshs.49,720,190,456 which results to an underfunding of Kshs.11,286,484,598.

2936) The underfunding and the consequent under expenditure is attributed to under provision of exchequer during the period under review despite several requisitions to The National Treasury. Under collection of A.I.A by the SAGAS as a result of Water Act 2016 which repealed the collection of water rates by the water service providers and Non requisitioning of funds by SAGAS, majority due to the lengthy procurement and cash flow procedures.

#### **2937) Committee Observations and Findings**

- (i) The explanation given by the Accounting Officer with regard to the Budget Control and Performance was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.

#### **849. Inconsistency in Budgeting and Reporting for Projects**

2938) Review of the Ministry's budget and financial statements revealed inconsistencies on how projects were budgeted for and reported in the financial statements. For instance, Thwake Multipurpose Development Project was budgeted for and reported under acquisition of assets while other similar projects were budgeted for and reported under transfers to other government units in addition, it was observed that a number of Headquarter projects were budgeted for and reported under transfers to other government units, yet the amounts were not transferred to other government agencies.

2939) In the absence of consistent budget procedures and reporting for similar projects, it may not be possible to get comparable project information from the Ministry's financial statements as presented.

#### **Submission by the Accounting Officer**

2940) The Accounting Officer submitted that Thwake multipurpose dam project (TMPDP) is undertaken from the headquarter and thus no funds need to be transferred. Unlike other similar projects TMPDP does not have an independent bank account for GoK funds and thus no transfer is needed. Further allocation of headquarter projects under transfers item was necessary because some projects under the same programs are implemented partly by the ministry from the headquarters while others are implemented through its SAGAs. An example of these programs are: cross county projects, national water harvesting and ground water exploration.

#### **2941) Committee Observations and Findings**

- (i) The committee observed the Ministry had inconsistently budgeted some projects as some projects implemented by headquarters had been budgeted as transfers to other units.
- (ii) The Committee agreed further observed, in the absence of consistent budget procedures and reporting for similar projects, it may not be possible to get comparable project information from the Ministry's financial statements as presented.

**2942) Committee recommendations**

**The Accounting Officer should always ensure consistent budgeting procedures for similar projects to enable accurate presentation of project information in the Ministry's financial statements.**

**850. Delay of Exchequer releases**

2943) Review of records maintained by the Ministry in relation of Exchequer Releases revealed that the Ministry received Kshs.14,007,760,890 as Exchequer releases from The National Treasury in the months of June and July, 2020 as detailed below:

Date of Receipt	Recurrent/Development	Amount (Kshs.)
5 June 2020	Development	300,000,000
9 June 2020	Development	5,371,747,307
12 June 2020	Development	28,604,196
15 June 2020	Development	1,425,200,000
19 June 2020	Development	158,338,300
25 June 2020	Development	200,000,000
25 June 2020	Recurrent	286,439,258
26 June 2020	Development	2,112,797,670
30 June 2020	Recurrent	19,250,782
2 July 2020	Development	105,383,377
2 July 2020	Development	4,000,000,000
<b>Total</b>		<b>14,007,760,890</b>

2944) The delay in Exchequer releases may have resulted in low absorption of the budget and this may have affected the development programmes of the Ministry and provision of services to the public.

**Submission by the Accounting Officer**

2945) The Accounting Officer submitted that it was true that the delay in Exchequer releases may have resulted in low absorption of the budget and this may have affected the development programmes of the Ministry and provision of services to the public. We wish to state that the delay happened despite the ministry raising requisitions to the National Treasury.

**2946) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Delay of Exchequer releases was satisfactory.
- (ii) The Committee therefore marked the matter as resolved.

### **851. Pending Bills**

2947) Note 15.1 to the financial statements reflects pending bills of Kshs.42,157,239 which were not paid during the year under review but were instead carried forward to the 2020/2021 financial year. Failure to settle bills in the year to which they relate adversely affects the subsequent year's provisions, since the bills form the first charge to that year's budget provisions.

#### **Submission by the Accounting Officer**

2948) The Accounting Officer submitted that the pending bills of Kshs.34,403,350 were incurred in previous years while Kshs.7,753,889 million was incurred in 2019/20. The arrears were not paid because there was no budget allocation for the same.

2949) The Ministry wrote to The National Treasury as per our letter Ref. MWSI/FIN/3/62/VOL.XXIV/ (64) dated 14th April, 2021 and have not received a response.

#### **2950) Committee Observations and Findings**

- (i) The Committee observed the pending bills of Kshs.42,157,239 were still outstanding.
- (ii) There was no response by National Treasury on correspondence by Ministry seven months after the matter was raised.

#### **2951) Committee recommendations**

**The Committee recommends that within sixty (60) days of adoption of this report, the Accounting Officer should liaise with National Treasury and ensure pending bills verified and found eligible are paid for as first charge in the following financial year in accordance with the PFM Act.**

### **852 Unresolved Prior Year Matters**

2952) As disclosed under progress on follow up of prior years' auditor's recommendations section of the financial statements, some of the issues reported in the prior year, remained unresolved as at 30 June, 2020.

#### **Submission by the Accounting Officer**

2953) The Accounting Officer submitted that the ministry appeared before the parliamentary accounts committee but has not received the comments of the committee.

#### **2954) Committee Observations and Findings**

The Committee observed the matters were discussed in financial year 2018/19 and recommendations made therein.

## **Basis for Conclusion**

### **853. Failure to Establish the Water Tribunal**

2955) The Water Act, 2016 established a Water Tribunal with the powers to hear and determine appeals from any person or institution affected by the decisions or order of the Cabinet Secretary, Water Resources Authority and Water Services Regulatory Board or of any person acting under the authority of the Cabinet Secretary, the Authority and Regulatory Board. According to the Act, the Tribunal was to commence its functions upon commencement of the Act, and all the assets property, rights, liabilities, obligations, agreements and other arrangements entered into by the Water Appeals Board established under the repealed Water Act, 2002, were to be transferred to the Water Tribunal. However, by the time of this audit in December 2020, the Ministry had not gazetted the Water Tribunal and therefore it had no legal mandate to hear disputes or appeals inherited from the Water Appeals Board or new appeals. Failure to operationalize the Tribunal may result in backlog of cases, delayed justice to stakeholders and a breach of the law.

#### **Submission by the Accounting Officer**

2956) The Accounting Officer submitted that the Water Appeal Board (WAB) was established under section 84 of the Water Act 2002. It was intended that WAB transit to water tribunal as per Section 119 of the Water Act, 2016.

2957) The main challenge to transition to water Tribunal has been existence of a lacuna in the Water 2016. The Act only provided for appointment of Chairman and staff of Water tribunal by Judicial Service Commission. It does not provide for the appointment of Board Members. The Ministry has already initiated steps to amend the Water Act 2016 to allow for constitution of Water Tribunal with a Chairman and Member.

#### **2958) Committee Observations and Findings**

The Committee observed although the Tribunal had not been gazetted, the Accounting Officer had initiated steps to address the lacuna in law hindering the establishment of the Tribunal.

#### **2959) Committee Recommendations**

**Within six (6) months upon adoption of this report, the Accounting Officer to liaise with the Attorney General's Office and expedite the process and provide information to the National Assembly on the progress to address the lacuna in law in constituting the Tribunal.**

### **854. Expired Performance Security for Sagana River Restoration Project**

2960) The Ministry entered into a contract for the Sagana River Restoration Project on 9 January 2019, at a contract price of Kshs.1,194,801,722. The expected construction period for this Project was eighteen (18) months. The scope of work included construction of an intake,

two dams on Kahiti River, a balancing tank, six (6) distribution tanks and wayleaves. A review of the Project's implementation documents revealed that the contractor's performance guarantee expired on 9 July 2020 and it had not been renewed by the time of this audit in December 2020. This is contrary to Section 142 of the Public Procurement and Assets Disposal Act, 2015, which requires a contractor to provide performance security for construction works.

#### **Submission by the Accounting Officer**

2961) The Accounting Officer submitted that the Performance Security and Advance Payment Guarantee were subsequently renewed and are currently valid up to 31st December 2021. The Contractor has also been requested to renew the same before expiry date for a further 6 months. The completion of the project has been delayed due to inadequate allocation of funds hence necessitating extension of time up to Mid July 2022. The copies of the current securities were availed for perusal by the Committee.

#### **2962) Committee Observations and Findings**

The committee observed the performance bond expired but was not renewed until it was raised by the Auditor General which constitutes a dereliction of duty by the Accounting Officer. The performance bond was thereafter renewed.

#### **2963) Committee Recommendations**

**The Accounting Officer should always ensure that performance bonds are valid during the contract period in accordance with Section 142 of the Public Procurement and Assets Disposal Act, 2015, which requires a contractor to provide performance security for construction works.**

### **855. Delay in Project Implementation due to Delayed Handover of the Site**

2964) The Ministry entered into a contract for the Maragua Bulk Water Supply and Irrigation Project on 14 February 2020, at a contract price of Kshs.889,397,520. The expected construction period was eighteen (18) months. The scope of work included construction of a 14-meter-high composite dam, 8000 m<sup>3</sup> per day full water treatment plant at Gakaigo and supply and installation of all valves and fittings for the pipelines and other ancillary works. A review of the Project records revealed that the construction of the water treatment plant of 8000 m<sup>3</sup> per day capacity was supposed to be constructed on a land parcel owned by Nginda Coffee Farmer's Co-operative Society Limited. By the time of this audit in December 2020, the co-operative members had not handed over site to the Ministry, to pave way for the construction of the water treatment plant. This may result in delays in implementation of the Project. This is contrary to sub clause 20.1 of the general conditions of the contract, which required the employer to give possession of the site to the contractor within 28 days of signing of the contract, and in the event that this was not done, the employer would be considered to have delayed commencement of the Project, and this would require compensation.



2965) Consequently, the delay in site handover may result into additional Project costs and delay in achievement of Project objectives. Further, additional Project costs will give rise to lack of value for money and wastage of public resources.

#### **Submission by the Accounting Officer**

2966) The Accounting Officer submitted that the plant sits on the Nginda Coffee farmers land on agreement, total land occupied is approximately 5 acres. Construction at this site commenced on 19th September 2020 even though the project's commencement date was 16th July 2020. This was mainly because the land where this plant is established is privately owned by the Nginda coffee farmers and several meetings had to be held in order to come into an agreement with the coffee farmers for coexistence in their land.

2967) The delay in handover of the Treatment Works at Gakoigo did not impact negatively in the overall completion of works and it was anticipated and planned for in the overall programme of works. The contractor has however requested a three months extension which will push completion date to 31st March 2021 mainly due to inadequate budgetary allocation resulting to anticipated delay in meeting contractor's payment certificates amounting to 207 million Kenya Shillings:

- a) Construction at the treatment works site is approximately at 85%.
- b) Completion of the various components on are as follows;
- c) Mixing chamber- 100% complete
- d) Chemical house- 90% complete
- e) Sedimentation tanks-99% complete
- f) Rapid sand filters- 85% complete
- g) 2500m<sup>3</sup> Clear Water Tank- 99% complete
- h) Sludge drying bed- 80% complete
- i) 108m<sup>3</sup> backwash tank- 95% complete
- j) Pump house- 90% complete
- k) Staff houses- 80% complete
- l) Interconnection works- 20%

#### **2968) Committee Observations and Findings**

- (i) The Accounting Officer commenced procurement and entered into contract before consent to land by Nginda coffee farmers which put at a risk of incurring penalties in case the State Department failed to avail the site and contractor sued for breach of contract. This constitutes dereliction of duty by the Accounting Officer.
- (ii) The site was eventually availed and the project is ongoing.

#### **2969) Committee recommendations**

**The Accounting Officer must always ensure that where a project is being implemented on land yet to be acquired, no contracts are entered into until the State Department is certain the land for project implementation will be availed.**



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

### 2970) **Conclusion**

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

## DONOR FUNDED PROJECTS

### UPPER TANA CATCHMENT NATURAL RESOURCES MANAGEMENT PROJECT IFAD LOAN NO.1-867-KE AND SPANISH TRUST FUND LOAN NO.1-E-8-KE

## REPORT ON THE FINANCIAL STATEMENTS

### 2971) **Unqualified Opinion**

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

### **Other Matter**

#### **858. Budgetary Control and Performance**

2972) The statement of comparative budget and actual amounts reflects approved final budgeted expenditure of Kshs.659,050,821 against actual expenditure of Kshs.521,234,691 resulting to an under-expenditure to the Covid-19 Pandemic which negatively impacted on the Project implementation.

#### **Submission by the Accounting Officer**

2973) The Accounting Officer submitted that this underutilization of the budget is attributed to the effects of Covid19 which made implementation of activities involving group participation (training/ sensitization/ workshops etc) difficult due to Ministry of Health Covid 19 protocols. Mostly the group-based capacity building approaches have been embraced since they are very effective in terms of sustainable knowledge transfer to targeted beneficiary communities hence attracting significant budget allocation. With covid 19 challenges and protocols, realising the training became difficult.

### 2974) **Committee Observations and Findings**

- (i) The explanation given by the Accounting Officer with regard to the Budget Control and Performance was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.

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

2975) **Conclusion**

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS RISK MANAGEMENT AND GOVERNANCE

2976) **Conclusion**

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

**COASTAL REGION WATER SECURITY AND CLIMATE RESILIENCE PROJECT (IDA CR.NO. 5543-KE)**

REPORT ON THE FINANCIAL STATEMENTS

2977) **Unqualified Opinion**

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

**Other Matter**

**862 Low Absorption of Funds**

2978) The annual report for the year under review indicates that the Project has been in operation for five (5) years, which covers 83% of its six (6) year duration expected to end in December 2021. However, as at 30 June, 2020, the Project had only absorbed Kshs.3, 147,037,049 out of the total loan amount of Kshs.20,000,000,000 (USD 200 million) translating to 15% of the total funding. In the year under review, the Project failed to utilize Kshs.849,323,215 or 25% of its annual budget.

2979) In view of the above indicator, it is unlikely that the Project will utilize the whole loan amount by the time it should be completed and its expected outputs and objectives may not be achieved.

**Submission by the Accounting Officer**

2980) The Accounting Officer submitted that the management wish to state that Construction of Mwache Dam accounts for 70% of the USD 200M credit. This dam is resulting in displacement of over 2,500 households belonging Duruma community classified as vulnerable and marginalized whose relocation therefore triggered sensitive World Bank policies in the land acquisition, compensation, relocation and livelihoods restoration processes in addition to touching on sensitive ecosystems such as the Mwache River estuary and heritage cultural sites. All these factors led to additional studies and consultations that resulted in delayed approval of

the RAP report by World Bank. Further, the lengthy community consultative, sensitization, training and eventual processes by National Land Commission (NLC) was further complicated by the Covid 19 pandemic. The entire Resettlement Action Plan (RAP) implementation is however being completed for the priority areas in November 2021 with the contractor scheduled to commence works the same month.

2981) The Government and the World Bank have completed appraisal of the Coast Region Water Security and Climate Resilience and negotiations will be finalized for signing of a new Financing Agreement by December 2021 which will result in time extension for the construction of the dam to 2026 and additional financing of USD \$150M.

**2982) Committee Observations and Findings**

- (i) The committee observed the project had been delayed due to handling of relocation of project affected persons.
- (ii) The Accounting Officer submitted that the Government and the World Bank have completed appraisal of the project and negotiations will be finalized for signing of a new Financing Agreement by December 2021 which will result in time extension for the construction of the dam to 2026 and additional financing of USD \$150M.

**2983) Committee recommendations**

- 1) Within three months of adoption of this report, the Accounting Officer should develop measures to ensure the project is completed within new timeline agreed with donor.**
- 2) Within one year of adoption of this report, the Accounting Officer should develop policy to deal with relocation and compensation of project affected persons or communities classified as vulnerable and marginalized to ensure timely implementation of such projects.**

**863. Delayed Implementations of Resettlement Plan for Mwache Multipurpose Dam Project**

2984) Review of Project records revealed that the Ministry of Water, Sanitation and Irrigation transferred Kshs.650,000,000 to the National Land Commission for compensation for land for the Mwache Project. However, as at December 2020, the compensation process was yet to completed, more than five (5) years after the first transfer was made. Further, the Ministry awarded the contract for construction of the Dam on 21 March, 2019.

2985) However, by the time of audit in December 2020, the contractor had not been issued with a commencement of work notice, since the land compensation process was yet to be finalized. The delayed compensation to land owners may make it difficult to achieve the Project's objectives within the funding period.

**Submission by the Accounting Officer**

2986) The Accounting Officer submitted that the Ministry of Water, Sanitation and Irrigation transferred Kshs.1,250,000,000 to date which is paving way for handover of land to the contractor as outlined in 862.

**2987) Committee Observations and Findings**

- (i) The Committee observed the Accounting Officer awarded the contract in March 2019 despite the relocation plans remaining unresolved.
- (ii) A total of Kshs.1,250,000,000 has been transferred to National Land Commission to date for compensation of project affected persons.

**2988) Committee Recommendations**

- 1. Within three (3) months of adoption of this report, the Accounting Officer to provide for verification to the Auditor General the status of the amount transferred to the National Land Commission for reporting in the next audit cycle (2021/222).**
- 2. Within three (3) months of adoption of this report, the Accounting Officer to liaise with the National Land Commission to ensure the resettlement plan is implemented promptly to allow completion of the project within new agreed timeline.**

**864. Pending Bills**

2989) Note 10.1 to the financial statements reflect pending bills of Kshs.2,939,056, as at 30 June, 2020. Management has not provided an explanation for non-payment of the pending bills. The Project is at risk of incurring additional interest costs and penalties with the continued delay in making payments of the pending bills.

**Submission by the Accounting Officer**

2990) The Accounting Officer submitted that the outstanding amount are accounts payable, since it is a retention on contract for Construction of Rainwater Harvesting Facilities and Sanitation Blocks for Schools in Kwale County Phase I, which is payable upon completion of the defect liability period. The funds do not attract any interest since the retention is a contractual obligation. However, the defect liability has since elapsed and the contractor was paid the retention on 21st June 2021.

**2991) Committee Observations and Findings**

- (i) The explanation given by the Accounting Officer with regard to pending bills was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.

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

**Basis for Conclusion**

### **865. Unrecovered Funds on Terminated Contract**

2992) The Ministry of Water, Sanitation and Irrigation, through Coastal Region Water Security and Climate Resilience Project entered into a contract for construction of Rain Water Harvesting Facilities and Sanitation blocks, for schools in Kwale County Phase 2. This contract, which was signed on 22 October 2018 was for sum of Kshs.55,113,821. However, on 9 June, 2020, the contract was terminated with approximately 90% of the works pending and the contractor was paid an amount of Kshs.20,410,667 as advance and certified work done. A joint inspection team determined that the contractor was to pay the Ministry Kshs.27,752,838 as penalties on value of uncompleted work and unrecovered advances. By the time of this audit in December 2020, this payment was yet to be received by the Ministry.

2993) Under the circumstances, the intended objectives of the Project may not be achieved and there may be loss of Project funds.

#### **Submission by the Accounting Officer**

2994) The Accounting Officer submitted that the Ministry has served the contractor with a demand letter dated 10th August 2020 (copy attached) to pay the Employer a sum of Kshs.27,752,838.73 being the balance of advance payment and penalties due to fundamental breach of contract. The Ministry is pursuing legal avenues to ensure the recovery of the above payment and also engage another contractor to complete the pending works to ensure the project objectives are met.

#### **2995) Committee Observations and Findings**

- (i) The Accounting Officer did not explain whether the advance payment was covered by a bank guarantee as required by the law and why the advance payment could not be recovered from the guarantee as well as performance bond.
- (ii) The public was at risk of losing Kshs.27,752,838.73 in addition to delayed service delivery.

#### **2996) Committee recommendations**

- 1) The Committee reprimands the Accounting Officer for failing to ensure valid bank guarantee for advance payment and performance bond were in place and not taking measures to recover the amount on termination of the contract.**
- 2) Within sixty (60) days of adoption of this report, the Accounting Officer to engage the Attorney General's office to institute legal measures to recover an amount of Kshs.27,752,838.73 being the balance of advance payment and penalties due to fundamental breach of contract.**

### **866. Sustainability of Livelihood Programme**

2997) As reported in the previous year, the Project disbursed grants totaling Kshs.22,465,136 to 62 (sixty-two) community groups in Kwale County under the Livelihood Programme. The programme was to carry out a series of activities aimed at improving sustainable livelihoods

and sharing the Project's benefits in the rural areas of the County. The activities included establishment of tree nurseries, greenhouses and horticulture, dairy and poultry farming, among other economic activities. However, an audit inspection carried out in September 2019 revealed that some beneficiary groups diverted funds to activities not stated in their respective Grant Agreements. In addition, the groups did not keep proper records and their incomes did not cover expenses and as a result, the activities were unlikely to be sustained for long. Management has not provided evidence to indicate that the shortcomings have been addressed or measures to ensure that the programme achieved the desired objectives.

### **Submission by the Accounting Officer**

2998) The Accounting Officer submitted that the management conducted a fiduciary review in September 2020 which rated the performance of each group as either (i) Sustainable and compliant and therefore qualifies for second phase of funding (ii) Sustainable but in need of additional support before further funding is given (iii) Unsustainable and not eligible for additional funding.

2999) Of the 62 groups 16 were rated under category (i) and 22 rated under category (ii) above and were taken through designed training workshops in January 2021 to enhance their performance. These groups will be provided with extension officers from the County Government of Kwale who will monitor their activities and provide continuous support to ensure better performance in Phase II of the programme. The 24 groups that were found to be unsustainable will not receive further funding.

### **3000) Committee Observations and Findings**

- (i) The Accounting Officer had taken appropriate measures to identify unsustainable groups to stop further funding.
- (ii) The Committee marked matter as resolved.

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

### **3001) Conclusion**

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

## **THWAKE MULTI-PURPOSE WATER DEVELOPMENT PROGRAM PHASE-1 (AfDB LOAN NO.210050029993, NO. 2000200003351 AND NO.5050200000501: AND AfDB GRANT NO.210015525973)**

## **REPORT ON THE FINANCIAL STATEMENTS**

### **3002) Unqualified Opinion**

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

#### **Other Matter**

#### **869. Funding and Continuity of the Program**

3003) As reported in the previous year, Phase 1 of the Program, which entails construction of a Dam and associated structures, is currently under implementation. As at 30 June, 2020 approximately 37% of the work had been completed and the programme of work indicated that the Dam will be completed by September, 2022. The Program is divided into four phases with an estimated cost of Kshs.81.63 billion.

3004) Although the African Development Bank (AfDB) and the Government of Kenya (GOK) funding for the first phase of Kshs.42.365 billion has been approved, funding amounting to Kshs.39.845 billion in respect to the remaining three phases is yet to be secured, planned or sought from financiers.

3005) Consequently, it is not clear how the three phases will be financed in the ensuing period towards the Program completion.

#### **Submission by the Accounting Officer**

3006) The Accounting Officer submitted as follows:

#### **Funding and continuity of the Program**

3007) The Program is divided into four (4) phases with the first phase for dam construction being funded by the African Development Bank (AfDB) and the Government of Kenya at a cost of Ksh.42.365billion.

3008) The Ministry has engaged the National Treasury seeking funding for the remaining phases of the Program. The National Treasury in its response to our request advised that the funding for Phase 2 may be considered in the next AfDB Program Cycle (2023 – 2027).

#### **3009) Committee Observations and Findings**

The Committee observed the matter was discussed in the financial year 2018/19 and made the following recommendation;

**Within three (3) months upon adoption of this report, the Accounting Officer must report to the National Assembly on the current implementation status of the Thwake Multi-Purpose Water Development Program Phase I. The report should entail revised project work plan and budget giving details of the project end and closure dates.**

#### **870. Water Pollution in Athi River**



3010) The Thwake Multipurpose Dam is expected to draw water from Athi River whose main tributary is Nairobi River. Studies carried out by various agencies indicate that the Nairobi River is heavily polluted with heavy metal and the water is unfit for human consumption. There was no evidence of efforts by the implementing agency to mitigate against the risk and ensure that the river will be free from pollutants and fit for human consumption before the expected completion of the Program in November, 2022.

3011) Consequently, in absence of any mitigation efforts to avert the pollution, the water and the food crops to be grown under irrigation in the proposed dam may not be fit for human consumption and the program's objective may not be achieved.

#### **Submission by the Accounting Officer**

3012) The Accounting Officer submitted that Water pollution is a major concern and the Ministry has formed an inter - agency technical committee comprising the relevant stakeholders including WRA, NEMA, Nairobi City Water and Sewerage Co and Athi Water Works Agency, with the objective of creating and coordinating the Athi River pollution control and follow up on the actions. The team is chaired by the Water Secretary.

3013) Several initiatives are currently under implementation including among others:

- i. Sewerage reticulation and expansion;
- ii. Water quality monitoring;
- iii. Robust clean - up of water sources;
- iv. Rehabilitation of Riparian reserves; and
- v. Solid waste control.

3014) **Committee Observations and Findings**

- i. **The Committee noted with great concern that the benefits intended from the project may not be realized if the water harvested is polluted.**
- ii. **The Accounting Officer briefed the Committee on several initiatives that were under implementation to mitigate pollution of water in the dam catchment area.**

3015) **Committee recommendations**

**Within three (3) months upon adoption of this report, the Accounting Officer must report to the National Assembly on the current implementation status of the Thwake Multi-Purpose Water Development Program Phase I. The report should include measures taken to ensure pollution to water sources for the dam is mitigated and sustainability of services guaranteed.**

#### **871. Budgetary Control and Performance**

3016) The statement of comparative budget and actual amounts reflects that the program received an amount of Kshs.4,550,837,635 or 89% against the approved budget of Ksh.5,103,000,000. However, the project utilized an amount of Kshs.4,552,473,330 against

an approved budget of Kshs.5,103,000,000 resulting into under expenditure of Kshs.550,526,670 or 11% of the budget. Management has attributed the under absorption to failure by the National Land Commission to carry out planned land compensation due to delays in valuation.

3017) In the circumstances, the under absorption of the approved budget is an indication that the planned activities may not have been implemented by the project management leading to non-provision of services to the stakeholders.

#### **Submission by the Accounting Officer**

3018) The Accounting Officer submitted that the budget of Ksh.5.103billion for the Program included a provision for acquisition of additional land and compensation of Program Affected Persons on the Thwake Dam site. The National Land Commission (NLC) had not carried valuation exercise as at June 30 2020. However, the activity has since been carried out and final payments made to NLC in June and September 2021.

#### **3019) Committee Observations and Findings**

- (i) The explanation given by the Accounting Officer with regard to the Budget Control and Performance was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.

### **REPORT ON LWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **Basis for Conclusion**

##### **872. Contract Variation on Motor Vehicles**

3020) It was observed that item no. 1A.36 and !A.37b of the Bill of Quantities for the construction contract for Thwake Multi-Purpose Dam required the contractor to supply ten (10) Toyota Land Cruisers and fifteen (15) Toyota Hilux for the employer and engineer, at a cost of Kshs.135,817,768. However, review of the interim payment certificate no. 1 revealed that changes in specifications of the vehicles by the employer resulted to an upward cost variation by Kshs.37,604,672, representing a variation of 28% against the allowable 25%. There was no evidence that the changes in specifications were dully approved and no explanation on why the specifications were not included in the tender documents at the bidding stage. The variation was contrary to Section 139 (1)(a) of the Public Procurement and Assets Disposal Act, 2015 which provides that an amendment or a variation to a contract resulting from a procurement proceeding is effective only if the variation or amendment has been approved in writing by the respective tender awarding authority within a procuring entity.

3021) Consequently, the Management is in breach of Law.

#### **Submission by the Accounting Officer**

3022) The Accounting Officer submitted as follows:

## **Contract Variation on Motor Vehicles**

3023) The variation in the cost of the vehicles arose as a result of upgrade from Toyota Land Cruisers to Toyota Prados to meet some specifications. The procurement of the motor vehicles was done by the contractor using its procurement procedures as the purchase of motor vehicles was a bill item in the overall contract between the Ministry and the contractor.

### **Committee Observations and Findings**

The committee observed the Accounting Officer did not produce evidence that the changes in specifications were dully approved and there was no explanation on why the specifications were not included in the tender documents at the bidding stage.

#### **3024) Committee recommendations**

- 1) The Committee reprimands the Accounting Officer for failing to avail the evidence that the changes in specifications were dully approved and an explanation on why the specifications were not included in the tender documents at the bidding stag**
- 2) Within sixty (60) days upon adoption of this report, the Accounting Officer to provide appropriate documentation to prove that the changes in specifications were dully approved justify why the specifications were not included in the tender documents to the Auditor General for further verification.**

## **873. Non-Construction of Temporary Site Offices**

3025) Item No.1A/1.30 of the Bill of Quantities for construction contract for the Dam required the contractor to design, construct and furnish temporary site offices for the Employer and Engineer, including air conditioning, office equipment, computers, printers, copiers, computer network, software, among others, all at a cost of Kshs.22,164,684. Review of Program documents revealed that the contractor provided furniture and other equipment at a cost of Kshs.19,994,419. However, there was no evidence that site offices were constructed as stipulated in the contract. Field verification revealed that contractor has opted for a lease of building for the Employer and Engineer. There was no evidence that the change was dully approved. In addition, it was not clear whether the balance of Kshs.2,170,265 on the item would cover the lease charges on the property for the construction period.

3026) Consequently, the Program may incur cost overruns, arising from the changes thereby leading to wastage of public resources over the project period.

### **Submission by the Accounting Officer**

3027) The Accounting Officer submitted as follows:

#### **Non construction of Temporary site offices**

3028) The Ministry confirms that the contractor opted to lease instead of constructing temporary site offices. Due to delayed hand over of the site to the contractor, it was considered prudent to lease instead of putting up temporary offices. The contractor has since put up permanent site offices for the employer and the engineer at the site.

**3029) Committee Observations and Findings**

- (i) The explanation given by the Accounting Officer with regard to the Non-Construction of Temporary Site Offices was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.

**874. Delayed Development of Physical Hydraulic Model**

3030) Item No. 1C 3 of the Dam construction contract provided for developing and running a physical hydraulic model as per the specifications at a cost of Khs.30,000,000. Further Section S1.38.3(3) of the contract specifications states that the contractor shall be prepared to finance the cost of the hydraulic model immediately upon signing of the contract and issuance of instruction to commence the work by the Engineer. This cost was to be reimbursed to the contractor through the interim payment certificates in accordance with the contract. A review of the Program documents revealed that the contractor was yet to procure the physical hydraulic model test which may cause possible delays in the concrete works for the main spillway. Further, field inspection at the Program's site revealed that the contractor had carried out substantial excavation works on the main spillway yet the design was yet to be tested.

3031) Consequently, delays in development of the hydraulic model may result in delayed Program implementation.

**Submission by the Accounting Officer**

3032) The Accounting Officer submitted as follows:

**Delayed development of Physical Hydraulic Model**

3033) There was a delay by the contractor in engaging a consultant to carry out the physical hydraulic model. To mitigate this, the supervising consultant has carried out Spillway Computational Fluid Dynamics (CFD). The CFD analysis was carried out under three test conditions with varying discharge, 3,340 m<sup>3</sup>/s, 6,000 m<sup>3</sup>/s and 11,400 m<sup>3</sup>/s. The CFD model showed good agreement with the design report for the water depths and the velocities. The consultant has since been engaged and the development of the model is ongoing.

**3034) Committee Observations and Findings**

- (i) The explanation given by the Accounting Officer with regard to the Delayed Development of Physical Hydraulic Model was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.

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

### **Basis for Conclusion**

#### **875. Proper Management and Custody of Project Vehicles**

3035) Review of the Program's documents revealed that the Employer and Engineer received twenty-six (26) vehicles from the contractor. However, the Program vehicles which have private number plated, were not branded and did not bear any Program identification. Consequently, these vehicles were exposed to the risk of misuse or loss.

3036) In absence of such specific distinction of the Program's assets from other Departments the motor vehicles and other Program's assets may be misused or employed to activities other than those designated by the Program.

#### **Submission by the Accounting Officer**

3037) The Accounting Officer submitted that the Program vehicles have since been branded and the matter has therefore been resolved.

#### **3038) Committee Observations and Findings**

- (i) The explanation given by the Accounting Officer with regard to the Proper Management and Custody of Project Vehicles was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.

## **KENYA ITALY DEBT FOR DEVELOPMENT PROGRAMME**

### REPORT OF THE FINANCIAL STATEMENTS

#### **3039) Unqualified opinion**

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

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

### **Basis for Conclusion**

#### **877. Long Outstanding Advance.**

3040) According to Article III.1 of the Programme's Financing Agreement, the Programme funds should be utilized by the Government of Kenya on goods and services for implementation of jointly agreed initiatives within the framework of the poverty eradication strategies. However, as previously reported, and as disclosed in Note 7.2 to the financial statements, the statement of financial assets reflects a balance of Kshs.12,991,890.00 under

imprest and advances. The amount was advanced to the Ministry of Water and Irrigation on 17<sup>th</sup> September 2014 to pay an outstanding travel bill due to a service provider. The advanced amount had not been refunded to the Programme by the time of concluding the audit in November 2020, more than six years since the advance was made.

3041) In the circumstances, the advance has not been utilized for Programme activities and the Ministry risks being required by the Government of Italy to make refund, as provided for under Article II.6 of the Financing Agreement.

#### **Submission by the Accounting Officer**

3042) The Accounting Officer submitted that it was true that this advance has been outstanding, however the expenditure is recurrent in the nature. The ministry has been experiencing budget underfunding to enable it clear pending bills. The ministry is however committed to refund the projects funds for use for the intended Programme purposes.

#### **3043) Committee Observations and Findings**

- (i) The Committee observed the Accounting Officer had failed to ensure the project was refunded Kshs. 12,991,890 since the year 2014 from the Ministry.
- (ii) The reason advanced by the Accounting Officer does not hold since as pending bill in the State Department, the amount ought to have formed the first charge in the subsequent financial years.

#### **3044) Committee recommendations**

- 1) The Committee cautions the Accounting Officer for failing to ensure the project was refunded Kshs. 12,991,890 since the year 2014 from the Ministry.**
- 2) Within sixty (60) days upon adoption of this report, the Accounting Officer to ensure the amount is fully refunded and evidence presented to the Auditor General for further verification.**

#### **878. Slow Absorption of Programme Funds**

3045) During the year under review, the Programme received Kshs.31,000,000 for the implementation of a water Programme in Homa Bay county. However, no disbursement had been made to the Water Programme as at the close of the financial year and the funds were held in the Programme's bank account for over eleven (11) months, hence the water programme was not implemented.

3046) In addition, the Programme bank account reflected a balance brought forward of Ksh87,769,824 from 2018/19 financial year. According to Programme Management, the funds were for ongoing Projects whose disbursement had not been completed. However, only an amount of Ksh.6,237,004 was disbursed by the Programme during the year under review.



3047) Consequently, the slow absorption of the Programme funds may have resulted in delayed implementation of the planned project activities thus the possibility of the Programme not achieving its intended objectives.

**Submission by the Accounting Officer**

3048) The Accounting Officer submitted that on the matter above we wish to state that the underutilization was due to various challenges in infrastructure development that included delays in land compensation (Manooni Project in Makueni), court cases/Disputes (Manooni Project), slow input by contractors and slow community engagement (Homabay Water Project). Implementation was additionally affected by the COVID-19 pandemic.

3049) These were addressed at project level and that has facilitated full project implementation. All the projects except Manooni Water Project (At 80% physical completion) have been substantially completed.

**3050) Committee Observations and Findings**

- (i) The Committee observed the Accounting Officer had taken measures to address the challenges delaying the project.
- (ii) The measures taken were deemed satisfactory and the matter marked as resolved.

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

**3051) Conclusion**

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

**KENYA WATER SECURITY AND CLIMATE RESILIENCE PROJECT (IDA CR.NO.5268/5674-KE AND GRANT NO.**

**REPORT ON THE FINANCIAL STATEMENTS**

**3052) Unqualified Opinion**

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

**Other Matter**

**881. Withdrawal from Special Account**

3053) During the year under review USD6,042,000, an equivalent of Kshs.645,164,760 was withdrawn from the Project special account for transmission to the Project. However, the Project account was credited with Kshs.636,028,486 resulting to a variance of Kshs.9,136,274. According to Management, Kshs.645,164,760 was transferred by The National Treasury to the Ministry of Water Sanitation and Irrigation but the Ministry could only transfer to the Project



an amount of Kshs.636,028,486 since the budget available for the Project could not accommodate the difference. Although, the Ministry wrote The National Treasury vide letter date 27June, 2020, for the amount to be reversed to the special account, the reversal had not been effected by the time of the audit in December, 2020. Consequently, Kshs.9,136,274 withdrawn from the special account had not been received by the Project as at 30<sup>th</sup> June, 2020.

#### **Submission by the Accounting Officer**

3054) The Accounting Officer submitted that the amount of Kshs.9,136,274 was not reversed but was eventually transferred to the project account on 5<sup>th</sup> July, 2021 by the Ministry of Water, Sanitation and Irrigation.

#### **3055) Committee Observations and Findings**

- (i) The explanation given by the Accounting Officer with regard to the Withdrawal from Special Account was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.

#### **882. Budgetary Control and Performance**

3056) The statement of comparative budget and actual amount reflects approved receipts budget and actual on comparable basis amount of Kshs.3,823,500,000 and Kshs.3,305,704,604, respectively, resulting to a shortfall in receipts of Kshs.517,795,396 or 14%. Further, the Project's approved expenditure budget was Kshs.3,832,500,000 while the actual expenditure was Kshs.3,039,748,969, resulting to under-expenditure of Ksh.783,751,031 or 20% of the budget. Consequently, planned activities of the Project may possibly not have been implemented, thus affecting achievement of the intended goals of the Project.

#### **Submission by the Accounting Officer**

3057) The Accounting Officer submitted that in spite of the endemic slow land compensation process, resulting from undocumented land records, un-adjudicated land parcels, numerous successions matters and disputes, and lengthy processes at National Land Commission (NLC) hampered largely by its low capacity, the overall performance has improved over the years. However, the shortfall in absorption of the 20% budget has been recovered in the current year.

#### **3058) Committee Observations and Findings**

- (i) The explanation given by the Accounting Officer with regard to the Budget Control and Performance was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.

#### **883. Unutilized Funds Transferred to the National Lands Commission**

3059) As reported in the previous year report, the Project disbursed Kshs.500,000,000 to the National Lands Commission during the financial year 2018/2019, bringing the total amount

disbursed to the Commission to Kshs.650,000,000, for compensation of persons affected by the construction of Mwache Dam. The basis for the disbursement was not clear since the Project has not provided requisition from the Commission. In addition, the National Lands Commission had not provided any expenditure returns for the advances made since June, 2016, while there was no evidence of compensation to any of the intended beneficiaries. A review of the current year records revealed that the Commission had not provided evidence that the advanced amount had been utilized to compensate the affected persons.

#### **Submission by the Accounting Officer**

3060) The Accounting Officer submitted that the management would wish to state that the RAP budget for Lower Nzoia Irrigation and Dykes project amounts to Kshs.1.544b. The works contract had been signed and the contractor was already on site. There was therefore urgent need to avail the land for the works and avoid huge claims, but the compensation process was hampered by poor land records, disputes and succession issues. The funds amounting to Kshs.500M and Kshs.150M in the project account were therefore transferred to the National Lands Commission account pending completion of the compensation processes that would yield to Payment Schedules for requisition of funds by National Land Commission to the Ministry. These funds were later captured in statements shared by the National Lands Commission.

#### **3061) Committee Observations and Findings**

The Accounting Officer did not provide payment schedule for requisition of funds by the National Land Commission to the Ministry hence the expenditure is not fully supported.

#### **3062) Committee recommendations**

**Within sixty (60) days upon adoption of this report, the Accounting Officer to provide supporting documents (payment schedules for requisition of funds by National Land Commission) to the Auditor General for verification and reporting in the financial year 2021/22 audit cycle.**

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

#### **Basis for Conclusion**

#### **884. Interest on Delayed Payments to Contractors**

3063) Review of the Project's records for Lower Nzoia Irrigation Project revealed contractors claims of Kshs.41,259,407 on account of interest on delayed payments, for both Lot I and II as at 30th June, 2020. Further, according to the records, the contractors had not been paid as at November, 2020 and the Project risks incurring additional interest charges which are avoidable.

#### **Submission by the Accounting Officer**

3064) The Accounting Officer submitted that the Ministry has since restructured the payment processes by condensing the time taken for approvals so as to ensure the payment is done within 56 days and minimize the interest charges.

**3065) Committee Observations and Findings**

- (i) The Committee observed that the Ministry incurred unnecessary costs of Kshs. 41,259,407 on account of interest on delayed payments due to its process inefficiencies.
- (ii) The Accounting Officer submitted that the Ministry has since restructured the payment processes by condensing the time taken for approvals so as to ensure the payment is done within 56 days and minimize the interest charges.

**3066) Committee recommendations**

- 1) The Committee reprimands the Accounting Officer for failing to ensure payments are done promptly to avoid unnecessary costs of Kshs. 41,259,407 on account of interest on delayed payments due**
- 2) The Accounting Officer to always ensure legitimate bills are paid on time to avoid unnecessary costs on account of interest on delayed payments due.**

**885. Irregular Engagement of Project Consultant**

3067) As reported in the previous year, the Project through the Ministry of Water, Sanitation and Irrigation entered into a contract with a consultant on 31st January, 2017, for individual consultancy services. The consultant, who was a Finance Officer at the National Treasury was supposed to apply for unpaid leave following her appointment. Although the officer applied for leave on 6th February, 2017, there was no evidence that the leave was granted. This implies that the officer was on two employment terms and enjoyed government pension benefits within the period she served in the Project, contrary to Section J.13(2)(V) of the Human Resource Policy and Procedure Manual for Public Service, 2016. There was no evidence that the pension was remitted to the relevant authorities. Further, it was not clear why the officer was engaged and contracted before her official release by The National Treasury.

3068) In December, 2018, ten (10 months after terminating the contract, the officer requested The National Treasury to treat her contract period as a secondment which, was forwarded to the Public Service Commission on February, 2019 and approved in March, 2019. The Project paid the officer Ksh.547,980 being consultancy fees for the period, December, 2017 to March, 2019. Although the payments were made net of the officer's gross salary, there was no evidence of remittance of pension to the relevant authorities. In addition, it was not clear how the unpaid leave initially requested and not approved, was changed to a secondment. The propriety of the secondment could not be verified.

3069) Consequently, management is in breach of Human Resource Policy and Procedure Manual for Public Service, 2016.

### **Submission by the Accounting Officer**

3070) The Accounting Officer submitted that on the remittance of pension the Ministry wrote to the officer to pay the pension arrears to Director of Pensions. On why the officer was contracted before her official release by the National Treasury, this is standard since the officer requires this commitment to seek the secondment. The important thing is to ensure that payment cannot be made until the secondment is granted. This was the case until confirmation by the Ministry HR that the officer was considered to have been granted secondment during her tenure at KWSCR, hence the reason payment was made for arrears of Kshs.547,980 that had been withheld.

### **3071) Committee Observations and Findings**

The Committee observed although the explanation provided by the Accounting Officer was satisfactory. However, evidence of payments to Director of Pension was not produced for verification.

### **3072) Committee recommendations**

**Within sixty (60) days of adoption of this report, the Accounting Officer to provide to the Auditor General evidence of payments to the Director of Pension for further verification.**

## **886. Delayed Compensation of Project Affected Persons**

3073) A review of Project documents revealed that the Project Monitoring Unit, transferred to the National Lands Commission Kshs.250,000,000 and Kshs.20,000,000, on 13 December, 2016 and 4 December, 2017 respectively. These funds were meant for compensation of Project affected persons, for Lower Nzoia Irrigation Project. However, by the time of concluding this audit in November, 2020, the compensation process was yet to be completed and the Commission had only utilized Kshs.262,678,184 for the compensation. Consequently, delays in compensation have resulted to delayed possession of Project sites and the contractors have submitted claims of USD 1,438,267 and USD 99,236 for Lot I and Lot II, respectively.

3074) The contractor's claims are avoidable expenditure which could have been utilized on other project activities. Therefore, public resources were not utilized in an effective way.

### **Submission by the Accounting Officer**

3075) The Accounting Officer submitted that the management would wish to state that following on the setbacks outlined in (a) above (under Budget Control and Performance) the Ministry has streamlined the compensation process by procuring consultancy services for surveying, legal succession matters as well as social workers and the combined team has achieved enhancement in land and Project Affected Persons records and at the same time following up with National Lands Commission to speed up compensation payments and to open up access to the contractor.

### **3076) Committee Observations and Findings**

- (i) The Committee noted with great concern the slow progress of land compensation hence the inordinate delay in commencement of projects.
- (ii) The Accounting Officer then entered into contracts to commence work without having adequately addressed the matters of land leading to delays in compensation which in turn has resulted to delayed possession of Project sites. Contractors have submitted claims of USD 1,438,267 and USD 99,236 for Lot I and Lot II, respectively.

#### 3077) **Committee recommendations**

- 1) **The Committee reprimands the Accounting Officer for entering into contracts to commence work without having adequately addressed the matters of land leading to delays in compensation which in turn have resulted to delayed possession of Project sites;**
- 2) **The Accounting Officer to take measures to ensure the delays are addressed to avoid further claims by the contractors.**
- 3) **The Accounting Officer should ensure land acquisition process is substantially addressed before entering into contractual obligations that may lead to avoidable penalties and claims by contractors.**

#### **887. Delayed Completion of Works for the Improvement of Water Services in West Mainland Area**

3078) The Ministry of Water, Sanitation and Irrigation entered into a contract for the improvement of Water Services in West Mainland Area, at a contract sum of Kshs.404,375,960. The Project was to be completed with eighteen (18) months commencing 19 March, 2018, and the expected completion date was extended to 30 June, 2020. A review of the Project's documents, physical verification and inquiries from the consultant, during an audit field inspection in November, 2020 revealed that, the Project was 93% complete and the contractor was yet to be issued with a substantial completion certificate. In addition, the contractor was still undertaking works within the defects liability period and it was not clear whether the remaining works will be completed by the end of the defects liability period. The works performed during the defects liability period may not be monitored adequately for defects or corrective action taken appropriately.

#### **Submission by the Accounting Officer**

3079) The Accounting Officer submitted that the pending works in the main bill items is connecting the new system to the source - existing Mzima pipeline - through seven (7) main pipeline connections. The delay of authorization by the Kenya National Highways Authority (KeNHA) to lay the connecting pipelines across its roads has held the works which was later granted and the pending works were completed in August 2021. The contract completion date was extended with the defect liability period ending October 2022 during which time any defects and corrective action will be addressed.

#### 3080) **Committee Observations and Findings**

- (i) Although the project had been delayed, the works were completed in August 2021.

- (ii) The explanation given by the Accounting Officer was satisfactory; and
- (iii) The Committee therefore marked the matter as resolved.

### **888, Non-Review of Contract Terms Upon Scope Reduction**

3081) The Ministry of Water, Sanitation and Irrigation, through the Kenya Water Security and Climate Resilience Project entered into a contract dated 25 May, 2018 for consultancy services for supervision of construction works for the improvement of water services in Mombasa County, at a contract price of Kshs.63,118,680. A review of the contract indicated that the consultant was supposed to carry out supervision and contract management for both West Mainland and North Mainland construction works. A financial restructuring on the Project in March, 2020 resulted in removal of the construction works for North Mainland from the Project's approved work plan. However, the contract for the supervision work was not reviewed to factor in the reduced scope. As at 30 June, 2020, the consultant had raised six invoices totalling Kshs.42,377,982 representing 67% of the total contract price, yet the supervision was only for the construction works for West Mainland. Consequently, the Project may not receive value for money in relation to the supervision contract.

#### **Submission by the Accounting Officer**

3082) The Accounting Officer submitted that the management wish to state that the contract for Consultancy Services for Construction Supervision of the Program for Improvement of Water Services in Mombasa County (West Mainland and North Mainland) was a time-based type of contract that was designed to supervise both the West Mainland and North Mainland in parallel. The original contractor's works contract period was 18 Months. The contractor requested for no-cost Extension of Time which was reviewed and approved by an additional 225 days (7.5 Months) which also led to the requirement to have the consultant's staff extend their stay by the same period (time-based contract) and therefore some extra expenditure on consultancy services for the West mainland component. The reduction in cost of the supervision services is not necessarily 50% since the contracted services was to simultaneously handle both North and West mainland.

#### **3083) Committee Observations and Findings**

The Committee observed that although the Accounting Officer gave an explanation on invoices raised, the Accounting Officer did not avail an itemized bill to justify the billing of 67% for the one portion supervised.

#### **3084) Committee recommendation**

**Within sixty (60) days of adoption of this report, the Accounting Officer to present to the Auditor General the itemized bill indicating basis of billing by the consultant on the 67% billed for reporting in the next audit cycle (2021/22).**

### **889. Delayed Completion of Works on Installation and Commissioning of Ground Water Monitoring Wells Project**



3085) The Ministry of Water, Sanitation and Irrigation, through the Kenya Water Security and Climate Resilience Project, entered into contacts with various contactors for installation and commissioning of Ground Water Monitoring Wells Project on 20 August, 2018. The instruction for commencement of works were issued on 1 October, 2018 for a period of 4 months with an expected completion date of 31 January, 2019. A review of Project records for August, 2020 revealed that the works had not been completed and all the drilled wells had not been installed with data loggers, hence they were not relaying information as expected. In addition, 12 drilled wells did not meet the required specifications. As a result, the Project may have not achieved its intended objectives with the delayed completion of works.

#### **Submission by the Accounting Officer**

3086) The Accounting Officer submitted that the drilling and construction of the monitoring wells is quite different from the normal production wells. The monitoring wells require specific construction and installations including sealing, data capture during drilling and well completion.

3087) Lot 1. Two wells in the Ngong road forest had not been completed since the site had not been handed over by KFS causing further delays in the completion of works. All the works under this lot are now completed. The delay in completion of the wells was occasioned by change of school management which restarted the process of site approval. Some issues in terms of data transmission were identified and the contractor is currently correcting the identified defects before a final inspection of the works.

3088) Lot 2. The contractor was expected to drill 4 wells in 2 sites that is Uhuru Park and Kiambu. As at the time of audit, drilling and construction completed for both shallow and deep piezometers at 1No. site (Kiambu) pending installation of data loggers and telemetry.

3089) Importation of data loggers and telemetry was delayed due to travel restriction as a result of the Corona virus pandemic. This has also affected completion of the remaining one site. The contractor initially faced challenges with bulging clays at the Uhuru Park site which made it difficult to install the bentonite seal at the required depth of 200m.

3090) Lot 3. All the works under this lot are completed. Some issues in terms of data transmission were identified and the contractor is currently correcting the identified defects before a final inspection of the works.

3091) Lot 4. The process for terminating this contract is ongoing.

3092) Lot 5. Importation of data loggers and telemetry was delayed due to travel restriction as a result of the Corona virus pandemic.

#### **3093) Committee Observations and Findings**



- (i) The Committee observed project implementation was substantially delayed with none of the five lots completed close to three years down.
- (ii) The Accounting Officer did not ensure proper planning for the project implementation hence the project objectives are yet to be achieved.

3094) **Committee Recommendations**

- 1) **Within three months of adoption of this report, the Accounting Officer to take measures to ensure the project is completed and avail works completion certificates to the Auditor General for verification.**
- 2) **The Accounting Officer to always ensure projects are well planned and due diligence carried out to enable their timely implementation.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**Basis for Conclusion**

**890. Project not Subjected to Internal Audit Review**

3095) Paragraph 9.2 of the Projects' financial management manual provides that the Internal Auditor seconded to the Ministry of Water and Sanitation by The National Treasury will conduct annual fiduciary reviews on the Project funds, based on an annual risk assessment of the Project. The annual fiduciary review report by the Internal audit would inform the Project Monitoring Unit and the Principal Secretary, Ministry of Water, Sanitation and Irrigation on operational and organizational risks in the Project. Similarly, the Internal audit functions in each of the executing agencies should ensure risk-based fiduciary review of Project activities at the Project Implementing Units. However, in the year under review, there was no evidence that the fiduciary review was carried out. In the circumstances, weaknesses in the Internal control and risk management system for the Project may not be addressed in a timely manner.

**Submission by the Accounting Officer**

3096) The Accounting Officer submitted that the Ministry has done internal audit in financial year 2020/21.

3097) **Committee Observations and Findings**

The Committee observed that although the Accounting Officer submitted the project was reviewed by internal audit, there was no evidence provided in form of audit reports.

3098) **Committee recommendations**

- 1) **The Committee cautions the Accounting Officer for failure to present required information for review by the Auditor General; and**
- 2) **The Accounting Officer should, within sixty(60) dayss of adoption of this report, present to the Auditor General for review evidence that the project was being reviewed by internal audit and recommendations made on internal control implemented.**

### **891. Inconsistent Project implementation Activity**

3099) As previously reported, the Ministry of Water, Sanitation and Irrigation, through Kenya Water Security and Climate Resilience Project, entered into a contract with a local company on 2 February 2017, for improvement works for water services in Likoni, Mombasa County. This Project, whose contract price was Kshs.543,441,544 formed Phase 1 of the entire Project. The Project was meant to address the problem of water in Likoni area and to supply water from Tiwi borehole, included in the contract was a pipeline designed to carry at least 2000m<sup>3</sup> of water. However, it was observed that the Tiwi borehole currently produces 1000m<sup>3</sup> of water per day, which is far less than the minimum required capacity of the new pipeline. According to management, the extra capacity of water was to be provided by sinking more boreholes, and this had been agreed upon between the Ministry and the relevant water stakeholders, at the time of design of the pipeline. However, Management has not provided any documentary evidence to this effect.

#### **Submission by the Accounting Officer**

3100) The Accounting Officer submitted that the management wish to state that the additional boreholes are to be implemented by the Coast Water Works Development Agency through funding by AFD whose signing was delayed resulting to delays in commencing the bidding process. This has however commenced and the boreholes are expected to be completed in the current financial year.

#### **3101) Committee Observations and Findings**

The Committee observed and found that the matter was discussed in the financial year 2018/19 and following recommendation made;

**Within three (3) months upon adoption of this report, the Accounting Officer must report to the National Assembly on the current implementation status of the Kenya Water Security and Climate Resilience Project for improvement works of water services in Likoni, Mombasa County. The report should entail revised project work plan and budget giving details of the project end and closure date.**

### **892. Sustainability of Rehabilitation of Leshau –Karagoini Water Supply Project**

3102) The Ministry of Water, Sanitation and Irrigation entered into a contract for rehabilitation of Leshau-Karagoini Water Supply Project in Nyandarua County, at a contract sum of Ksh.96,772,363. A review of the project documents revealed that the objectives of the Project was to have a distribution network to ensure that all tanks are inter connected and main trading centres are connected. However, review of the Project documents, together with audit field inspection carried out in November, 2020 revealed that the consumers were yet to be connected to the distribution network.

3103) Further, it was not clear how the maintenance costs for the pump house, tanks and pipes were to be financed, since the Project was yet to be officially handed over to Nyandarua Water

and Sewerage Company. And there was no evidence of commitment by the company to undertake the maintenance. In addition, it was observed that some collection tanks were leaking and were not rehabilitated under the contract. In the circumstances, it was not possible to confirm the sustainability of the Project.

#### **Submission by the Accounting Officer**

3104) The Accounting Officer submitted that the management wish to state that the scope under the current contract was to be supplemented by additional funding by County Government of Nyandarua, especially repair of tanks and last mile connectivity that include tertiary lines and meters. The distribution works and connectivity have now been completed by the Central Rift Valley Waterworks Development Agency jointly with Nyandarua Water and Sewerage Company which is now collecting revenue.

#### **3105) Committee Observations and Findings**

- (i) The Accounting Officer explained the last mile was to be done by County Government of Nyandarua and the distribution works and connectivity have now been completed by the Central Rift Valley Waterworks Development Agency jointly with Nyandarua Water and Sewerage Company which is now collecting revenue.
- (ii) The explanation given by the Accounting Officer was satisfactory; and
- (iii) The Committee therefore marked the matter as resolved.

### **WATER AND SANITATION DEVELOPMENT PROJECT (IDA CR. No. 8029/6030 - KE)**

#### **REPORT ON THE FINANCIAL STATEMENTS**

#### **3106) Unqualified Opinion**

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

#### **Other Matter**

#### **894. Budgetary Control and Performance**

3107) The statement of comparative budget and actual amounts reflects approved receipts budget and actual on comparable basis amount of Kshs.1,350,000,000 and Kshs.1,066,788,629, respectively, resulting to a shortfall in receipts of Kshs.283,211,371 or 21%. Further, the Project's approval expenditure budget was Ksh.1,350,000,000 while the actual expenditure was Kshs.966,984,013, resulting to under expenditure of Kshs.383,015,988 representing 28% of the budget.

3108) In addition, as disclosed in Note 1.7 on the Funding Summary, the Project has utilized a total of Kshs.1,517,058,214 out of the total funding of Ksh.33 billion, which is 4.6%

absorption rate, yet the Project is at 60% of the five (5) year project duration expected to end on 31st October, 2022. Under the circumstances, the planned Project activities may not be implemented within the remaining project period, thus likely to negatively affect the achievement of the intended goals of the Project.

#### **Submission by the Accounting Officer**

3109) The Accounting Officer submitted that the management has noted the Auditor's observation on project's budget control and performance. The budget absorption was affected by delay in submitting statement of expenditure together with supporting documents by implementing agencies before requesting for replenishment. This was caused by COVID-19 that affected some implementing agencies who went for quarantine more than once. However, with financial management trainings absorption of budget allocation has improved.

#### **3110) Committee Observations and Findings**

The Committee noted with concern the extremely slow progress of the project at only 4.6% for funding comparable to project time expended of 60% hence highly likely not to meet its objectives.

#### **3111) Committee recommendations**

**Within three months of adoption of this report, the Accounting Officer to report to the National Assembly on measures taken to ensure the project progress is expedited to ensure goals are met and project completed to enhance service delivery.**

#### **895. Delayed Commencement of Works**

3112) The Management, through Mombasa Water and Sewerage Company, the Project implementing agency, entered into three contracts on improvement for Storm Water Outlets and Combined Sewer Overflows in Mombasa Island, Rehabilitation/Extension of Mombasa Water Supply Distribution and Rehabilitation of the Kipevu Waste Water Treatment System, at a total contract sum of Kshs.1,448,915,487. The contracts were signed between 3 September, 2019 and 9 September 2019. However, by the time of finalizing the audit in November, 2020, the contractors were yet to carry out site mobilization, despite having received advance payments totalling Kshs.217,337,324, for the three contracts, between 5 March, 2020 and 17 March 2020. Consequently, the delay in commencement of work may result to delayed achievement of the Project objectives.

#### **Submission by the Accounting Officer**

3113) The Accounting Officer submitted that the Management confirms with the Auditor's observation that mobilization of the works contracts to be implemented by Mombasa Water and Sewerage Company delayed. This is because by the time advance payment was made to the contractors, No. objection had been issued on 26th February, 2020 by the Bank on the Technical Evaluation Report and it was anticipated that procurement of the supervising consultant was to be concluded by end of March, 2020 and commencement of works

notification issued. Delay was experienced in procurement finalization of the consultancy, which was prior review due to quarantine of MOWASCO staff affected by COVID-19. The procurement of the supervision consultancy was concluded in May, 2021 and the works commenced and currently the progress is as shown below: -

- i. KE-MOWASCO-16769-CW-RFB/Rehabilitation & Extension of Mombasa Water Supply and Distribution Lot 2B-17%
- ii. MOWASCO-16772-CW-RFB/LOT 1/Improvement of storm water outlets and Combined sewer overflows in Mombasa Island – 4
- iii. KE-MOWASCO-16771-CW-RFB/Rehabilitation of the Kipevu wastewater treatment system and pumping stations- 9%

#### 3114) **Committee Observations and Findings**

- (i) The committee noted with great concern the management of MOWASCO contracted works contractor and went ahead to pay advance payment of Kshs.217,337,324 for the three contracts, between 5 March, 2020 and 17 March 2020 without having procured supervising consultant.
- (ii) The contractors continued to hold public funds over twelve months without mobilizing due to actions of the management of MOWASCO.

#### 3115) **Committee Recommendations**

**Within three months of adoption of this report, the Cabinet Secretary for Water and Sanitation to reprimand in writing, the Accounting Officer-MOWASCO for contracting and paying advance payment of Kshs.217,337,324 for the three contracts between 5 March, 2020 and 17 March 2020 without having procured supervising consultant resulting in the contractors holding public funds over twelve months without mobilizing.**

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

#### 3116) **Conclusion**

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

### REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE.

#### 3117) **Conclusion**

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

### **OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE MINISTRY OF WATER AND SANITATION**

**LAKE VICTORIA WATER SUPPLY AND SANITATION PROGRAM – (PHASE II)  
PROJECT NO P-Z1-EAO-004 (ADF GRANT NO. 21001550199670 – LAKE VICTORIA  
SOUTH WATER WORKS DEVELOPMENT AGENCY**

**REPORT ON THE FINANCIAL STATEMENTS**

**3118) Unqualified Opinion**

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

**Other Matter**

**899. Excess Funds Drawn by the Project**

3119) Note 1.7 on the funding summary under the Project information indicates that the donor has made commitments amounting to Kshs.1,320,593,041 equivalent to UA10,390,000. However, actual drawdowns as at 30 June, 2020, amounted to Kshs.1,447,105,994 equivalent to UA11,385,363 indicating that the Project had drawn in excess of the funds committed by Kshs.126,512,953. Similarly, the Government of Kenya counterpart funds commitment was Kshs.186,132,490 equivalent to UA1,450,000. However, Kshs.270,248,301 equivalent of UA2,105,275 of the counter part funds has been drawn indicating that the Project had also drawn in excess of the committed counter part funds by Kshs.84,115,811.

**3120) Committee Observation**

There was no submission by the Accounting Officer.

**3121) Committee recommendations**

**The Accounting Officer should within sixty (60) days of adoption of this report, submit to the National Assembly and the Auditor General a report on the Excess Funds Drawn by the Project for verification and reporting in the next audit cycle ( 2021/22).**

**900. Long Over Due and Inaccurate Pending Bills**

3122) Annex 9.6 to the financial statements reflects pending bills of Kshs.470,704,246 as at 30 June, 2020 which includes some bills related to the financial year 2016/17. The increase in pending bills by Kshs.133,565,513 from the bills of Kshs.337,138,733 as at 30 June, 2019 is attributed to the interest charged on overdue pending bills and claims for idle machinery of Kshs.151,495,770 levied by the contractor as per clause 3.5, 14.8 & 20.1 of the contract agreement. With the funds disbursed to the Project having surpassed the amount allocated to the Project by Kshs.210,628,764, and with a closing bank balance of Kshs.18,874, the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments.

3123) In addition, the total pending bills of Kshs.337,138,733 as at 30 June, 2019 show under Note 9.6 differed with the audited balance of Kshs.337,125,361 by Kshs.13,372.

3124) **Committee Observation**

There was no submission by the Accounting Officer.

3125) **Committee recommendations**

**The Accounting Officer should within sixty (60) days of adoption of this report, submit to the National Assembly and the Auditor General a report on the Long Over Due and Inaccurate Pending Bills for verification and reporting in the next audit cycle ( 2021/22).**

FINAL REPORT 2019/2020



## 24. MINISTRY OF ENVIRONMENT AND FORESTRY

### REPORT ON THE FINANCIAL STATEMENTS – VOTE 1108

**Dr. Chris Kiptoo, the Principal Secretary and Accounting Officer for State Department for Environment & Forestry (Vote 1108) appeared before the Committee on 14<sup>th</sup> February, 2022 to adduce evidence on the audited financial statement for the State Department for Environment & Forestry (Vote 1108) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                          |   |                                    |
|--------------------------|---|------------------------------------|
| 1. Mr. George K. Gichuru | - | Head of Accounts                   |
| 2. Mr. Anthony K. Weru   | - | Ag. Manager - KFS                  |
| 3. Mr. Joseph Mutuma     | - | Head of Finance                    |
| 4. Mr. Kennedy Ochuka    | - | DCS-NEMA                           |
| 5. Mr. John Saranga      | - | Ag. National Programme Coordinator |

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **988. Fixed Asset Register**

##### **988.1 Incomplete Assets Register**

3126) As previously reported, the Ministry did not have an updated fixed asset register showing all the assets owned by the Ministry and their value as at 30 June, 2020. Further, a summary of the fixed assets register was not included as an annex to the financial statements as required by the Public Sector Accounting Standards Board (PSASB). In addition, the Ministry did not adhere to the requirement of Treasury Circular No. 5/2020 dated 25 February, 2020 on preparation of assets and liabilities registers.

3127) In the absence of an updated fixed assets register, it was not possible to confirm that assets acquired and owned by the Ministry are fairly stated.

#### **Submission by the Accounting Officer**

3128) The Accounting Officer submitted that the Ministry has started updating a comprehensive fixed asset register. In order to develop a complete asset register, the following actions have been taken;

- (i). Request for the procurement of a consultant to undertake the digitization, registration, valuation and tagging of moveable and immovable assets across the Country has been made. However, the procurement of the same did not proceed due to lack of funds.

- (ii). As we look for solutions on this matter, the Ministry has taken an internal measure by requesting all HoDs to ensure that new assets are posted in the asset register on a continuous basis.
- (iii). Asset Register for assets procured during financial year 2019/2020 and prior years has been updated. The Asset and Liabilities Register was attached for perusal by the Committee.

### **Committee Observations and Findings**

3129) The Committee observed that;

- (i) This issue was discussed in the year 2017/2018 and recommended that, within nine (9) months of the adoption of the Committee Report, the Accounting Officer should have submitted a comprehensive fixed assets register of the State Department for Environment and Forestry to the Auditor General for review and verification.
- (ii) The State Department has overly delayed in preparing a complete fixed assets register.
- (iii) The Accounting Officer, therefore, failed to prepare and maintain a register of assets as required by Regulation 143 of Public Finance Management (National Government) Regulations, 2015.

3130) **Committee recommendations**

- 1) **The Accounting Officer should, within sixty (60) days of tabling and adoption of this report, submit to the National Assembly and the Auditor General a complete register of fixed assets prepared in accordance with Regulation 143 of Public Finance Management (National Government) Regulations, 2015, for review without fail.**

### **988.2 Loss of Government Vehicle**

3131) As previously reported, a Ministry vehicle registration No. GK A152Q (civilian number plate KAY 953F) valued at Kshs.5,460,000 was lost at Mlolongo area in Machakos County under unclear circumstances on 24 August, 2013. The vehicle was at the time of loss being driven by an unauthorized person.

3132) Management has not initiated any measures to recover the loss of Kshs.5.460,000 from the responsible parties.

### **Submission by the Accounting Officer**

3133) The Accounting Officer submitted that the Ministry of Environment and Forestry lost a vehicle GKA 152Q Toyota Prado on 24<sup>th</sup> august 2013 through carjacking. The incident was reported at Kilimani Police station under OB No.CR 142/64/2013. We wish also to state as follows: -

- (i). The case has been under police investigation since then.

- (ii). The ministry has been writing letters to the Inspector General of Police to provide update(s) on the investigation.
- (iii). The vehicle was being driven by an official driver as per.
- (iv). Directorate of Criminal Investigation officers have concluded their investigation and forwarded the file to the office of the Directorate of Public Prosecution for further necessary action and guidance as communicated to us by the Principal Secretary/Interior and Citizen Services vide his letter Ref. No.OP.PA/23/1A dated 27th October 2020.

#### 3134) **Committee Observations and Findings**

The Committee observed that, this matter was considered by the Committee in the report of 2016/2017.

### 988.3 Un-Surveyed Land without Ownership Documents

3135) As previously reported, records maintained by the Ministry revealed that the Ministry owns forty-nine (49) parcels of land spread throughout the Country which had not been valued. Further, ownership documents of these parcels of land were not availed for audit review. In addition, physical verification of selected parcels of land revealed ongoing encroachment by informal settlers.

3136) Consequently, it was not possible to confirm whether the Ministry owns the parcels of land.

#### **Submission by the Accounting Officer**

3137) The Accounting Officer submitted that the Ministry is in possession of various parcels of land spread across the country which have not been valued yet and that some of the land parcels have been encroached by informal settlers. However,

- (i). The Ministry is currently undertaking a comprehensive Asset Inventory and this will update the information highlighted in the report to include houses and land.
- (ii). A report on the status of the KMD properties including the status of ownership was attached for perusal by the Committee.
- (iii). Fencing has been done in some of the encroached parcels of land after several attempts by unscrupulous people to hive off some land. Five land parcels that were illegally hived off from the Ministry's land have since been repossessed vide court judgment issued on 3rd august 2020 by the Hon. Justice E.O. Obaga in ELC case no 275 of 2009.

#### 3138) **Committee Observations and Findings**

The Committee observed that,

- (i) The State Department owned various pieces of land that had not been valued
- (ii) The parcels of land had been encroached by informal settlers

- (iii) The Accounting Officer had commenced the process of preparing a complete asset inventory.

**3139) Committee recommendations**

- 1) Within sixty (60) days of tabling and adoption of this report, the Accounting Officer to ensure all State Department parcels of land are fenced to keep off intruders.**
- 2) Within sixty (60) days of tabling and adoption of this report, the Accounting Officer to work with National Land Commission to secure ownership documents for parcels of land that lack title deeds.**

**988.4 Encroachment on Ministry's Land on Enterprise Road**

3140) The Ministry through the Kenya Meteorological Department (KMD) owns land Block/209/24794/81 situated in Industrial Area on Road B off Enterprise Road measuring approximately 21.04 hectares. The land houses a meteorological station with a station building housing, the transmitter and generator rooms, an office for the Officer-in-Charge and staff quarters. The Ministry awarded a contract for fencing of the land at a contract sum of Kshs.5,662,122. The Ministry further awarded a contract for fencing the portions not covered by the earlier contract and for the part of the land that had not been encroached to a local Company at a contract sum of Kshs.33,763,270 on 29 May, 2020.

3141) Physical verification of the land revealed that the land was partially fenced making it an easy target for private developers to grab or encroach. In addition, a private developer during the year under review erected a concrete fence on a portion of the unfenced land. Scrutiny of the land boundary along Road A revealed that unknown people had encroached, fenced and hived off five parcels of land of unknown acreage from the Department's land. Moreover, a storey building was illegally under construction on one parcel of land. However, the Ministry does not appear to have raised the issue or obtained an injunction to stop encroachment and construction on the land.

3142) In addition, Information obtained from the Ministry revealed that the government has identified the land for implementation of the Mukuru Renewal Project, which includes a housing project by the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works. The Kenya Meteorological Department (KMD) land will be in exchanged with 5 acres of land at Jomo Kenyatta International Airport owned by the Kenya Airport Authority. As at the time of audit, the fencing of the land was still going on and the State Department for Housing and Urban Development had started excavation works. It is, however, not clear, whether the State Department for Housing and Urban Development will reimburse fencing cost incurred by the Ministry.

3143) Under the circumstances, it was not possible to confirm the total acreage of the

Department's land and its value.

### **Submission by the Accounting Officer**

3144) The Accounting Officer submitted that the Ministry through Kenya Meteorological Department (KMD) owns land block/209/24794/81 situated in Industrial area on Road B off Enterprise Road measuring approximately 21.4 hectares. It is also true that the Ministry awarded a contract to accompany to fence the said land. Therefore, the departments states as follows:

- i. Five land parcels that were illegally hived off from the Ministry's land off Enterprise road in Industrial area Nairobi have since been repossessed vide court judgment issued on 3<sup>rd</sup> august 2020 by the Hon. Justice E.O Obaga in ELC case no 275 of 2009.
- ii. The Ministry decided to carry out the fencing of the land after several attempts by unscrupulous people to hive off part of the land. Indeed, by the time of fencing, part of the land had been grabbed and ownership transferred to private hands. In an assessment done by EACC while investigating on the grabbing of the land, it became very clear that if urgent measures were not taken to safeguard the property the ministry was bound to lose it. EACC therefore advised the ministry to quickly fence the land and ensure it is protected. It is for this reason that the ministry planned and advertised the tender for the fencing which culminated in the signing of the contract on 29<sup>th</sup> may, 2020. On the encroached parcel of land, the ministry will continue to pursue the culprits in collaboration with other agencies.

3145) However, this land is in the process of being handed over to the Ministry of Housing as per the executive order dated 23rd June 2020.

### **3146) Committee Observations and Findings**

The matter was dealt with by the Committee during the examination of the 2018/2019 financial year report of the Auditor-General.

### **3147) Committee recommendations**

The committee recommended that, within sixty (60) days of tabling and adoption of this report, the Accounting Officer should;

**The Committee reiterates the recommendations contained in its report for the 2018/2019 financial year.**

## **988.5 Land Hived off Ngong Meteorological Station**

3148) The Kenya Meteorological Department owns a station located near Ngong Town along Kibiku road, Kajiado County measuring 44.32 hectares on parcel registration No. LR/24302. However, twelve (12) acres of the land were hived off to pave way for the recently constructed Standard Gauge Railway (SGR) to Naivasha that traverses through the

parcel of land. The Chinese company constructing the SGR has also set a construction site within the said property. Management has not indicated whether the land had been gazetted for compensation.

#### **Submission by the Accounting Officer**

3149) The Accounting Officer submitted that, the Kenya Meteorological Department owns Ngong Meteorological Station near Ngong town along Kibiku road, Kajiado County on land number LR/24302 measuring 44.32 hectares.

- (i). The Chinese company set up a campsite for the SGR project on this piece of land. An agreement has been drafted and sent to the State Law Office for legal advice.
- (ii). The SGR section 2A project Nairobi-Naivasha railway line is tunneled at the point where the station land is located. Similarly, the line does not transverse the station land. However, a breather/emergency inclined shaft exits on the station land. A portion of the land measuring approximately 12 acres around the mouth of the shaft has been earmarked for compulsory acquisition and the Kenya Railways Corporation has written to the National Land Commission for Gazettement after which compensation will then follow.

#### **3150) Committee Observations and Findings**

- (i) The Committee observed part of the State Department Land has been gazetted for compulsory acquisition for SGR with no expectation for compensation, and;
- (ii) The SGR contractor set a project site for the SGR tunnel breather on the KMD land but a lease agreement drafted and sent to State Law Office was never signed and the contractor has already completed the works and left, which may have led to loss of lease fees for the use of the land by the contractor.
- (iii) The Committee further observes there is no formal policy that was produced on how to deal with land owned by one public entity being acquired by another public entity for state projects.

#### **3151) Committee recommendations**

Within sixty (60) days of tabling and adoption of this report:

- 1) The National Land Commission to prepare and submit to the National Assembly a policy on dealing with land acquisition by one public entity from another.**
- 2) The Accounting officer to submit correspondences from Kenya Railways Corporation to the National Land Commission on the Gazettement and compensation for 12 acres of land hived off to the National Assembly and Office of the Auditor General for audit verification.**

#### **988.6 Encroachment on Ministry's Land in Mombasa**

3152) As previously reported, a private developer has encroached on two (2) plots in Mombasa, Land Registration No.MN/VI3746 and No. MN/VI/3747, next to the Mombasa International Airport. Further, four (4) parcels of land owned by the Kenya Meteorological



Department (KMD) in Bamburi with allotment letters numbers MN/1/2405, MN/1/2407, MN/1/2409 and MN/1/2411 all dated 16 February, 2011 have on-going court cases being prosecuted by the Ethics and Anti-Corruption Commission (EACC) at the High Court of Mombasa. The Ministry's Legal Department seemed unaware of these court cases since no communication relating to the court cases was available at the Headquarters. In the circumstances, it was not possible to confirm ownership of the above parcels of land.

#### **Submission by the Accounting Officer**

3153) The Accounting Officer submitted that the Kenya Meteorological Department owns two plots next to the Mombasa International Airport, Land Registration No. MN/VI3746 AND MN/VI/3747. However, all of KMD's properties in Mombasa, which have been grabbed, are being pursued in court by EACC. KMD has been in contact with Kenya Civil Aviation Authority (KCAA) to jointly follow up on these cases since properties for the two institutions are co-located. For the Ministry's land adjacent to the airport, Mombasa high court preservation order was issued under application from EACC CR No. 23456; (respondents jointly Ali Bunow Korane and Adroit Developers Ltd). The Ministry's legal office has since been duly appraised on court proceedings in relation to Bamburi land parcels.

#### **3154) Committee Observations and Findings**

The Committee observed that;

- (i) The EACC had taken measures to recover the assets.
- (ii) There are ongoing court cases to recover the parcels of land.

#### **3155) Committee recommendations**

**Within sixty (60) days of tabling and adoption of this report, the Accounting Officer should report to National Assembly on the status of the Court cases.**

#### **988.7 Lack of Ownership Documents for Embu Meteorological Station**

3156) The Ministry through Kenya Gazette Notices No.8781 and No.8782 dated 3 November, 2005 gave notice of intention to acquire the following parcels of land; Ngandori/Kirigi 2708, 2709, 2710, 2723, 2728, 2729, 2730 and 2745 for the construction of Embu Meteorological Station, the registered owner of the land being Samuel Mbugua (deceased). Thereafter, the Ministry through the Kenya Meteorological Department contracted a construction company to construct a Model Office in Embu in 2009 at a contract sum of Kshs.11,532,396 which was later revised upwards in 2012 to Kshs.14,548,499. However, the process of succession and formalization of ownership of the said property where the building was constructed had not been completed as at the time of completion of audit.

3157) In the circumstances, the Ministry risks losing the land and the building due to lack of



ownership documents.

### **Submission by the Accounting Officer**

3158) The Accounting Officer submitted that the Ministry through Kenya Gazette Notices Nos.8781 and 8782 dated 3rd November 2005 gave notice of the intention to acquire eight parcels of land for construction of Embu Meteorological Station. However, the land parcels in question were acquired through the compulsory acquisition and the relevant ownership documents were surrendered to the commissioner of lands before compensation. The function of Compulsory acquisition has since been transferred to the National Land Commission where the Department has referred the matter. The Principal Secretary Ministry of Environment & Forestry wrote to his counterpart at the ministry of Lands and Physical Planning to facilitate the issuance of Title deeds for all land Parcels owned by the Kenya Meteorological Department including Embu Meteorological station land.

### **3159) Committee Observations and Findings**

#### **The committee observed that;**

- (i) The Ministry acquired eight (8) parcels of land in Embu through gazette notices No.8781 and No.8782 to construct a meteorological Station.
- (ii) The Ministry through the Kenya Meteorological Department contracted a construction company in 2009 to build a Model Office in Embu at a contract sum of Kshs.11,532,396, which was later revised upwards in 2012 to Kshs.14,548,499.
- (iii) The process of succession and formalization of ownership of the said property where the building was constructed had not been completed.

### **3160) Committee recommendations**

#### **Within sixty (60) days of tabling and adoption of this report, the Accounting Officer should;**

- 1) Submit correspondences with the state department of Lands and Physical Planning to facilitate the issuance of title deeds for the parcels of land to the Office of the Auditor General for audit verification.**
- 2) Submit copies of ownership documents which were surrendered to the National Lands Commission for compensation to the Office of the Auditor General for audit verification.**
- 3) In conjunction with the National Lands Commission, resolve the question of land compensation and ensure that the matter is successfully brought to a closure.**

## **989. Disclosure of a Contingent Liability in the Financial Statements**

3161) As previously reported, Note 28.4 to the financial statements for the year ended 30 June, 2019 indicated that the Ministry had a court petition Ref. ELC No.22 of 2018. The

petition is in respect to seven (7) acres of medical and hazardous waste land situated in Ruai, Nairobi valued at Kshs.245,000,000 purchased on 26 October, 2016.

3162) The petitioner cited breach of contract by the Ministry after the Ministry cancelled the above land purchase contract on 13 February, 2017, three months after both parties had signed it. In the legal suit, the petitioner claimed for the retention of Kshs.24.5 million which was 10% advance payment by the Ministry (buyer), balance of the purchase price amounting to Kshs.220.5 million, costs of the suit and a further Kshs.15 million compensation for the breach of contract. The Ministry, on the other hand, was claiming for the refund of Kshs.24.5 million advance paid to the petitioner (seller) plus interest and cost of the suit.

3163) Examination of the documents availed for audit review revealed the following: -

- (i) The Ministry had advertised for the purchase of the above land in January, 2016 upon which a law firm representing the petitioner and two others was awarded the contract.
- (ii) In the month of June, 2016, the Ministry sought for due diligence from the National Land Commission (NLC) and a response on the same was served in October, 2016. The National Land Commission raised several issues among them, the land size being less than seven (7) acres and the parcel being made up of seven (7) separate parcels of land.
- (iii) The Ministry disregarded the National Land Commission's advice and signed the agreement in November, 2016 followed by payment of 10% deposit amounting to Kshs.24.5 million on 24 November, 2016. In February, 2017, the Ministry cancelled the contract and in March of the same year demanded refund of the deposit which was not honored by the seller.
- (iv) In October, 2017, the Principal Secretary to the National Treasury raised salient questions on the land among them the cost of contract cancellation, budget allocation and efforts for recovery of the deposit paid to the seller. These were not addressed by the Ministry.
- (v) An independent valuation dated 7 February, 2018 conducted by the Office of the Director, Land Valuation at the Ministry of Lands and Physical Planning put the total value of the land at Kshs.166 million (Kshs.23.7 million per acre) resulting to unexplained variance of Kshs.79 million.

3164) Management did not avail the valuation report for the piece of land. Further, Management has not explained why due diligence on the above matter was not done, why advice from the National Land Commission was ignored and whether the officers who negligently signed and subsequently cancelled the contract without taking into consideration expert opinion from the National Land Commission were held accountable.

3165) In the circumstances, the government risks losing over Kshs.39.5 million in terms of the deposit paid of Kshs.24.5 million and compensation costs of Kshs.15 million that the petitioner is claiming together with unknown costs.

### **Submission by the Accounting Officer**

3166) The Accounting Officer submitted that it was true that the Ministry has a court Petition Ref. ELC No. 22 of 2018 with M/S James Kiongi and two others in respect to seven (7) acres of Medical and Hazardous Waste land situated in Ruai Nairobi valued at Kshs.245 Million (35 million per acre). The petitioner cited breach of contract by the Ministry after the Ministry cancelled the above land purchase contract, three months after both parties had signed it. The following process was followed:

3167) On 29th January, 2016, the Ministry of Environment, Natural Resources and Regional Development Authorities advertised online through an open tender for supply of seven (7) Acres of Land for the construction of a medical and hazardous waste plant Tender No.213118. Two (2) firms submitted their respective bids as follows: -

1. M/s Ikua Mwangi and Company Advocates
2. M/s Giray General Supplies

3168) The petitioners responded to the tender for the purchase of the Land under the name of Ikua Mwangi and Company Advocates and gave the description of the land they were selling to the Government as 0.3375 Ha in 7 portions at the price of Kshs.35 million (each portion) totaling to Kshs.245 million. After evaluation the tender was awarded to Ms Ikua Mwangi and Company Advocates to supply 7 acres at a unit cost of 35 million totaling 245 million.

3169) Pursuant to a request by the Ministry to the National Land Commission (NLC) vide letter DENR/EMC/25/2 dated 1st July, 2016. The NLC sent officers for field reconnaissance on 17th October 2016 to initiate the valuation process. The NLC field inspection revealed that:-

- The proposed part of Land to be acquired lies to the riparian fringes of the mother parcel bordering Nairobi River.
- The quantum of 7 acres proposed for acquisition is in 7 No. blocks of  $\frac{3}{4}$  acre in a proposed sub division scheme. That, the portion to be acquired is without separate title.
- That the total area proposed to be acquired as denoted in the scheme is less than 7 acres (7 position of  $\frac{3}{4}$  acres) and therefore need to survey and accurately demarcate the portion of land to be acquired. This was to determine the exact area to be acquired and provide access.

3170) In addition, the National Land Commission requested the Ministry to urgently prepare and submit an acquisition map for the consolidated area to be acquired by the Ministry of Environment and Natural Resources out of the original Land LR 9363/25 to enable publication in the Kenya Gazette as per provisions of part VIII of the Land Act 2012.

3171) In the meantime, the Ministry signed a contract of sale of the land on 17th November, 2016 under which the sellers purported to sell 7 acres of land to the Ministry and paid a

deposit of Ksh.24.5 million to M/S Ikuu Mwangi & Company Advocates, who represented the sellers. Due to the issues raised in the National Land Commission's letter Ref. NLC/val.1514/4 DATED 26TH October, 2016, the Ministry wrote to Ikuu Mwangi & Company advocates for the sellers informing them that the procurement process had been halted due to misrepresentation by the sellers.

3172) The Ministry cancelled the procurement process for the public good due to the following reasons:

- The sellers had misrepresented that they were selling 7 acres of Land to the Ministry while indeed they were selling 7 portions measuring  $\frac{3}{4}$  acres each which was less than 7 acres as advised by National Land Commission.
- The plots that were being sold (i.e. plot No.14,15,15,25,26,27 and 28 were indeed part of LR 9363/25 in a proposed subdivision scheme whose processing was yet to be completed and that the portion to be acquired did not have a separate title.
- The sellers were registered trustees for the family of late Erastus Mwangi Kiongi and that they did not present the consent of the other beneficiaries to sell the land. Further, In the authority to sell given by the purported sellers, the said sellers had indicated that they had no interest in the land as they had sold it to one Bernard Maina and therefore it was fraudulent for the sellers to purport to sell the land to the Ministry. This brought into question the issue of the rightful owner of the property.

3173) Consequently, the Ministry re-advertised afresh but the re-advertisement was later abandoned with a decision to approach the National Land Commission to assist the Ministry with the land acquisition.

3174) Additionally, on 6th September, 2017 the Ministry, vide letter to Ministry of Lands and Physical Planning Ref DENR/EMC/25/2 requested for valuation of the land. The said Ministry responded on 3rd October 2017 vide letter Ref: MOLPP/ADM/LND7/1 indicating that: -

- a) The current user of the parcel Number 9363/25 is agricultural with a sub-division proposal into thirty two (32) sub plots and change of user from agricultural to residential (30 plots) and nursery school (2 plots).
- b) The proposed use by the Ministry of Environment and Natural Resources is medical and hazardous waste facility, which use may pose compatibility challenges with the neighborhood user proposals of residential and educational users.
- c) The proposed purchase intention indicated that it related to some seven (7) acres of land whereas the attached sub-division scheme did not show any stand-alone seven (7) acre sub-plot which meant that there was need to undertake an amalgamation and change of user to the intended use.
- d) In the event that the valuation had to be carried out at the moment, then it would have to be in respect of individual small residential sub plots and not a block of seven (7) acres hence the value would invariably be much higher.

- 3175) On 30th January 2018, the Ministry wrote to the Ministry of Lands and Physical Planning vide letter Ref: DENR/EMC/25/2 responding to the issues raised by the said ministry in their letter of 3rd October, 2017 and requested the said Ministry to value the parcel in the selected plots for purpose of possible purchase by the Ministry.
- 3176) On 7th February, 2018 the Ministry of Lands and Physical Planning responded vide letter Re: VAL/852/XV/37 submitting a valuation report. According to the said report, the value then was Kshs. 166,000,000.00 (Kenya Shillings One Hundred Sixty-Six Million Only) this value was much lower than the amount of money quoted in the Sale Agreement of Kshs. 245,000,000.00 (Kenya Shillings Two Hundred Forty-Five Million Only).
- 3177) The Ministry also wrote to the National Treasury on 5th March, 2017 vide letter Ref: DENR/L/2/2 Vol.II (41) indicating that the Ministry had realized that the size of the Land was less than it had tendered and that as part of continuous due diligence, and to prevent loss of public funds the ministry had halted the entire procurement process in order to begin the process and retender a fresh.
- 3178) On 29th June, 2018, the Ministry wrote to the National Land Commission vide letter Ref. DENR/L/2/2/Vol. II (60) requesting the said commission to acquire land through compulsory acquisition to enable the Ministry undertake the project.

#### **The Petitioner`s Case**

- 3179) The petitioners filed a constitutional petition in the Environment and Land Court contending that the purported cancellation of the procurement and demand for the deposit was actuated by malice and bad faith on the part of the 1st Respondent. The petitioners sought a declaration that the cancellation of the procurement process and that demand for the refund of the deposit paid to the petitioners violated their rights under Articles 27, 28, 35, 40 and 47 of the constitution and sought compensation of Kshs. 15,000,000 ( Kenya Shillings Fifteen Million) only as well as damages for breach of contract. In addition, they sought a Mandatory injunction to compel the Ministry to pay the balance of the purchase Price, costs of the petition and any other relief that court may deem fit to grant.

#### **The Ministry`s Response**

- 3180) The Attorney General filed a cross-petition on behalf of the Cabinet Secretary Ministry of Environment and Forestry. The Ministry admitted having advertised tender for the purchase of seven (7) acres of land for the construction of a medical and hazardous waste facility through public procurement. The Ministry contended that the beacon certificate prepared by Joseph Mureithi Mugendi was signed by one Bernard Maina who referred to himself as the owner of the suit land contrary to the petitioner contention that they owned the land. No beacon certificate was submitted for the preparation of documents authorizing the sale.

3181) The Ministry averred that the NLC`s filled reconnaissance report showed that part of the suit property was in the riparian fringes of Nairobi river and that the seven plots measured  $\frac{3}{4}$  of an acre each bringing the overall total to less than 7 acres as represented by the petitioners. That the petitioners had not presented the consent from the other beneficiaries of the estate of the late Erastus Mwangi Kiongi. Further, In the authority to sell given by the purported sellers, the said sellers had indicated that they had no interest in the land as they had sold it to one Bernard Maina and therefore it was fraudulent for the sellers to purport to sell the land to the Ministry.

3182) Based on the misrepresentation of facts as to ownership and the exact size of the property as well as failure to subdivide the land the Ministry contended that the petitioners wanted to defraud the Government and acquire public funds fraudulently since they did not own title to the suit land.

3183) In a cross-petition, the Ministry sought a declaration that the petitioners were bound to indemnify the government to the tune of Kshs.24,500,000 (Kenya Shillings Twenty four Million, Five Hundred Thousand) only.

3184) The Ministry also sought a declaration that the petitioners lack power to transact on the suit land since they had no interest in it and that the petitioners intended to defraud the government. The Ministry sought a refund of 24.5 million plus interest and cost of the petition.

#### **The Ministry`s Response**

3185) On 15th November, 2018 the court, among other things dismissed both the petitioner`s petition and held that the petitioners had failed to prove that their constitutional rights were breached by cancellation of the procurement process. The petitioners were therefore ordered to deposit the 10% deposit purchase price (24.5 million) in a court or an interest earning account in the joint names of the advocates for petitioners and Respondents within 30 days of the date of the judgment, pending filing and determination of suit on the issue of alleged breach of the sale agreement. There are no restraining orders against the Government undertaking the project.

3186) The Ministry has been following up with the Office of the Attorney General on the joint account and deposit on the cash as ordered by Court.

#### **Current Status of the Court Matter**

3187) The ministry was served with an application (ELC SUIT NO.16 OF 2019) by the petitioners seeking a stay of execution of the judgment of the court on 15 November 2018. Subsequent thereto and on instructions of the Ministry, the Office of the Attorney General filed a response to the said application supported by an affidavit signed by the accounting officer. Further on 11th March 2020 the Ministry through the office of the Attorney



General filed the Ministry's Statement of Defense and a Counter Claim supported by an affidavit of verification to the counterclaim signed by the accounting officer.

3188) As this matter is still in court and according to the rules of procedure for court, it is not allowed to discuss and attaché court documents of the present matter that is currently active before the court.

#### 3189) **Committee Observations and Findings**

The Committee observed that;

- (i) The State Department review failed to take into consideration objections raised by the National Lands Commission in October 2016 before entering into a contract and paying Kshs.24.5 Million in November 2016. This occasioned the endless litany of litigations.
- (ii) The land was apparently overvalued by about Kshs.79 million.
- (iii) Actual acreage of the land was less than the 7 acres purported to have been acquired as it was essentially 7 parcels of land of  $\frac{3}{4}$  acres each.
- (iv) There is an ongoing court case on recovery of the payment of the sum of Kshs.24.5 million.

#### 3190) **Committee recommendations**

**Within sixty days upon the adoption of this report, the DCI should initiate investigations into possible conspiracy to defraud the Government in the whole transaction by all the public officers involved together with the purported vendors. Upon establishment of criminal culpability, the DPP should proceed and initiate prosecutions.**

#### **990. Inaccuracies in Accounts Payables – Deposits and Retentions**

3191) Note 24 to the financial statements reflects a balance of Kshs.26,044,355 being deposits and retention monies for the Ministry. However, supporting schedules availed for audit reflected a balance of Kshs.40,117,272 resulting to an unexplained variance of Kshs.14,072,917. Review of the retentions schedule availed for audit revealed that there were long outstanding retention monies amounting to Kshs.15,816,816 which were not disclosed in the prior year's financial statements. Further, the contracts and support documentations were not availed for audit review.

3192) In the circumstances, it was not possible to confirm the accuracy of the retention money and the deposits balances of Kshs.26,044,355 as at 30 June, 2020.

#### **Submission by the Accounting Officer**

3193) The Financial Statement note 24 reflects a balance of Kshs.26,044,355.00 whereas the Schedule presented for audit show a balance of Kshs.40,117,272.00 resulting to a difference of Kshs.14,072,917.00. The Kshs.40,117,272.00 reflects amounts as per manual



retention registers whereas Kshs.26,044,355.00 reflects cash book and bank balances.

3194) A reconciliation of the Retention Registers, Cashbooks and Deposit Bank Account is being undertaken to establish the correct position. The Ministry has also written to all depositors whose retention is due asking them to claim their retention funds failure to which the same will be remitted to the National Treasury Exchequer Account and thereafter the necessary adjustments will be made to our books of accounts. The retention deposits amounting to Kshs.15,816,816.00 were not included in the prior year's statements.

3195) This was an omission and the same were included in the financial year 2019/2020. Some of these deposits are historical dating back to 2005. Our Supply Chain Management Officers are tracing the Contract documents from our archive and once retrieved they will be availed for audit review.

#### 3196) **Committee Observations and Findings**

The committee observed that,

- (iv) Reconciliations of retention registers, Cashbooks and Deposit bank account are ongoing; and
- (v) The matter remained unresolved.

#### 3197) **Committee recommendations**

The committee recommended that, within sixty (60) days of tabling and adoption of this report;

- 1) **The Accounting Officer should submit the reconciled retention registers, cash books and a reconciliation statement for the Deposit account to the Office of the Auditor General for further audit verification.**
- 2) **The Accounting officer should reconcile the difference of Kshs.40,117,272.00 and submit the supporting documents to the Office of the Auditor General for further audit verification.**

### **Other Matter**

#### **991. Budgetary Control and Performance**

##### **991.1 Deficit in Revenue and Late Exchequer Releases**

3198) During the year under review, the Ministry received Exchequer/domestic and foreign borrowing/other receipts amounting to Kshs.11,949,286,214 against an approved budget of Kshs.14,013,157,777 resulting in unexplained deficit budget receipts of Kshs.2,063,871,563. In addition, the National Treasury released Exchequer issues to the Ministry amounting to Kshs.1,136,969,115.20 for both Development and Recurrent in the month of June, 2020 of which Kshs.68,038,671.90 was not spent but subsequently surrendered to The National Treasury. The fall in revenue and return of unspent monies to The National Treasury resulted in the Ministry not being able to offer the required services during the year under review.

### Submission by the Accounting Officer

3199) The Accounting Officer submitted that Kshs.68,038,671.90 returned to the National Treasury on 26<sup>th</sup> July 2019 was unspent balance for financial year 2018/2019 and not financial year 2019/2020. The Ministry under absorbed the budget as indicated above due to:-

- (i) Inadequate exchequer funding. Payment Vouchers for SAGAs/Suppliers were prepared and processed in IFMIS, but were reversed as a result of inadequate funding;
- (ii) Delays in donor releasing development projects' funds;
- (iii) Procurement process for some specialized equipment had not been concluded by 30<sup>th</sup> June 2020, hence payment could not be made on the same.

### 3200) Committee Observations and Findings

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Deficit in Revenue and Late Exchequer Releases was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.

### 991.2 Expenditure Budget Analysis

3201) During the year under review, the Ministry had low absorption rate of the approved budget in the following items as shown below: -

Expenditure Item	Approved Budget (Kshs.)	Actual Expenditure (Kshs.)	Under Expenditure (Kshs.)
Use of Goods and Services	360,216,779	334,553,894	25,662,885
Transfers to Other Government Units	12,007,390,900	10,381,050,773	1,626,340,127
Social Security Benefits	16,764,968	10,914,019	5,850,949
Acquisition of Assets	516,182,290	123,255,209	392,927,081
<b>Total</b>	<b>12,900,554,937</b>	<b>10,849,773,895</b>	<b>2,050,781,042</b>

3202) Consequently, due to the deficit in revenue and late exchequer releases, the Ministry did not achieve its planned objectives for the year under review.

### Submission by the Accounting Officer

3203) The Accounting Officer submitted that the Ministry under absorbed the budget as indicated above due to:-

- (i). Inadequate exchequer funding. Payment Voucher for SAGAs/Suppliers were prepared and processed in IFMIS, but were reversed as a result of inadequate funding;

- (ii). Delays by donors in releasing development projects' funds;
- (iii). Procurement process for some specialized equipment had not been concluded by 30<sup>th</sup> June 2020, hence payment could not be made on the same.

**3204) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Expenditure Budget Analysis was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.

**992. Unsupported Acquisition of Assets**

3205) As previously reported and as disclosed in Note 18 to the financial statements, the statement of receipts and payments for the period ended 30 June, 2019 reflected a balance of Kshs.632,108,885 under acquisition of assets which included an amount of Kshs.459,373,093 against purchase of specialized plant, equipment and machinery. Included in the latter balance was an expenditure of Kshs.90,536,342 being part payment for an Airborne Lidar Photographic System procured for the Department of Remote Survey and Remote Sensing (DRSRS). Information available indicated that the Airborne Lidar Photographic System was procured at a total cost of Kshs.224,896,833. The procurement of the equipment was initiated in August, 2016 when the Department was domiciled at the Ministry of Mining and concluded in November, 2018 when the Department had been transferred and domiciled at the Ministry of Environment and Forestry. It was not possible to properly verify the expenditure as the original bid document indicating the specifications of the equipment, the contract and systems were not availed for audit verification.

3206) In the circumstances, it was not possible to verify the propriety of the expenditure on purchase of Airborne Lidar Photographic System of Kshs.90,536,342.

**Submission by the Accounting Officer**

3207) The Accounting Officer submitted that the procurement of the equipment was initiated in August 2016 when the Department of Remote Survey and Remote Sensing (DRSRS) was domiciled at the Ministry of Mining and concluded in November, 2018 when the Department had been transferred to Ministry of Environment and Forestry. The original bid documents showing specifications of the equipment were not presented for audit review since they were in the Ministry of Petroleum & mining at the time of audit. However, the documents were later received from the Ministry of Petroleum and Mining and forwarded for audit review.

**3208) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Unsupported Acquisition of Assets was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.

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

### **Basis for Conclusion**

#### **993. RANET-Kenya Community Radio**

3209) As previously reported, the Ministry established the RANET radio networks as a flagship project under the Kenya Meteorological Department (KMD) of the Ministry of Environment and Forestry. This was meant to be a source of information on early warning system for communities affected by climate and weather-related phenomena. The radio station aimed at delivering and disseminating climate knowledge to the local community to encourage them to foster climate action. The Climate Resource Centre also serves as a learning institution for students on environmental and climate related studies. The stations are located in Isiolo, Kwale, Narok, Busia, Vihiga and Murang'a Counties and others were being constructed. An audit inspection to various stations revealed the following observations: -

#### **994. Isiolo (Garbatulla) Community Radio**

The community radio and the meteorological station were inaugurated on 29 October, 2012. However, during the field audit inspection in October, 2019 and as at the time of current year audit, the Garbatulla RANET station had not been operational. Further enquiry revealed that although the studio equipment is intact, the broadcasting services were discontinued effective 1 July, 2019 and the staff who were manning the facility had not been paid salaries.

### **Submission by the Accounting Officer**

3210) The community radio and meteorological station was inaugurated on 29<sup>th</sup> October 2012.

- (i) The land was allotted to KMD through the defunct County Council of Isiolo. Minutes of the council meeting are available at the County and the ministry is making efforts to get the same. The ministry is presently making follow up on acquisition of ownership documents.
- (ii) The building was constructed and equipped through a collaborative project with the Aircraft Meteorological Data Relay consortium, the National Drought Management Authority and the defunct Ministry for Northern Kenya and Arid lands.
- (iii) The staff's manning the station were engaged on casual basis and the vote for payment of casual workers was withdrawn in the FY 2018/2019 and consequently it was not possible to continue their services for the Radio broadcast. This casual staffs have since been paid all their dues.

#### **3211) Committee observations and findings**

The committee observed that;

- (i) The facilities are no longer in use and were lying idle without generating any value.

- (ii) The intended beneficiaries no longer receive the service.
- (iii) RANET-Kenya Community Radio is a flagship project under the Kenya Meteorological Department (KMD) of the Ministry of Environment and Forestry
- (iv) The Garbatulla RANET station had not been operational since the broadcasting services were discontinued effective 1 July, 2019 due to non-payment of salaries for staff who were manning the facility.
- (v) The Climate Resource Centre was meant to be a source of information on early warning system for communities affected by climate and weather-related phenomena and deliver and disseminating climate knowledge to the local community to encourage them to foster climate action.
- (vi) The Climate Resource Centre was to serve as a learning institution for students on environmental and climate related studies.
- (vii) The matter remained unresolved.

#### 3212) **Committee recommendations**

The committee recommended that, within sixty (60) days of tabling and adoption of this report;

- 1) **The Accounting Officer to come up with measures to ensure that, the station is operational and the community receives the benefits as intended and report to the National Assembly on the progress.**
- 2) **The Accounting officer should come up with an implementable solution of reviving the resource center including a request to the National Treasury to fund the center and submit the supporting documents to the Office of the Auditor General for further audit verification.**
- 3) **The Accounting officer to submit supporting documents for payments of staff salaries to the Office of the Auditor General for further audit verification.**

#### 995. **Siaya and Matungu - Mumias Radio Station**

3213) The Ministry entered into an agreement with the Ministry of Information, Communication and Technology for construction of the radio station at the former Ministry of Information and Broadcasting site. However, the agreement was not availed for audit verification. As at the time of audit, an amount of Kshs.6.6 million had been paid to the construction company and a certificate of completion had been issued. However, physical inspection confirmed that work was incomplete as construction of a generator room was still in progress.

3214) In addition, in Matungu - Mumias the structural works was complete but equipment to host the RANET station had not been installed.

#### **Submission by the Accounting officer**

3215) The construction of radio station was on-going at the former ministry of Information and Broadcasting site. However,

- (i) The construction of the radio station and generator room has since been completed for Siaya and a certificate of practical completion issued.
- (ii) The Ministry is awaiting allocation of Frequency and procurement of the necessary radio broadcast equipment for operationalization of both stations.
- (iii) The land where Matungu station stands was acquired through compulsory acquisition by the commissioner of lands vide gazette notice Nos. 1274 & 1275 of February 2010.

**3216) Committee observations and findings**

The committee observed that,

- (i) The Ministry entered into an agreement with the Ministry of Information, Communication and Technology to construct a radio station at the former Ministry of Information and Broadcasting site
- (ii) An amount of Kshs.6.6 million had been paid to the construction company and a certificate of completion had been issued.
- (iii) Construction of a generator room was still in progress.
- (iv) Equipment to host the RANET station had not been installed.
- (v) The frequency allocation and broadcasting equipment are yet to be procured; and
- (vi) The matter remained unresolved.

**3217) Committee recommendations**

The committee recommended that, within sixty (60) days of tabling and adoption of this report;

- 1) The Accounting officer to submit the signed agreement with the Ministry of Information, Communication and Technology to construct a radio station at the former Ministry of Information and Broadcasting site to the Office of the Auditor General for further audit verification**
- 2) The Accounting officer to submit the status report on the implementation of the project and submit supporting documents to the Office of the Auditor General for further audit verification.**

**996. Construction of RANET Building at Nyamache Sub-County, Kisii County**

3218) As previously reported, the tender for the proposed construction of RANET building at Nyamache Sub-County was awarded to a general painting and building Construction Company at a contract sum of Kshs.23,738,320 for a period of twelve (12) months. The building was constructed on a three (3) acre piece of land donated by the County Government. The land transfer documents to the Department were not availed for audit review. Site inspection done on 4 October, 2019 revealed the following anomalies: -

- (i) Contrary to Section 139 (2) of the Public Procurement and Asset Disposal Act (PPADA), 2015, the contractor was irregularly awarded a 10% variation amounting to Kshs.2,373,832 without authority from the Accounting Officer.
- (ii) The contract term expired in 2018 and was not renewed, but the contractor was still on site



without a valid contract agreement. As a result of the expiry of the contract term, works and variation were executed outside the contract period contrary to Section 139(4)(d) of the Public Procurement and Asset Disposal Act, 2015.

- (iii) The project correspondences between the contractor and the client were not provided for audit review. It was, therefore, not possible to make follow up on key issues such as performance bond, insurance, Bills of Quantities, contract documents and award documents.

3219) Consequently, the Ministry was in breach of law and value for money has not been realised from the investment made in the construction of the RANET radio stations.

#### **Submission by the Accounting Officer**

3220) The Accounting Officer submitted as follows:

- (i) The tender for the proposed construction of RANET building at Nyamache sub-County was done at the county level. The building was constructed on a 3 acre piece of land donated by the County government to the Ministry. Copy of the title for the land was availed to the Committee for perusal.
- (ii) The contractor applied for a variation to the county works office amounting to kshs.2.8million and the works office approved an amount of kshs.2million. The variation was necessitated by the area being marshy and the firm had to introduce ground beams and reinforcements. However, the works officer inadvertently forgot to seek the accounting officer's approval. Attached letter ref: KCG/PW/RNT/01/2017 DATED 19<sup>TH</sup> December 2017.

#### **3221) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to Construction of RANET Building at Nyamache Sub-County, Kisii County was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.

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

#### **3222) Conclusion**

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

#### **DONOR FUNDED PROJECTS**

#### **SOUND CHEMICALS MANAGEMENT MAINSTREAMING AND UPOPs REDUCTION IN KENYA PROJECT (GRANT NO. 99820)**



## REPORT ON THE FINANCIAL STATEMENTS

### Unqualified Opinion

#### Other Matter

#### 998. Budgetary Control and Performance

3223) The statement of comparative budget and actual amounts reflects receipts budget and actual amounts on comparable basis of Kshs.147,000,000 and Kshs.83,392,558 respectively resulting to an under-funding of Kshs.63,607,442 or 43% of the budget. Similarly, the Project spent an amount of Kshs.89,829,100 or 61% of the approved budget of Kshs.147,000,000 resulting to an under absorption of Kshs.57,170,900 or 39% of the approved budget. Management has attributed the slow absorption to delays in procurement of goods and services as well as the effect of COVID 19 pandemic which affected policy finalization and training.

3224) The project was not able to absorb all its budget which is an indication that the planned activities may not have been implemented thereby denying services to the public.

#### Submission by the Accounting Officer

3225) The Accounting Officer submitted that the project under absorbed its approved budget by 39% due to:

- Delays in procurement due to non-responsiveness of bidders to tenders floated. Among 11 tenders floated in 2019/2020 Financial Year, only 2 were successfully completed;
- The COVID 19 pandemic affected planned activities due to restrictions in movement and social distance requirement made Policy finalization on public participation difficult.

#### 3226) Committee Observations and Findings

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to budgetary control and performance was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.

#### 999. Pending Accounts Payables

3227) As disclosed under Note 11.0 - Other important disclosures to the financial statements are pending bills amounting to Kshs.5,263,112 as at 30 June, 2020. Management has not provided reasons for non-payment. Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year.

#### Submission by the Accounting Officer

3228) The Accounting Officer submitted that the bills amounting to Kshs.5,263,112.00 were not settled during the year because of unavailability of funds from UNDP by the end of June 30th 2020. The pending bills have since been settled.

**3229) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to pending accounts payables was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.

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

**3230) Conclusion**

**1000.** There were no material issues relating to lawfulness and effectiveness in use of public resources

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

**3231)**

**1001.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**SYSTEM FOR LAND BASED EMISSIONS AND ESTIMATION IN KENYA (SLEEK) PROJECT**

**REPORT ON THE FINANCIAL STATEMENTS**

**Basis for Qualified Opinion**

**1002. Inaccuracies of Cash and Cash Equivalents**

3232) The statement of assets reflects a balance of Kshs.638,197.10 at 30 June, 2020. However, the certificates of bank balances were not availed for audit verification. Further, recognized as pending staff payables under Note 11.1 is an amount of Kshs.711,394 representing various unpresented cheques that were written back in the Cash Book. Out of the Kshs.711,394, the Project Management was able to support Kshs.591,516.

3233) In the circumstances, it was not possible to confirm the accuracy of the balance on cash and cash equivalents of Kshs.638,197 as at 30 June, 2020.

**Submission by the Accounting Officer**

3234) The statement of assets reflects a balance of Kshs.638,197.10 as at 30th June 2020. At the time of audit, certificate of bank balance was not provided to the auditors since it had

not been received from the bank. However, the same was later received and presented for audit review.

3235) Further, pending staff payables were recognized under Note 11.1 totaling Kshs.711,394.00. These were several unpresented cheques. Copies of the same have been forwarded to the auditors for audit review.

**3236) Committee observations and findings**

**The committee observed that:**

- (i) Bank confirmation certificates for bank balances as at 30 June, 2020 were not produced for audit verification.
- (ii) Supporting documents for pending staff payables amounting to Kshs.591,516 were not produced for audit verification.

**3237) Committee recommendations**

The committee recommended that, within sixty (60) days of tabling and adoption of this report:

- (i) **The Accounting Officer to submit bank reconciliation statements, bank confirmation certificates and Cash book to the Office of the Auditor General for further audit verification.**
- (ii) **The Accounting Officer to submit supporting documents for pending staff payables amounting to Kshs.591,516 to the Office of the Auditor General for further audit verification.**

**1003. Lack of Trial Balance**

3238) The project management did not avail the projects trial balance. It was, therefore, not clear and the Management did not explain how the figures in the financial statements were generated. The financial statements may be unreliable and their accuracy could not be confirmed.

**Submission by the Accounting Officer**

3239) The Trial Balance was not availed at the time of audit. This was an omission. The same has since been presented for audit review.

**3240) Committee Observations and Findings**

- (v) The Committee observed that the explanation given by the Accounting Officer with regard to Lack of Trial Balance was satisfactory; and
- (vi) The Committee marked the matter as resolved.

**1004. Delay in Payment of Statutory Deductions**

3241) The statement of receipts and payments reflects payments of Kshs.2,677,600 in respect of compensation of employees. Scrutiny of the documents presented for audit revealed that cheques for various statutory deductions drawn between the month of July and October 2019 amounting to Kshs.711,394 were not presented to the bank for payment as at the time of the audit. Further, the Project Management failed to deduct the Pay As You Earn (PAYE) deductions for months of November and December 2019. The Project Management netted of the entire pay without deducting and remitting PAYE amounting to Kshs.33,130.

3242) Consequently, it has not been possible to confirm the accuracy of the balance on compensation of employees of Kshs.2,677,600.

#### **Submission by the Accounting Officer**

3243) The Accounting Officer submitted that the delay in payment of statutory deductions was due to: -

- Inadequate exchequer funding;
- KRA system blocking the Ministry PIN which the project was using to file its returns. The cheques became stale before the issue was sorted out.

#### **3244) Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2018/19 and a recommendation was issued therein:

**The Accounting Officer should within sixty (60) days of tabling and adoption of this report to submit to the Auditor General supporting documents for payments of the outstanding statutory dues for further audit verification.**

#### **Other matter**

#### **1005. Budgetary Control and Performance**

3245) The statement of comparative budget and actual amounts for the year ended 30 June, 2020 reflects actual receipts of Kshs.3,655,156 against budgeted receipts of Kshs.18,594,000 resulting in a shortfall of Kshs.14,938,844 or 80% of the total budget. The shortfall was mainly recorded under proceeds from domestic and foreign grants. Further, actual expenditure for the year amounted to Kshs.2,989,995 against the final budgeted expenditure of Kshs.18,594,000 resulting to under absorption of Kshs.15,504,045, for which management attributed to staff reduction and lapse of Projecttime.

#### **Submission by the Accounting Officer**

3246) The statement of comparative budget and actual amounts for the year ended 30<sup>th</sup> June 2020 reflects actual receipts of Kshs.3,655,156 against budget receipts of Kshs.18,594,000.00 resulting in a short fall of Kshs.14,938,844.00 or 80% of the total budget. The short fall was mainly recorded under proceeds from domestic and foreign grant. Further, actual expenditure for the year amounted to Kshs.2,989,995.00 against a

budgeted expenditure of Kshs.18,594,000.00 resulting to under absorption of Kshs.15,504,045.00.

3247) The reasons for under absorption are: -

- Staff reduction. Employees contract expired and had not been renewed by 30<sup>th</sup> June, 2020;
- Lapse of the project. Project ended in December 2019;
- Donor delayed in release of the funds.

#### 3248) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2018/19 and the Committee marked the matter as resolved.

#### **1006. Pending Bills**

3249) Note 11.1 to the financial statements indicate that the Project had pending accounts payables totalling Kshs.1,132,994 (2019: Kshs.974,003) as at 30 June, 2020 relating to unremitted statutory deductions and gratuity. During the year under review, the Project Management made payments totalling Kshs.974,003, while accumulating bills totalling Kshs.1,132,994. Management has not explained why the bills were not settled during the year when they occurred. The Project is at risk of incurring significant interest costs and penalties with the continued delay in payment.

3250) Failure to settle bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

#### **Submission by the Accounting Officer**

3251) Note 11.1 to the financial statements indicate that the project had pending accounts payables totaling Kshs.1,132,994.00 and made payments totaling Kshs.974,003.00. The bills were not paid due to: -

- Employee contracts had not been renewed as at 30<sup>th</sup> June 2020;
- Lapse of the Project. Project ended in December 2019.

#### 3252) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2018/19 and the Committee marked the matter as resolved.

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

## **Basis for Conclusion**

### **1007. Statement of Performance against Project's Predetermined Objectives**

3253) The Management did not prepare the statement of performance against the Project's predetermined objectives in the financial statements. This was contrary to the requirements under Section 81(2)(f) of the Public Finance Management Act, 2012 which requires that, at the end of each financial year, the Accounting Officer prepare financial statements for each national government entity in accordance with the standards and formats prescribed by the Public Sector Accounting Standards Board. This should include a statement of the national government entity's performance against predetermined objectives. Lack of the statement of performance raises uncertainties as to whether the project achieved its mandate and objectives.

3254) In the circumstances, it has not been possible to establish the status of the Project and any milestones achieved thereof.

#### **Submission by the Accounting Officer**

3255) The Accounting Officer submitted as follows:

The Management did not prepare statement of performance against the project's predetermined objectives in the financial statement. This is because the project had no operations taking place during the year after the departure of the project coordinator in October, 2019 and project ending on 31<sup>st</sup> December, 2019.

#### **3256) Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2018/19 and the Committee marked the matter as resolved.

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

#### **3257) Conclusion**

**1008.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## **INSTITUTIONAL STRENGTHENING OF THE OZONE DEPLETING SUBSTANCES PROJECT (UNEP PROJECT ACCOUNT NO. UNEP/KEN/SEV/80/INS/63)**

### **REPORT ON THE FINANCIAL STATEMENTS**

3258) **Unqualified Opinion**

**1009.** There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**Basis for Conclusion**

**1010. Operating without a Project Bank Account**

3259) During the year under review, the Project funds were operated through the development account of the Ministry of Environment and Forestry. This is contrary to Regulation 76(1) of the Public Finance Management Regulations, 2015 which provides that for the purpose of disbursement of Project funds, there shall be opened and maintained a Project account for every project at the Central Bank of Kenya unless it is exempted by the Cabinet Secretary in writing, into which all funds shall be kept and such an account shall be known by the name of the Project for which it is opened and each Project shall maintain only one bank account.

3260) In the circumstance, the Project Management was in breach of law.

**Submission by the Accounting Officer**

3261) The Accounting Officer submitted that the Institutional Strengthening of the Ozone Depleting Substances Project used to be operated within the Ministry's Development Bank Account as the Ministry awaited the National Treasury to open the Project Bank Account. Project's Excel Sheet Cashbook was maintained to control and monitor projects funds which used to be in Development Bank Account.

3262) However, separate bank account for this project has since been opened in Central Bank of Kenya.

3263) **Committee Observation and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2018/19 and a recommendation was issued thereof:

**The National Treasury should ensure project accounts are opened early enough before disbursement of project funds.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**1011.** There were no material issues relating to effectiveness of internal controls, risk management and governance.



**LAKE VICTORIA ENVIRONMENTAL MANAGEMENT PROJECT PHASE III  
(LVEMP III) PROJECT PREPARATORY ADVANCE NO. V1570 – KE)**

**REPORT OF THE FINANCIAL STATEMENTS**

**Basis for Qualified Opinion**

**1012. Inaccuracies in the Financial Statements**

3264) The financial statements availed for audit review contained the following anomalies:

- (i) The statement of financial assets as at 30 June, 2020 reflects a prior year adjustment of Kshs.6,576,690 which was not supported with documentary evidence.
- (ii) The statement of receipts and payments does not reflect the deficit under the cumulative to date amount of Kshs.7,388,575.

**Submission by the Accounting Officer**

3265) The prior year adjustment of Kshs.6,576,690.00 reflected in the financial statements represent stale cheques that were recredited back to the cashbook. A schedule of the same was reflected in the financial statements. The original cancelled cheques are available for audit review. Copies of the stale cheques have been forwarded to the auditors' audit review.

3266) The statement of receipts and payments initially forwarded for audit review did not reflect the deficit under cumulative to date amount of Kshs.7,388,575. This was an oversight. The statement of receipt and payments was later amended and the cumulative amount reflected. The same was forwarded for audit review.

3267) Other Appendices required as per the approved Public Sector Accounting Standard Board reporting templates such as bank reconciliations, confirmations, and cash count have not been attached to these financial statements. The amounts in the statement of financial assets and other sections of the financial statements are also not rounded to the nearest shilling contrary to recommended reporting templates.

3268) Consequently, the accuracy and validity of the financial statements for the year ended 30 June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

3269) The financial statements initially forwarded to the auditors did not have some appendices such as bank reconciliations, confirmations and cash count attached to them. This was an omission. In the financial statements that were amended and forwarded for audit review, these appendices were provided for perusal by the Committee.

**3270) Committee Observations and Findings to entire 1012**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Inaccuracies in the Financial Statements was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **1013. Cash and Cash Equivalents**

3271) The statement of financial assets as at 30 June, 2020 reflects cash and cash equivalents balance of Kshs.603,621 while the bank reconciliation statements submitted for audit review had payments in the cash books not yet recorded in the bank statements totaling Kshs.2,247,458. However, the payments could not be confirmed as at the time of the audit in November, 2020 as the bank statements and cash survey certificate were not availed for audit verification. In the absence of the necessary cash survey documentation, the accuracy of cash in hand balance of Kshs.1,241 as at 30 June, 2020 could not be confirmed.

3272) In the circumstance, the accuracy and completeness of the cash and cash equivalents balance of Kshs.603,621 as at 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

3273) It is true that cash confirmation and cash survey certificate (board of survey report) were not availed at the time of audit. However, the same were later attached as appendices to the amended financial statements and forwarded to the auditors for audit review.

#### **3274) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Cash and Cash Equivalent was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **1014. Unsupported Compensation of Employees**

3275) The statement of receipts and payments reflects an amount of Kshs.6,522,795 compensation of employees. However, the supporting schedules and other documentary evidence were not availed for audit review.

3276) Consequently, the accuracy of compensation of employees' expenditure of Kshs.6,522,795 for the year ended 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

3277) The statement of receipts and payments reflects an amount of Kshs.6,522,795.00. This was total salaries paid to the employees during the financial year. Payment vouchers were not presented to the auditors at the time of audit since the officer who had stored them was out of office on official duties. However, the same were later forwarded for audit review.

#### **3278) Committee Observations and Findings**

The Committee observed that;

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Unsupported Compensation of Employees was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **1015. Unsupported Purchase of Goods and Services**

3279) The statement of receipts and payments reflects a balance of Kshs.22,828,508 under purchase of goods and services. However, the documentary evidence availed for audit review reflected payments totaling Kshs.15,419,614 resulting to an unsupported variance of Kshs.7,408,894.

3280) Consequently, the validity and accuracy of the purchase of goods and services figure of Kshs.22,828,508 for the year ended 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

3281) The statement of receipts and payments reflects Kshs.22,828,508.00 under purchase of goods and services. Vouchers totaling Kshs.7,408,894.00 were not availed to the auditors at the time of audit since the officer who had stored them was out of office on official duties. However, the same were later forwarded for audit review.

#### **3282) Committee Observations and Findings**

The Committee observed that;

- (i) The explanation given by the Accounting Officer with regard to Unsupported Compensation of Employees was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **1016. Pending Bills**

3283) Note 10.1 and Note 10.2 to the financial statements reflects pending bills totaling Kshs.24,867,363 as at 30 June, 2020 comprising of Kshs.10,335,363 and Kshs.14,532,000 due to suppliers of goods and services and staff respectively. Management has not provided reasons for non-payment of the bills even though the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments. Further, failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

3284) Further, Annex 2B on analysis of pending staff bills reflects a nil balance while Note 10.2 to the financial statements reflects pending staff payables of Kshs.14,532,000. In addition, the supporting schedules for staff payables had an amount of Kshs.16,660,000 leading to an unexplained variance of Kshs.2,128,000.

3285) Under the circumstances, the accuracy of the pending bills balance of Kshs.24,867,363

as at 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

3286) Note 10.1 and 10.2 to the financial statements reflects pending bills totaling Kshs.24,867,363.00 as at 30th June 2020, comprising of Kshs.10,335,363.00 and Kshs.14,532,000.00 due to suppliers of goods and services and staff respectively.

3287) The pending bills resulted from inadequate exchequer funding. Out of the Kshs.24,867,363.00 pending bills, Kshs8,500,000 were cleared during financial year 2020/2021 leaving a balance of Kshs.16,367,363.35. The supporting schedules for staff payables had an amount of Kshs.16,660,000 while Note 10.2 reflected Kshs.14,532,000 leading to an unexplained variance of Kshs.2,128,000. This was an oversight and has since been rectified and the analysis in the amended financial statement match with the Kshs.14,532,000 reflected in note 10.2.

#### **3288) Committee Observations and Findings**

##### **The Committee observed that;**

- (i) A balance of Kshs2,128,000 for staff pending bills was not supported by schedules and other documents
- (ii) Pending bills for supply of goods, services and staff dues totaling Kshs.24,867,363 as at 30 June, were not paid.
- (iii) The Project is at risk of incurring significant interest costs and penalties for nonpayment of pending bills as when they fall due.
- (iv) The matter remained unresolved.

#### **3289) Committee recommendations**

The Committee recommended that, the Accounting officer;

- 1) Should within sixty (60) days of tabling and adoption of this report to submit documents and schedules to support staff pending bills due of Kshs.2,128,000 to the Office of the Auditor General for further audit verification.**
- 2) Should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**
- 3) Must at all times ensure that, he avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

#### **1017. Sustainability of Phase III of the Project**

3290) As reflected in the statement of receipts and payments, the project received Kshs.13,000,000 being the GOK counterpart funding. The International Development Agency (IDA) vide its letter dated 2 October, 2019 addressed to The National Treasury and the Ministry of Environment and Forestry had communicated its decision to stop the

Project activities and funding as it reviews its regional integration strategy in Sub-Saharan Africa.

3291) Under the circumstances, the ability of the Project to continue to sustain services is in doubt.

#### **Submission by the Accounting Officer**

3292) It is true the International Development Association (IDA) communicated the decision to stop project activities and funding. However, after termination of the LVEMP III PPA, the Ministry of Environment and forestry prepared a concept for a National Project, named Lake Victoria Climate Resilience and Environmental Project (LVCREMP). A cabinet memorandum was prepared and approved on 15th December 2020 by the National Development Implementation and Communication Cabinet Committee (NDICCC) for the establishment of the LVCREMP. This planned project will continue to address the myriad of challenges which LVEMP program has been addressing. Cabinet Memo was availed for perusal by the Committee.

#### **3293) Committee observations and findings**

- (i) The International Development Agency (IDA) communicated its decision to stop the Project activities and funding as it reviews its regional integration strategy in Sub-Saharan Africa.
- (ii) The State Department prepared a concept for a National Project, named Lake Victoria Climate Resilience and Environmental Project (LVCREMP) as a remedy to challenges LVEMP was addressing; and
- (iii) The matter remained unresolved.

#### **3294) Committee recommendations**

**The committee recommended that, the Accounting Officer should within sixty (60) days of tabling and adoption of this report, submit the Cabinet Memo to the Office of the Auditor General for further audit verification.**

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

#### **Basis for Conclusion**

##### **1018. Non-Remittance of Statutory Deductions**

3295) Records maintained by the Project indicates that statutory deductions totalling Kshs.6,576,305 had not been remitted to the relevant statutory authorities some dating back over two years as shown below:

Details	Amount (Kshs.)	Outstanding Effective Date
---------	-------------------	----------------------------

PAYE	6,414,522	30 June 2017
NHIF	8,500	15 January 2019
VAT	153,283	20 April 2018
	6,576,305	

3296) Non-remittance of statutory deductions within the due dates attracts penalties and interest.

#### **Submission by the Accounting Officer**

3297) The Accounting Officer submitted that it was true records maintained by the project indicate statutory deductions totaling Kshs.6,576,305 had not been remitted to the relevant statutory authorities. The deductions comprise of PAYE, VAT and NHIF. The non-remittance was occasioned by challenges in I-Tax systems where the system was being re-engineered by KRA. The project closed its activities before remittance was done. We have since documented the same as pending bills waiting funding to conclude the payment.

#### **3298) Committee observations and findings**

##### **The Committee observed that;**

- (i) Statutory deductions totaling to Kshs.6,576,305 have not been submitted to date
- (ii) The State department is at risk of incurring significant interest costs and penalties for nonpayment of statutory deductions as when they fall due.
- (iii) The matter remained unresolved.

#### **3299) Committee recommendations**

The committee recommended that, the Accounting officer;

- 1) Should within sixty (60) days of tabling and adoption of this report, submit documents and schedules to support the payments of overdue statutory deductions amounting to Kshs.6,576,305 to the Office of the Auditor General for further audit verification.**
- 2) Should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

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

#### **3300) Conclusion**

**1019.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

### **NATIONAL ACTION PLAN ON ARTISANAL SMALL – SCALE GOLD MINING NO. AFR/NAP ASGM PROJECT/C/10-2016**

## REPORT ON THE FINANCIAL STATEMENTS

### 3301) **Unqualified Opinion**

**1020.** There were no material issues noted during the audit of the financial statements of the Project.

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

### **Basis for Conclusion**

#### **1021. Compliance with the International Public Sector Accounting Standards**

3302) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.21,000,000 and Kshs.1,500,000 respectively resulting to an under-funding of Kshs.19,500,000 or 93% of the budget. Similarly, the statement reflects final payments budget and actual on comparable basis of Kshs.19,000,000 and Kshs.11,243,234 respectively resulting to an under-funding of Kshs.7,756,766 or 41% of the budget. The Project expenditure was based on the previous year's saving as only Kshs.1,500,000 was realised. Management has not also given any explanations for the material deviations between the budget and actual amounts contrary to the Public Sector Accounting Standards Board and as required by The National Treasury's Circular Ref: PSASB/1/12 Vol.1(44) of 25 June 2019.

3303) The Management is therefore in breach of the Law.

#### **Submission by the Accounting Officer**

3304) The statement of comparative budget and actual amount reflects final receipt budget and actual on comparable basis of Kshs.21,000,000 and Kshs.1,500,000 respectively resulting to an underfunding of Kshs.19,500,000 or 93% of the budget. Similarly, the statement reflects final payments budget and actual on a comparable basis of Kshs.19,000,000 and Kshs.11,243,234 respectively resulting to an underfunding of Kshs.7,756,766 or 41% of the budget. The expenditure was based on the previous year's savings by the project during the year.

3305) The material deviations between the budget and actual amounts was due:

- Donor's authority to extend the project was received late on 19/02/2020 hence there was inadequate time to fully absorb the funds/requisition the same from the donor.
- The Project donor funds are released based on the donor financial calendar year (January - December), while the implementation of the project's activities are conducted based on Government financial year (July – June) causing overlaps and delays in funds release and challenges in the implementation of planned activities resulting to low funds absorption.



- Artisanal and Small – Scale Gold Mining sector is a new area which made it difficult to get experts. This resulted to advertisement to hire consultants be done thrice before they were brought on board. This greatly affected project implementation as most activities were anchored on the consultancies.

**3306) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Budget Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

**3307) Conclusion**

**1022.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**GREEN GROWTH AND EMPLOYMENT THEMATIC PROGRAMME(GGETP) – DANISH EMBASSY FILE NO. 2015**

**REPORT ON THE FINANCIAL STATEMENTS**

**3308) Unqualified Opinion**

**1023.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1024. Budgetary Control and Performance**

3309) The statement of comparative of budget and actuals amounts reflects a final budget of receipts of Kshs.22,000,000 on transfer from Government entities against actual receipts of Kshs.15,882,182 resulting in a shortfall of Kshs.6,177,818 or 28%. The statement reflects final expenditure budget of Kshs.68,000,000 against actual expenditure of Kshs.37,007,672 on purchase of goods and services resulting into under expenditure of Kshs.30,992,328 or 46%. Further, the Programme incurred an expenditure amount of Kshs.3,278,745 and Kshs.4,504,568 on acquisition of non-financial assets and transfer to other Government entities respectively which had no budget line. No explanation was availed for incurring the expenditure without a budget.

**Submission by the Accounting Officer**

3310) The statement of comparative budget and actual amounts reflects a final budget of receipts of Kshs.22,000,000.00 on transfer from Government entities against actual receipt of Kshs.15,882,182.00 resulting to a short fall of Kshs.6,177,818.00 or 28%. The statement

also reflects final expenditure budget of Kshs.68,000,000.00 against actual expenditure of Kshs.37,007,672.00 on purchase of goods and services resulting to an under expenditure of Kshs.30,992,328.00 or 46%.

3311) The reasons for under expenditure are: -

1. Lack of Budgetary allocation from the National Treasury: The Ministry is implementing the same program at two (2) levels namely: NEMA and the Ministry Headquarters. During Ministerial work plan and budgeting, both NEMA and the Ministry headquarters submitted separate budgets to the National Treasury, but since budgeting is program based, and given that NEMA had already been allocated a code under GGEP, the two budgets were collapsed into one and allocated to NEMA. GGEP/MEF hence could not access funds until the issue was rectified during supplementary one (1) of December, 2019.
2. Slow disbursement of funds: Due to lack of budgetary provision from the National Treasury, the project could not access funds until after supplementary 1 was operationalized, leaving very little time for project execution and hence affecting absorption rate.
3. Delay in Procurement of goods and services: 100% of GGEP Donor funds is only utilized through procurement process. Given the short period between passing of supplementary budget and closure of the financial year, the project was not able to implement most of the planned activities.
4. Staff shortage: GGEP/MEF has only one staff (The coordinator) assisted by DANIDA's technical advisor. This resulted in challenges in undertaking technical work and following up on office administrative matters.

3312) Measures put in place to mitigate Low Absorption of Donor Funds

1. The Ministry in collaboration with the National Treasury provided a specific budget line code for the project at the beginning of the F/y 2020/2021.
2. Deployment of a dedicated procurement officer to handle procurement matters of the program has hastened procurement process.
3. Appointment of focal points from other departments and Agencies and aligning the program activities to suit deliverables of departments, while ensuring delivery of program's outputs has helped to ease the staff shortage problem and accelerate implementation.

3313) Further the programme incurred an expenditure of Kshs.3,278,745.00 and Kshs.4,504,568.00 on acquisition of non-financial assets and transfer to other Government entities respectively. Purchase of office vehicle and office equipments were budgeted for and approved in the 2018/2019 financial Year work plan and budget. The vehicle was procured in the financial year 2018/2019 and as a result of inadequate project funds in the account, GoK funds Kshs.4,504,568.00 was utilized to meet full vehicle's cost of Kshs.7,570,000.00. This was due to omission of the donor component in the budget

estimates of 2018/2019 by the National Treasury. The donor was to refund to GoK the amount paid and the same was effected in financial year 2019/2020.

3314) In financial year 2018/2019 approved work plan and budget, partition of the project office had a budget of Kshs.5 million while purchase of equipment had an approved budget of Kshs.4 million. Office partition started in financial year 2018/2019 but was completed in the financial year 2019/2020 which had line budget item of Kshs.46 million. The payment of office equipments were therefore done in financial year 2019/2020 and were within the approved work plan and budget for both financial years.

**3315) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Budget Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

**3316) Conclusion**

**1025.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

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

**3317) Conclusion**

**1026.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE MINISTRY OF ENVIRONMENT AND FORESTRY  
GREEN ZONES DEVELOPMENT SUPPORT PROJECT PHASE II - KENYA  
FOREST SERVICE**

**REPORT ON THE FINANCIAL STATEMENTS**

**3318) Unqualified Opinion**

**1027.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1028. Pending Bills**

3319) Note 11 to the financial statements reflects pending bills totaling to Kshs.24,581,663 as

at 30 June, 2020. Management has not provided an explanation for non-payment of the pending bills. The Project is at risk of incurring additional interest costs and penalties with the continued delay in making payments of the pending bills.

**Submission by the Accounting Officer:**

3320) The pending bills listed below were part of approved Annual Work Plan and Budget for 2019/2020 as Direct Payment (AIA) component. They were concluded in May 2020 and payment documents were forwarded to the Ministry of Environment & Forestry for processing and forwarding to National Treasury for submission to African Development Bank for payment.

3321) However, the Ministry returned back the vouchers with an explanation that there was no adequate budgetary provision. The payment documents were however resubmitted to the Ministry and payments effected in September 2020.

3322) The pending bills were occasioned by reduction of AIA project budget from Kshs.290,000,000 to Kshs.50,000,000 by the National Treasury which was beyond Kenya Forest Service control. Copy of revised estimate was availed for perusal by the Committee.

<b>Firm/Contractor</b>	<b>Description</b>	<b>Amount</b>	<b>Contract Completion date</b>
Fiona Enterprises Ltd	Supply and delivery of 4"x6" polythene tubes	8,405,172.41	11 <sup>th</sup> May 2020
Hopkins Kenya Ltd	Supply and delivery of 6"x9" polythene tubes	10,452,586	13 <sup>th</sup> May 2020
Options Insurance Ltd	Comprehensive Insurance of 26 vehicles	5,723,905	8 <sup>th</sup> May 2020
<b>Total</b>		<b>24,581,663.41</b>	

**3323) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Pending Bills was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1029. Budgetary Control and Performance**

3324) The statement of comparative budget and actual amounts reflect a final receipts budget of Kshs.284,000,000 against actual receipts of Kshs.333,699,693 resulting into an unexplained excess receipt of Kshs.49,699,693 or 17%. The statement further reflects final budgeted expenditure of Kshs.584,000,000 against actual expenditure of Kshs.321,882,578 resulting into an under expenditure of Kshs.262,117,422 or 45% of the budgeted amount.

No explanation has been provided for the excess receipts and the under expenditure.

**Submission by the Accounting Officer**

3325) The Accounting Officer submitted as follows:

**a) Excess Receipt of Ksh.49,699,693**

3326) In the printed estimates for 2019/2020, the project AIA budget was initially Kshs.290,000,000 before subsequently being reduced to Kshs.50,000,000 during Supplementary Estimates (see attached a copy of revised estimate for the project). These reductions were effected at a time when the project had already made payments and commitments of Kshs.87,983,976. Further, the project had earlier in 2018/2019 received a GoK allocation of Kshs.15,652,570 for project preparation. Being the first audit for the project, the expenditure was incorporated into 2019/20 actual Gok budget in order to capture the accurate cumulative Government contribution to the project in line with the financing agreement. The reduction of funds in the supplementary estimates was beyond the control of KFS, thereby occasioning the over- expenditure.

**Details of Kshs.49,699,693**

	<b>Original budget</b>	<b>Final budget</b>	<b>Actual payments/r receipts</b>	<b>Difference</b>	<b>Explanation</b>
Donor AIA	300,000,000	50,000,000	87,938,976	(37,983,976)	Payments/commitments totaling 87,938,976 had been done prior to budget cuts
Donor Revenue	200,000,000	150,000,000	146,063,147	3,936,853	The project received 97% of funding from the donor
GoK	84,000,000	84,000,000	99,652,570	(15,652,570)	The excess of Kshs.15,652,570 was utilized in 2108/2019 financial year under GoK component for project preparation. It was incorporated into 2019/2020 financial statements of the project in order to capture the accurate cumulative GoK contribution to the project.
<b>Total</b>	<b>584,000,000</b>	<b>284,000,000</b>	<b>333,699,693</b>	<b>49,699,693</b>	

3327) In the Statement of Comparative Budget and Actual Accounts of the project Financial Statements, the final budgeted expenditure is erroneously captured as Kshs.584,000,000 instead of Kshs.284,000,000 as indicated in the attached revised estimates. The accurate

position is the final budgeted expenditure was Kshs.284,000,000 against actual expenditure of 321,882,578 and an amount of Kshs.15,562,570 that was spent in the financial year 2018/2019 under GoK component for the project preparation but accounted for in the financial year 2019/2020.

**3328) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Budget Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

**3329) Conclusion**

**1030.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

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

**3330) Conclusion**

**1031.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**KENYA WATER TOWER PROJECT - KENYA FOREST SERVICE**

**REPORT ON THE FINANCIAL STATEMENTS**

**3331) Unqualified Opinion**

**1032.** There were no material issues noted during the audit of the financial statements of the Project.

**Emphasis of Matter**

**1033. Material Uncertainty Relating to Sustainability of Services**

3332) As previously reported, the Project was suspended in January, 2018 by the Donor, European Union, citing violation of the rights of the people living in forests by Kenya Forest Service while implementing the Project in one of the Kenya Water Towers. As the Project was being implemented in Cheregany, an incident in relation to violation of human rights of Sengwer community who inhabited the Embobut Forest and who claimed the land to be their ancestral land occurred. Further, the United Nation Committee on the Elimination of Racial Discrimination, expressed concern about reports on evictions in Embobut Forest. The Committee called on Kenya to acknowledge the rights of the

Sengwer, Endorois, Ogiek and all other indigenous peoples. In addition, continued habitation of the communities in the affected forest may adversely affect the ecosystem and projected value for money may not be realized by the earmarked communities. As at the time of audit, the suspension had not been lifted. It was concluded that Kenya ought to carry out effective consultations between relevant parties and communities likely to be affected by the Project with a view to obtaining prior and informed consent from the indigenous communities before implementing future projects. A material uncertainty exists with regard to sustainability of services as no funding has been forthcoming and the implementation of the Project to its conclusion is doubtful. 346 My opinion is however not modified in respect of this matter.

### **Submission by the Accounting Officer**

- 3333) The Accounting Officer submitted that water towers project was being implemented in two of Kenya's five major water towers; the' Cheregany and Mt. Elgon. Note that the project was never implemented in Mau ecosystem. The project was suspended after an incidence that happened in Cheregany in January 2018 which was purported to be related to human rights violation though it was not related to project activities. Following the suspension, all project activities were affected and KFS through the Ministry of Environment and Forestry has been engaging the Donor in an effort to lift the suspension. KFS facilitated the independent assessment in Embobut as demanded by the donor as one of the conditions for lifting the suspension.
- 3334) KFS also acknowledges the need to involve all communities in the implementation of forestry projects and programmes and it is for this reason that it has embraced the Participatory Forest Management Framework (PFM) operationalized through the Community Forest Associations (CFA) as required by the Forest Conservation and Management Act 2016. All forests are managed in close collaboration with all stakeholders including forest adjacent communities through a participatory frame work.
- 3335) Further, in order to address the human rights concerns, and to entrench human rights based conservation approach, KFS in conjunction with Kenya National Commission on Human Rights (KNCHR) has developed a Human Rights Based Approaches (HRBA) curriculum and training manuals to build the capacities of KFS staff and stakeholders. Training has already been conducted targeting forest rangers, and more training will be done in the future. In addition, KFS has recruited a Social Development Expert (SDE) to address issues of human rights, social safeguards, gender equity, economic empowerment of marginalized groups and other emerging cross-cutting themes in the forestry sector. KFS will ensure that social safeguards to alleviate any potential human rights abuses/conflicts shall be strictly adhered to during the implementation of all forest sector projects. It should be noted that the Ministry of Environment and Forestry has appointed a taskforce on the implementation of the decision of the African Court on Human and Peoples Rights issued



against the Government of Kenya in respect of the Ogiek Community of Mau and enhancing the participation of indigenous communities in sustainable management of forests. Two of the twelve-member committee are from KFS. This is intended to strengthen the outputs based on experiences in the forestry sector.

3336) The project was terminated in October 2020 and the Service received directive on project closure from the ministry on 18th November 2020 as guided by the donor after great efforts had been put in to lift the suspension. The donor, European Commission appointed an Auditor to undertake audit verification which was done in the year 2021. As at now, the project is still waiting for the audit findings from the EU.

3337) Committee Observations and Findings

**The Committee observed that,**

- (i) The donor had withdrawn the funding
- (ii) The donor appointed the auditor to undertake verification and the Accounting Officer is waiting for the audit findings.
- (iii) The donor raised issues of human rights violations by the State Department Agencies in dealing with communities living within forest.
- (iv) In order to address the human rights concerns, and to entrench human rights-based conservation approach, KFS in conjunction with Kenya National Commission on Human Rights (KNCHR) has developed a Human Rights Based Approaches (HRBA) curriculum and training manuals to build the capacities of KFS staff and stakeholders and the training is ongoing.
- (v) The project was terminated in October 2020;
- (vi) The State Department has put effort in addressing the concerns of the Donor.
- (vii) The matter remained unresolved

3338) **Committee recommendations**

The committee recommended that,

- 1) **Within sixty (60) days of tabling and adoption of this report, the Accounting Officer should submit the audit findings and recommendations of the auditor appointed by EU to the National Assembly and Office of the Auditor General for verification.**
- 2) **The Accounting Officer to ensure that measures are taken to address issues of human rights violation in order not to jeopardise funding of the projects**

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

3339) **Conclusion**

**1034.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3340) **Conclusion**

**1035.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**NORTHERN KENYA CONSERVATION PROJECT CREDIT NO. CKE 1036 01 H– KENYA WILDLIFE SERVICE**

REPORT ON THE FINANCIAL STATEMENTS

3341) **Unqualified Opinion**

**1036.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1037. Budgetary Control and Performance**

3342) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.317,488,000 and Kshs.32,806,957 respectively resulting to an under-funding of Kshs.284,681,043 or 90% of the budget. Similarly, the Project expended Kshs.56,935,101 against an approved budget of Kshs.317,488,000 resulting to an under-expenditure of Kshs.260,552,899 or 82% of the budget. Management has attributed the under-funding and under expenditure to failure by the Donor and the Government of Kenya to release funds and the Covid-19 Pandemic which adversely affected the Tourism Sector. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

3343) The Northern Kenya Conservation Project credit no. CKE 1036-01 H– Kenya wildlife service is under the state department of wildlife. We have forwarded the queries to the PS State Department of Wildlife to provide a response to Parliament, The Auditor General and The National Treasury.

3344) **Committee Observations and Findings**

The Committee observed that,

- (i) The response is within the purview of the Principal Secretary of the State Department for Wildlife who shall be invited by the Committee.
- (ii) The budget performance was satisfactory;

(iii)The Committee marked the matter as resolved.

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

### 3345) **Conclusion**

**1038.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

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

### 3346) **Conclusion**

**1039.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## KFS - CAPACITY DEVELOPMENT PROJECT FOR SUSTAINABLE FOREST MANAGEMENT IN THE REPUBLIC OF KENYA, 2020 - KENYA FOREST SERVICE REPORT ON THE FINANCIAL STATEMENTS

### 3347) **Unqualified Opinion**

**1040.** There were no material issues noted during the audit of the financial statements of the Project.

### **Other Matter**

#### **1041. Budgetary Control and Performance**

3348) The statement of comparative budget and actual amounts reflect final budget on proceeds from foreign grant (Contribution in Kind) of Kshs.320,000,000 against actual receipts of Kshs.225,007,785 or 70% resulting into an under collection of Kshs.94,992,215 or 30%. The receipts under collection of Kshs.94,992,215 may have negatively affected the planned activities for the year. Further, the statement of comparative budget and actual amounts reflects a final budget of Kshs.32,000,000 on purchase of goods and services against the actual expenditure of Kshs.34,329,606 resulting into over expenditure of Kshs.2,329,606 which Management explained was a result of bills committed in 2018/2019 financial year but paid in the current year.

#### **Submission by the Accounting Officer**

3349) The Accounting Officer submitted as follows:

**i. Under collection of Ksh.94,992,215**

3350) This project is sponsored by the Government of Japan through JICA and Government of Kenya. The Donor indicated that during the year the government of Japan scaled down funding on all externally implemented projects due to budget constraints. This led to the under collection reported.

**ii. Approved budget of Ksh.32,000,000 against the actual expenditure Ksh.34,329,606**

3351) During the financial year 2019/2020 the project had an over expenditure of Ksh.2,329,606.00 At the beginning of the Financial year 2019/2020, the project had a balance of Ksh.2,638,156 this amount was meant for the following activities;

- a) Designing, launching of Forest management Agreements for Kiangombe and Kianjiru Participatory Forest Management Plans in Embu County because of the delay in negotiation between the county government of Embu and the community, this was implemented in August 2019. Given this was the pioneer first Forest Management Agreements between a County government and Community forest association in the country it took time to negotiate.
- b) Improvement of Melia guidelines especially cost/benefit analysis and translation to Kiswahili version took time to update the data and putting them on a standalone guideline as well as translating it to Kiswahili.
- c) Redesigning the web face for Forest Information Platform which required an expert from Japan to work with the local team in redesigning the web face. This took time beyond planned time.
- d) Improvement of National Forest Reference Level FRL and National Forest Monitoring System due to recommendation from Cabinet Secretary Ministry of Environment and Forestry. The recommendation was incorporated and the document was finally submitted to United Nation Framework Convention on climate change (UNFCCC).

3352) The project was unable to spend on these activities during the financial year 2018/2019 which spilled over to the financial year 2019/2020. The expenditure of Kshs.2,329,606.00 was funded using the unspent balance of the financial year 2018/2019.

3353) These were critical major activities to the project implementation and the delay of the above activities was beyond the control of the project. These activities were ongoing at the beginning of financial year 2019/2020.

3354) Committee Observations and Findings

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Budget Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

3355) **Conclusion**

**1042.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3356) **Conclusion**

**1043.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**INTERNATIONAL PARTNERSHIP PROGRAMME – FOREST 2020 PROJECT - KENYA FOREST SERVICE**

REPORT ON THE FINANCIAL STATEMENTS

3357) **Unqualified Opinion**

**1044.** There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

3358) **Conclusion**

**1045.** There were no material issues relating to lawfulness and effectiveness in use of public resources

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3359) **Conclusion**

**1046.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**GREEN GROWTH AND EMPLOYMENT THEMATIC PROGRAMME (CRNO: 2015-39789) - NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

3360) **Unqualified Opinion**

**1047.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1048. Budgetary Control and Performance**

3361) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.194,200,000 and Kshs.111,000,000 respectively,

resulting to an underfunding of Kshs.83,200,000 or 43% of the budget. Similarly, the performance was limited to the receipts and Kshs.75,698,272 was spent which represented an under expenditure of 32% of the receipts. Based on the approved estimates, the underfunding and under expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

#### **Submission by the Accounting Officer**

3362) The management has noted the observation and wish to clarify that the total Budget of Kshs.194,200,000 comprised of Kshs.172,200,000 from DANIDA and Kshs.22,000,000 from the Government of Kenya as Counterpart funds for the Project.

3363) The reasons for under-expenditure are;

- Delay in the disbursement of both donor fund and GoK Counterpart funds thus leading to delay in the implementation of the project activities.
- The adverse effects of the COVID-19 also worsened the implementation of the activities thus leading to low absorption levels.

3364) Management would like to inform the Committee that the project ended on 30<sup>th</sup> June 2021 with 100% absorption of the disbursed funds.

#### **3365) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Budget Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

#### **3366) Conclusion**

**1049.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

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

#### **3367) Conclusion**

**1050.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## **INTEGRATED PROGRAMME TO BUILD RESILIENCE TO CLIMATE CHANGE AND ADAPTIVE CAPACITY OF VULNERABLE COMMUNITIES IN KENYA ENDED 30 - NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY**

## REPORT ON THE FINANCIAL STATEMENTS

### 3368) **Unqualified Opinion**

**1051.** There were no material issues noted during the audit of the financial statements of the Project.

### **Emphasis of Matter**

#### **1052. Low Absorption Rate**

3369) A review the of the Financing Agreement revealed that the initial closing date for the project was 1 April, 2019 but this was extended to 30 June, 2020 at no cost. Further, paragraph 1.7 of the non-financial information indicates that the Project had drawn Kshs.901,442,454 out of the total Donor commitment of Kshs.1,012,714,450 leaving an amount of Kshs.111,272,110. Further, the statement of receipts and payments indicates that the Project had spent Kshs.496,590,667 as at 30 June, 2020 representing an absorption rate of 49% which includes Kshs.61,499,181 being unspent balance of advances to executing entities. The Management has not explained how it will absorb the remaining 51% funding within the remaining period although the Programme was given a further extension up to 31 December, 2021. My opinion is however not modified in respect of this matter.

### **Submission by the Accounting Officer**

3370) The Management would like to inform the committee that the Adaptation Fund Board has given NEMA a no cost extension to 31<sup>st</sup> December 2021. The no-cost extension has further been extended to 30<sup>th</sup> September, 2022. Further, the Management would like to inform the committee that the initial plan involved the executing entities undertaking procurement of goods and services under this program.

3371) This resulted into uncoordinated and delay in the procurement process thus slowing down the absorption rates. In order to enhance the absorption of funds and reduce the delays the Adaptation Fund program procurement activities were centralized at NEMA. This has seen the award of tenders for water infrastructure completed which takes the bulk of the funds. The contractors are now on site and the works are ongoing for completion within the project period. The sites are in Homabay, Kisumu, Kajiado, Machakos ,Laikipia Wajir and Garissa. Tenders have also been awarded for the sites in the coastal region under Coast Development Authority and the contractors are on site.

3372) The implementation of the projects is on course and it is expected that these works will be complete within the project period.

### 3373) **Committee observations and Findings**



The committee observed that,

- (i) The closing date for the project was 1 April, 2019 but was extended to 30 June, 2020 at no cost.
- (ii) The Project had spent Kshs.496,590,667 out of the donor budget of Kshs.1,012,714,450 leaving an unspent amount of Kshs.111,272,110 or 49% absorption rate.
- (iii) The Programme was granted a further extension of up to 31 December, 2021.
- (iv) Uncoordinated and delay in the procurement process slowed down the absorption rate of funds.

**3374) Committee recommendations**

**The Committee recommended that, the Accounting officer;**

- 1) Should within sixty (60) days of tabling and adoption of this report, submit correspondences and documents the donor used to extend the period of the project to the Office of the Auditor General for audit verification.**
- 2) Should ensure that, measures put in place to enhance the absorption rate of project funds and that projects are executed efficiently and effectively.**

**Other of matter**

**1053. Unresolved Prior Year Matters**

3375) In the audit report of the previous year, several paragraphs were raised based on various stalled and delayed completion of projects, among others. Management has indicated that there were no during the previous issues to respond to contrary to the previous report which had several issues which remain unresolved as the Public Accounts Committee has not deliberated on these matters.

**Submission by the Accounting Officer**

3376) The Accounting Officer submitted that the management has noted the observation and wish to inform the committee that this was an omission. However, all unresolved issues in the prior year were included in the financial reports of 2020/2021.

**3377) Committee Observation and Findings**

- (i) The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2018/19 and a recommendation was issued thereof:
- (ii) The Accounting Officer should ensure the project is implemented within the period extended of up to 30 September 2022 with further delay to ensure service delivery to intended beneficiaries.

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

3378) **Conclusion**

**1054.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3379) **Conclusion**

**1055.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**GCF PROJECT PREPARATION FACILITY: “DEVOLVED CLIMATECHANGE GOVERNANCE TO STRENGTHEN RESILIENCE OFCOMMUNITIES’ IN TARGET COUNTIES” - NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

3380) **Unqualified Opinion**

**1056.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1057. Budget Under Absorption**

3381) The statement of comparative budget and actual amounts reflects final budget of Kshs.34,999,147 against actual expenditure of Kshs.733,609 resulting into under absorption of Kshs.34,265,538 representing 98%. This is an indication that the planned activities were not achieved.

**Submission by the Accounting Officer**

3382) The management has noted your observation and would like to inform that due to the outbreak of COVID-19 Pandemic the project secretariat was not able to hold meetings and undertake stakeholder engagement. The project activities are now being undertaken with an aim of being completed within the project period.

3383) Management would also like to inform the committee that Green climate Fund Secretariat who are the project development partners granted a no cost extension to February 2022.The management also confirms that tenders for consultancies have been awarded and consultants are on the ground and the trainings are ongoing.

3384) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Budget Under Absorption was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**Basis for Conclusion**

**1058. Project Bank Account**

3385) The Project Management did not open a separate bank account as required by Section 74(1) where the Public Finance Management Regulations, 2015 states that for the purpose of disbursement of project funds, there shall be opened and maintained a project account for every project at Central Bank of Kenya unless it is exempted by the Cabinet Secretary, in writing, into which all funds shall be kept. The Act further states that, such an account shall be known by the name of the project for which it is opened and each project shall maintain only one bank account. The management did not get authority to open the project account but deposited the project funds in an existing project account for Adaptation Fund A/c No.1218639164 contrary to the requirements of the law.

**Submission by the Accounting Officer**

3386) The management wishes to state that, the Green Climate Fund plans to fund NEMA with USD 10 Million to enhance community resilience and water security in the Upper Athi River Catchment Area in Kenya. In order for the Authority to undertake this program, GCF was to finance preparatory and readiness activities in order to improve the capacity of the authority to implement the programme. The Authority requested the National Treasury to grant authority to open GCF bank account.

3387) The development partner disbursed funds to enable the authority to facilitate, planned capacity assessment of the authority, project feasibility study, proposal development .and trainings which were initial activities required to be undertaken before commencement of the main project.

3388) The funds were received before the National Treasury granted approval of opening of the GCF bank account hence the reason why the same were deposited into the adaptation fund account. Management carries out monthly reconciliation of funds deposited into the adaptation fund account to ensure that funds for one project are not used by the other project.

3389) The Authority is still following up with National Treasury for the approval to open GCF bank account.

3390) **Committee Observations and Findings**

**The Committee observed that,**

- i. The Project Management did not open a separate bank account as required by Section 74(1) of the Public Finance Management Regulations, 2015 for the purpose of disbursing project funds.
- ii. Management deposited the GCF project funds in the adaptation fund account which does not have the name of the Project in contravention of Section 74(1) of the Public Finance Management Regulations, 2015
- iii. The risk of misappropriating the GCF funds is very high in such cases; and
- iv. The matter remained unresolved.

#### 3391) **Committee Recommendation**

The committee recommended that, the Accounting Officer should within sixty (60) days of tabling this report:

- 1) **Submit supporting documents, bank reconciliation statements, cash book and correspondences from the National Treasury to the Office of the auditor General for further audit verification.**
- 2) **Should open the GCF bank account, transfer the GCF funds from the adaptation fund account and deposit the money in the GCF account and submit the supporting documents to the Office of the Auditor General for further audit verification.**

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

#### 3392) **Conclusion**

**1059.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

### GCF READINESS AND PREPARATORY SUPPORT: “NEMA CAPACITY STRENGTHENING PROGRAMME TOWARDS ACCESSING CLIMATE FINANCE FROM GREEN CLIMATE FUND” - NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

### REPORT ON THE FINANCIAL STATEMENTS

#### 3393) **Unqualified Opinion**

**1060.** There were no material issues noted during the audit of the financial statements of the Project.

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

#### **Basis for Conclusion**

#### **1061. Comingling of Projects Funds**

3394) Management did not open a separate Programme bank account but instead the Project funds are deposited in the Project Integrated Programme to Build Resilience to Climate Change and Adaptive Capacity of Vulnerable Communities in Kenya's bank account No.1218639164. It has not therefore, been possible to isolate transactions between the two projects considering that the money is fungible. This was contrary to Section 76(1) of the Public Finance Management (National Government) Regulations, 2015 which states that for the purpose of disbursement of project funds, there shall be opened and maintained a project account for every project at the Central Bank of Kenya into which all funds shall be kept unless it is exempted by the Cabinet Secretary, in writing. The regulation further states that, such an account shall be in the name of the project for which it is opened and each project shall maintain only one bank account. Consequently, Management is in breach of the regulation.

#### **Submission by the Accounting Officer**

3395) The management notes the observation. NEMA requested The National Treasury to grant authority approval to open GCF bank account. The development partner disbursed some funds to enable the authority to undertake requisite capacity building and readiness of NEMA for GCF programme and implementation. The GCF also wanted to Support NEMA's accreditation upgrade to grant award applications which were initial activities required to be undertaken before commencement of the main project. The funds were received before the National Treasury granted approval of opening GCF bank account hence the funds were deposited into the adaptation bank account.

3396) The Authority is following up with National Treasury for approval to open GCF bank account.

#### **3397) Committee Observations and Findings**

The Committee observed that:

- (i) Management did not open a separate Programme bank account but instead the Project funds are deposited in the Project Integrated Programme to Build Resilience to Climate Change and Adaptive Capacity of Vulnerable Communities in Kenya's bank account No.1218639164 in contravention of Section 76(1) of the Public Finance Management (National Government) Regulations, 2015.
- (ii) The risk of misappropriating the program funds is very high in such cases.
- (iii) The matter remained unresolved.

#### **3398) Committee Recommendation**

- 1) Submit supporting documents, bank reconciliation statements, cash book and correspondences from the National Treasury to the Office of the auditor General for further audit verification.**

- 2) **Should open the program bank account, transfer the program funds from the Project Integrated Programme to Build Resilience to Climate Change and Adaptive Capacity of Vulnerable Communities in Kenya's account and deposit the money in the program account and submit the supporting documents to the Office of the Auditor General for further audit verification.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3399) **Conclusion**

- 1062.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

FINAL REPORT 2019/2020

## 25. MINISTRY OF LANDS AND PHYSICAL PLANNING

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1112

**Dr. Nicholas Muraguri, the Principal Secretary and Accounting Officer for the Ministry of lands and Physical Planning (Vote 1112) appeared before the Committee on 14<sup>th</sup> February, 2021 to adduce evidence on the Audited Financial Statements for the Ministry of lands and Physical Planning (Vote 1112) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                          |   |                               |
|--------------------------|---|-------------------------------|
| 1. Mr. Walter J. Oselu   | - | Senior Chief Finance Officer  |
| 2. Mr. Charles Nderitu   | - | PICTO                         |
| 3. Ms. Jackline Kipkaptu | - | Principal Finance Officer     |
| 4. Ms. Purity Mwambia    | - | Principal Finance Officer     |
| 5. Ms. Jane W. Mburu     | - | Assistant Accountant General. |

And submitted as follows:

#### **Basis for Qualified Opinion**

#### **1063. Accounts Receivable – Outstanding imprest and Clearance Accounts**

##### **1063.1 Outstanding Imprest**

3400) The statement of assets and liabilities reflects accounts receivables-outstanding imprest and clearance accounts balance of Kshs.21,140,855 which as disclosed under Note 8 to the financial statements includes imprests totaling to Kshs.260,522 out of which an amount of Kshs.98,800 was due but had not been surrendered as at the time of the audit in November, 2020. This is contrary to Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to the duty station. Regulation 93 (6) further provides that in the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest charged at the prevailing Central Bank Rate.

3401) Consequently the validity and recoverability of the imprest balance of Kshs.260,522 as at 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

3402) The Accounting Officer submitted that the management would wish to state that the imprests were recovered/ surrendered and confirmation by the auditors were done in the



subsequent year. The imprest of Kshs.93,800.00 is being followed and a letter to the officer's ministry has been done.

**3403) Committee Observations and Findings**

- (i) The Committee observed that all imprest was surrendered save for Kshs.93,800.00 that is still outstanding; and
- (ii) The matter therefore remains unresolved.

**1063.2 Un-Surrendered District Suspense Balance**

3404) Accounts receivable balance of Kshs.21,140,855 as disclosed under Note 8 to the Financial statements also includes outstanding district suspense balance of Kshs.20,708,108 made up of an opening balance of Kshs.5,547,807, issues during the year of Kshs.140,506,402 and expenditure during the year of Kshs.125,346,101. The opening balance of Kshs.5,547,807 was not surrendered to The National Treasury but was instead carried forward to the current financial year contrary to Treasury guidelines on closure of financial year and Section 84 of the Public Finance Management (National Government) Regulations, 2015 which states that, "not later than 31st January of each year, each Accounting Officer shall surrender to the National Exchequer Account unexpended voted money or excess Appropriations-in-Aid, as confirmed by Auditor General in the audit report". Further, supporting documents for the expenditure of Kshs.125,346,101 and the closing balance of Kshs.20,708,108 were not availed for audit review.

3405) Consequently, the accuracy and validity of district suspense balance of Kshs.20,708,108 as at 30 June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

3406) The Accounting Officer submitted that supporting documents for district expenditures are kept at the sub counties and the state department has expenditure returns from the district vote books which were availed to the auditor for review. An analysis of the Kshs.125,346,101 expenditure was availed for perusal by the Committee.

3407) Further, the Accounting Officer submitted that the closing balance of Kshs.20,708,108/= was in respect of unspent AIES for Districts. The unspent balances were received and remitted to the national treasury in the subsequent year. Copies of payment vouchers and expenditure returns were availed for perusal by the Committee.

**3408) Committee Observations and Findings**

- (i) However, the Committee observed that the explanation given by the Accounting Officer with regard to Un-Surrendered District Suspense Balance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **1064. Undisclosed Legal Bills**

3409) Included in use of goods and services expenditure of Kshs.1,433,581,393 for the year ended 30 June, 2020 is other operating expenses of Kshs.540,975,313 which includes Kshs.100,000,000 paid to State Law Office in respect of prior year legal pending cases that were however, not disclosed as pending bills in prior year financial statements.

3410) Further, and as reported in the previous year, the Ministry had legal pending bills amounting to Kshs.772,211,214 for cases determined against the Ministry. However, the bills have not been disclosed in these financial statements and there was no evidence that the same were settled during the year under review.

3411) In addition, no budget provision has been made to settle the bills contrary to Section 44(2)(a) of the Public Procurement and Asset Disposal Act, 2015 which requires the Accounting Officer to ensure that procurement of goods, works and services of the public entity are within approved budget of that entity.

#### **Submission by the Accounting Officer**

3412) The Accounting officer submitted that the Legal Pending Bills are as a result of Court Awards. Further, the Accounting Officer submitted that all pending legal bills are not payable in the subsequent year due to budget constraint.

3413) The Legal Pending bills have since been attached and the Management is currently disclosing the Legal Pending bills in the final statements.

#### **3414) Committee Observations and Findings**

The Committee was satisfied with the explanation provided by the Accounting Officer. Consequently, the Committee marked the matter as resolved.

#### **1065. Undisclosed Bank Balance**

3415) As previously reported, the Kenya Institute of Survey and Mapping operates a revenue collection account at the National Bank of Kenya. During the year under review, fees and charges amounting to Kshs.8,500,000 were collected through the account and transferred to the Ministry as Appropriations in Aid as disclosed at Note 2 to the financial statements. As at 30 June, 2020, the account had a balance of Kshs.4,898,121 which was not disclosed or included in the Ministry's bank balance as at 30 June, 2020.

3416) In the circumstances, the accuracy and completeness of bank balance of Kshs.240,987,144 as at 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

3417) The management would wish to state that the Kenya institute of surveying and mapping maintains a deposit bank account with National Bank of Kenya. The purpose of the account is to collect student's fees and other levies such as Kenya National Examination Council (KNEC) Fees, Student welfare/Trip money, Sports money and caution money.

3418) During the year under review the institute collected kshs.13,398,121.00. Kshs.8,500,000.00 was remitted to the ministry's as A-I-A leaving a balance of Kshs.4,898,121.00. The balance of Kshs.4,898,121 could not be included in the Ministry's bank balance since it belongs to the students and remained in the deposit account maintained by the institute at National Bank of Kenya to be released when the need for which it was collected arises.

**3419) Committee Observations and Findings**

The Committee was satisfied with the explanation provided by the Accounting Officer. Consequently, the Committee marked the matter as resolved.

**Other Matter**

**1066. Budgetary Control and Performance**

3420) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.7,196,303,930 and Kshs.6,307,807,318 respectively resulting to an under-funding of Kshs.888,496,612 or 12% of the budget. Similarly, the Ministry expended Kshs.6,290,849,403 against an approved budget of Kshs.7,196,303,930 resulting to an under-expenditure of Kshs.905,454,527 or 13% of the budget. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

3421) The Accounting Officer submitted that the management would wish to state that the under expenditure of Kshs.905,454,527 or 13% of the total allocated budget of Kshs.7,196,303,930 was mainly caused by the Covid-19 pandemic during the second half of the financial year. The pandemic affected implementation of various planned activities under the Ministry's projects that required travelling and physical meetings such as stakeholder engagement which were restricted during the period.

**3422) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Budget Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1067. Pending Bills**

3423) As disclosed under Annex 3 to the financial statements, the Ministry had pending accounts payable totaling Kshs.83,104,377.00 as at 30 June, 2020. Management has not explained why the bills were not settled during the year when they occurred. Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

#### Submission by the Accounting Officer

3424) The Accounting Officer submitted that the management would wish to state that the pending bills were due to lack of exchequer funding in the year under review. The management would wish to state that pending bills amounting Kshs.82,606,391.00 were paid in the subsequent year after validation by the internal audit unit as tabulated below. However, Serial no 17 Neshiteq Solutions Limited has never been paid since he had an outstanding tax obligation that has remained unpaid.

	Supplier of Goods or Services	Original Amount	Amount Paid To-Date	Outstanding Balance	Comments/Date Paid
		a	b	C=a-b	
	Supply of goods				
1	Starwin Supplies Services	3,672,000.00	3,672,000.00	0.00	11-Dec-20
2	Gibraltar Holdings Limited	3,551,000.00	3,551,000.00	0.00	30-Nov-20
3	Jentech Investments	2,187,000.00	2,187,000.00	0.00	27-Nov-20
4	Motera Investment	1,996,000.00	1,996,000.00	0.00	01-Dec-20
5	Morningstar Holdings	28,050,000.00	28,050,000.00	0.00	25-Nov-20
6	MFI Document Solutions Ltd	14,848,000.00	14,848,000.00	0.00	01-Dec-20
7	Pecar Investments	5,300,000.00	5,300,000.00	0.00	27-Apr-20
8	Chakama office Supplies	8,955,900.00	8,955,900.00	0.00	18-Feb-21
9	Vinkars General Supplies	1,577,600.00	1,577,600.00	0.00	30-Nov-20

10	Susele Enterprises	2,334,394.00	2,334,394.00	0.00	10-Dec-20
11	Ginason Company Ltd	1,111,500.00	1,111,500.00	0.00	10-Dec-20
12	Chamwiu Agencies	2,678,900.00	2,678,900.00	0.00	27-Nov-20
13	Regional Centre for Mapping of resources for Development	564,264.00	564,264.00	0.00	30-Nov-20
14	Regional Centre for Mapping of resources for Development	4,267,368.00	4,267,368.00	0.00	27-Nov-20
15	Regional Centre for Mapping of resources for Development	577,385.00	577,385.00	0.00	27-Nov-20
16	Regional Centre for Mapping of resources for Development	935,080.00	935,080.00	0.00	30-Nov-20
17	Neshiteq Solutions Limited	497,986.00	-	497,986.00	Tax Obligations
	<b>Sub-Total</b>	<b>83,104,377.00</b>	<b>82,606,391.00</b>	<b>497,986.00</b>	

#### 3425) Committee Observations and Findings

- (i) The Committee observed that the pending bills amounting to Kshs.82,606,391.00 have since been settled, leaving out a balance of Ksh.497,986.00 unsettled; and
- (ii) The matter remained unresolved.

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

#### Basis for Conclusion

#### 1068. Transfers to Other Government Entities

3426) Note 5 to the financial statements reflects that an amount of Kshs.1,012,370,000 was transferred to the National Intelligence Service during the year for development of Land

Information Management System (LIMS). However, confirmation from the beneficiary institution as at 30 June, 2020 was not attached as an appendix to the financial statements contrary to the Public Sector Accounting Standards Board's requirement contained in the revised reporting template dated 30 June, 2018 that requires duly signed confirmations to be obtained from the beneficiary institutions. No explanation has been provided for the omission. Further, the terms of reference and progress reports in respect to the LIMS project on behalf of the Ministry of Lands and Physical Planning were not availed for audit review. In addition, and as previously reported, the Ministry had adopted LIMS and had already digitized 14 land registries at a total cost of Kshs.700,004,000 up to 2017/2018 financial year.

3427) Consequently the propriety of the money transferred and whether the Ministry of Lands and Physical Planning obtained value for money in the transfer of Kshs.1,012,370,000 for the year ending 30 June, 2020 could not be confirmed,

#### **1069. Digitization of Land Registries**

3428) As previously reported, contracts to digitize Machakos, Kajiado, Nakuru and Kisumu land registries were awarded to three local companies on 30 May, 2015 at a combined contract sum of Kshs.154,280,000. However, lack of appropriate scanners and internet has significantly affected the sustainability of the digitization project in the four registries despite incurring significant expenditure. Consequently, it has not been possible to ascertain if there was value for money on the expenditure of Kshs.154,280,000 on the digitization process.

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

#### **3429) Conclusion**

**1070.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

### **REVENUE STATEMENTS FOR THE MINISTRY OF LANDS AND PHYSICAL PLANNING**

#### **REPORT ON THE REVENUE STATEMENTS**

#### **Basis for Qualified Opinion**

#### **1071. Unsupported Balance Carried Forward**

3430) The statement of receipts and disbursements reflects a bank balance carried forward of Kshs.2,669,255 as at 30 June, 2020. However, the certificate of bank balance was not provided for audit verification.

3431) In the circumstances, the accuracy and validity of balance carried forward of Kshs.2,669,255 could not be confirmed.

### **Submission by the Accounting Officer**

3432) The Accounting Officer submitted that the Management would wish to state that the balance carried forward of Kshs.2,669,255/= was comprised of bank balance at KCB AC 1122659288 of KSHS. 578,875.00 and khs,2,090,380.00 unsurrendered revenue from E CITIZEN. The management would wish to state that the revenue has since been surrendered.

### **3433) Committee Observations and Findings**

- (i) The Committee observed that the revenue has since been surrendered; and
- (ii) The Committee marked the matter as resolved.

## **1072. Sale of Goods and Services**

### **1072.1 Unsupported and Misclassified Revenue-District Land Registries**

3434) The statement of receipts and disbursements reflects revenue receipts of Kshs.1,102,688,837 from sale of goods and services which, as disclosed in Note 4 to the revenue statements, includes other land revenue of Kshs.900,771,689. The latter balance includes revenue collections from district land registries amounting to Kshs.378,593,564 whose supporting documents were not availed for audit review. However, out of the revenue collection of Kshs.378,593,564, Kshs.258,672,101 was collected from identified registries while the balance of Kshs.119,921,463 was from unidentified land registries.

3435) Further, the revenue collections from district land registries amounting to Kshs.378,593,564 were aggregated and classified as other land revenue instead of being classified into specific revenue streams such as land registration, valuation and stamp duty. In addition, the Ministry's Finance Procedures Manual requires district land registries to submit consolidated monthly revenue returns to the Head Office. However, eight (8) land registries namely; Isiolo, Nakuru, Mbeere, Siaya, Nyando, Gatundu, Garissa and Litein, did not make returns during the year. No explanation has been provided for the non-compliance.

### **Submission by the Accounting Officer**

3436) The Accounting officer submitted that revenue amounting to Kshs.378,593,564/= aggregated and classified as other land Revenue instead of specific revenue streams was because not all revenue streams are defined in the receiver of revenue appointment letter as per the attached. This is a budgeting issue and is being addressed currently to ensure that all revenue streams are defined in the Revenue budget.

3437) Further, the management has advised the field officers to classify revenue and this has been implemented in the current year. The Accounting Officer also submitted that 8 registries had not submitted their monthly revenue returns at the time of audit. However, the returns have since been received and confirmed in the K C B revenue collection Account as per the attached analysis.



3438) Gatundu lands office did not submit revenue returns because during the period under review the registry did not have a revenue bank account. Thus, collection and submission of returns were being done through the Thika Lands Office. However, Gatundu lands registry has since opened a revenue bank account, and has been submitting its returns. Letters authorizing account opening and bank account was availed for perusal by the Committee.

**3439) Committee observations and findings**

- (i) The Committee observed that the Accounting Officer produced the list of unidentified registries and support documents for verification by the Auditor General; and
- (ii) The Committee marked the matter as resolved.

**1072.2 Unreconciled Balances**

3440) Annual revenue collections reflected in the records maintained at the district land registries differed with the annual revenue collections reflected in the revenue statements as follows:

Registry	Balance as per Revenue Statements (Kshs.)	Balance as per the Registry (Kshs.)	Difference (Kshs.)
Bungoma	4,310,035	7,357,240	(3,047,205)
Kakamega	9,608,270	10,960,315	(1,352,045)
Kisumu	7,854,320	9,500,575	(1,646,255)
Kisii	1,660,500	8,994,870	(7,334,370)
Narok	800,120	3,468,776	(2,668,656)
Kajiado	9,450,039	13,113,610	3,663,571
Machakos	19,125,380	21,369,380	(2,244,000)
Mombasa	877,800	3,520,610	2,642,810
Kilifi	3,067,959	2,991,300	76,659
Kwale	2,775,260	3,856,680	(1,081,420)

**Submission by the Accounting Officer**

3441) The Accounting officer submitted that the Management would wish to State that the unreconciled balances in the Revenue Financial Statements and Balances as per the Registry have since been reconciled. The variances were due to Revenues Returns that had not been surrendered to the Ministry’s Headquarters. However, the Management would wish to state that the revenue had been banked in Revenue Collection Account and this has been confirmed by the Auditor. The Management has put in place measures to ensure that Revenue in the Current Year is surrendered on time. Copies of the analysis of the reconciliation were availed for verification.

**3442) Committee observations and findings**

- (i) The Committee observed that the explanation given by the Accounting with regard to Unreconciled Balances was satisfactory; and

- (ii) The Committee marked the matter as resolved.

### **1072.3 Un-Surrendered Survey Fee**

3443) Regulation 64(1)(a) of the Public Finance Management (National Government) Regulations, 2015 provides that an Accounting Officer and a Receiver of Revenue are personally responsible for ensuring that adequate safeguards exist and are applied for the prompt collection and proper accounting for all national government revenue and other public moneys relating to their Ministries, Departments or Agencies. However, survey fees amounting to Kshs.7,261,896 collected in the financial year 2019/2020 by the Department of Survey at Machakos Land Registry was remitted to the County Government of Machakos instead of the Ministry. The revenue has not been included in the reported revenue for the year.

3444) In the circumstances, the accuracy of the revenue balances for the various revenue streams reflected under Note 4 to the revenue statements could not be confirmed.

#### **Submission by the Accounting Officer**

3445) The Accounting Officer submitted that survey fees collected at Machakos of Kshs.7,261,896 was erroneously remitted to the county government of Machakos instead of the Ministry of Lands and Physical Planning.

3446) Further, the management would wish to state that a letter had been sent to the county government of Machakos for refund. These copies were availed to the Committee for perusal. However, this has since stopped in the current year and survey revenue is being remitted correctly.

#### **3447) Committee observations and findings**

- (i) The Committee observed that the explanation given by the Accounting with regard to Un-Surrendered Survey Fee was satisfactory; and  
(ii) The Committee marked the matter as resolved.

#### **Other Matter**

### **1073. Unresolved Prior Year Matters**

3448) Various prior year audit issues remained unresolved as at 30 June, 2020. Further, the unresolved prior year issues are not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

#### **Submission by the Accounting Officer**

3449) The Accounting Officer submitted that the management would wish to state that the unresolved prior year matter had been attached to the Financial statements as an appendix 2. This document was shown to the auditor.

**3450) Committee Observations and Findings**

The Committee observed that the issue was dealt with during the examination of the State Department's accounts for financial year 2018/19 and a recommendation issued thereof.

**1074. Budgetary Control and Performance**

3451) Note 3 to the revenue statements reflects budgeted and actual property income of Kshs.30,654,685 and Kshs.18,666,848 respectively resulting into a shortfall of Kshs.11,987,837 or 39%. Although Management has explained that the under-collection was occasioned by closure of the land registries due to the Covid-19 pandemic, the under collection affected the planned activities and may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

3452) In regard to this matter, the shortfall of Kshs.11,987,837 or 39% on revenue collection under property income as explained earlier this mainly due to Covid-19 pandemic which occasioned closure of land registries hence affecting revenue collection.

**3453) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Budget Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

**3454) Conclusion**

**1075.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

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

**3455) Conclusion**

**1076.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**26. STATE DEPARTMENT FOR INFORMATION, COMMUNICATION,  
TECHNOLOGY AND INNOVATION**

**REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1122**

**Mr. Jerome Ochieng, the Principal Secretary and Accounting Officer for the State Department of ICT (Vote 1122) appeared before the Committee on 8<sup>th</sup> February, 2022 to adduce evidence on the Audited Financial Statements for the State Department of ICT (Vote 1122) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                         |   |   |
|-------------------------|---|---|
| 1. Mr. Johnson Wambugu  | - | Senior Chief Finance Officer            |
| 2. Ms. Margaret Kariuki | - | Senior Deputy Accountant General        |
| 1. Dr. Paul Rono        | - | Ag. Chief Executive Officer ICTA        |
| 2. Mr. Lucas Omollo     | - | Manager ICT & Smart City Solutions      |
| 3. Mr. Anthony Njenga   | - | Deputy Accountant General               |
| 4. Ms. Lucy Mulili      | - | Secretary Administration                |
| 5. Mr. Andrew Nyamwamu  | - | Deputy Director Supply Chain Management |
| 6. Mr. Duncan Muragum   | - | Internal Auditor                        |

And submitted as follows:

**Basis for Qualified Opinion**

**1082. Proceeds from Foreign Borrowing**

3456) The statement of receipts and payments reflects receipts of Kshs.11,273,229,015 being proceeds from foreign borrowings which, as disclosed in Note 2 to the financial statements, includes an amount of Kshs.4,393,499,464 relating to direct payments made by a Chinese Bank to the Contractor for undertaking the implementation of Konza Data Centre and Smart City Facilities Project. However, the financing agreement for the contract was signed on 19 April, 2019 which was almost two (2) years after the contract award date of 22 June, 2017. Further, annexes to the contract containing the terms and conditions of the contract including timelines, deliverables and payment schedules in support of the payments were not provided. Consequently, the validity and accuracy of Kshs.4,393,499,464 included in the reported proceeds from foreign borrowings totalling Kshs.11,273,229,015 for the year ended 30 June, 2020 could not be ascertained.

**Submission by the Accounting Officer**

3457) The Accounting Officer admitted that the commercial contract was signed in 2017 while the financing agreement was signed in 2019. The delays were occasioned by the requirement that the contracts had to be reviewed by The National Treasury and the Office of the Attorney General to ensure compliance with the provisions of the law before project

implementation. Copies of correspondences have been availed for perusal by the Committee. The contract and annexes containing deliverables and timelines were availed for perusal by the Committee.

### **3458) Committee Observations and Findings**

The Committee observed that the delays were occasioned by the requirement that the contracts had to be reviewed by The National Treasury and the Office of the Attorney General to ensure compliance with the provisions of the law before project implementation. However, the two years delay by the National Treasury and the Office of the Attorney General to sign the financing agreement appeared too long and a breach of the Section 45(3) (a) of the Public Procurement and Asset Disposal Act 2015.

### **3459) Committee Recommendations**

**The National Treasury should ensure that the revenue targets for Donor Funding, Kenya Revenue Authority (KRA) and the Appropriations In Aid (AIA) factored by the Accounting Officers in annual budgets are realistic and achievable.**

### **1083. Acquisition of Assets - Unsupported Expenditure**

3460) The statement of receipts and payments reflects payments of Kshs.3,630,792,323 in respect of acquisition of assets which, as disclosed in Note 8 to the financial statements, comprises of amounts of Kshs.951,062,760 and Kshs.2,679,729,564 in respect of nonfinancial assets and financial assets respectively. Included in the non-financial assets balance is an amount of Kshs.761,748,808 in respect of purchase of specialized plant equipment and machinery which in turn includes Kshs.220,000,000 issued as Authority to Incur Expenditure (AIE) to the Director, Information Communication Technology. The AIE was paid on 5 December, 2020 for the overhaul of Ruaraka Data Centre following a fire outbreak.

3461) However, the following issues were noted;

- i. The AIE was based on the requisition of the Director, Information Communication Technology dated 27 November, 2019 which was more than one year earlier than the date of its payment on 5 December, 2020;
- ii. There was no detailed report on the fire outbreak indicating the date of its occurrence, the cause of the fire, the extent of damage and professional estimates for the cost of repairs. Further, the Government Data Centre is managed and maintained by the Information and Communications' Technology Authority (ICTA) under a maintenance contract with a service provider since 28 September, 2015. However, the request for cash for the overhaul originated from the Director, Information Communication Technology of the State Department as opposed to ICTA who is charged with the responsibility of managing and maintenance of the Data Centre;

iii. Returns to account for the AIE of Kshs.220,000,000 issued in respect of the overhaul of the data Centre were not availed for audit review. Further, the amount had not been factored in the State Department's budget for the year 2019/2020 and evidence of authorized reallocation during the year was not made available for audit verification.

3462) Under the circumstances, the propriety, accuracy and validity of the expenditure of Kshs.220,000,000 included under purchase of specialized plant, equipment and machinery could not be confirmed.

**Submission by the Accounting Officer**

3463) The Accounting Officer admitted that the State Department for ICT & Innovation transferred Ksh.220M to the National Intelligence Service (NIS) for overhaul of Ruaraka Data Centre following a fire outbreak that occurred on 25th October, 2019. NIS acknowledged receipt of the funds through the letter Ref No ADM/NIS/POL.F 50/5/19/1 Vol.5 (6) dated 30th September, 2020.

3464) The delay in processing of payment was occasioned by fact that maintenance of the data centre was a responsibility of ICT Authority which did not have sufficient funds to cater for the overhaul of the data centre after the fire outbreak as per ICT Authority letter Ref ICTA/SS/9 dated 11th September, 2019. Due to the sensitivity of the data centre the State Department had to ensure it was made operational and thus the funding of Ksh.220M.

3465) The State Department has since requested for the expenditure returns from NIS for funds as per our letter Ref No MICT/CONF/10/26 Vol. D.

**3466) Committee Observations and Findings**

- (i) The explanation provided by the Accounting Officer was found to be satisfactory; and
- (ii) The Committee marked the matter resolved.

**1084. Mis-Postings Under Use of Goods and Services**

3467) The statement of receipts and payments reflects an expenditure of Kshs.574,733,671 in respect of use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.362,177,115 in respect of other operating expenses. Examination of sampled payments for other operating expenses revealed mis postings of expenses totalling Kshs.10,468,003 as detailed below: -

Account charged as per the Financial Statements	Correct Account	Amount (Kshs)
Other Operating expenses	Hospitality supplies and services	811,032
Other operating expenses	Foreign travel and subsistence	1,113,695
Other operating expenses	Hospitality supplies and services	8,543,276

3468) Necessary adjustments were not effected to correct the mis-postings and as such the accuracy of the affected balances and the regularity of the mis-posted expenditure could not be ascertained.

#### Submission by the Accounting Officer

3469) The reason for the accounts charged as per the financial statement is as indicated here below: -

Account charged as per Financial Statement	Amount	Reason for the charge
Other Operating expenses	811,032	The payment related to facilitations during projects meetings and thus the charge on other operating expenses being the GOK counter- part funding on projects implementation. The projects included NOFBI, connectivity to health facilities among others
Other operating expenses	1,113,695	The payments related to travels related to the various projects in the department. The projects included NOFBI, constituency innovation hubs and Connectivity to health facilities.
Other operating expenses	8,543,276	The payments related to conference services held for discussions on projects activities and thus the charge on other operating expenses. The projects included connectivity to health facilities, NOFBI and constituency innovation hubs among others.

#### 3470) Committee Observations and Findings

The Committee observed that the explanation given by the Accounting Officer with regards to mis-posting was satisfactory.

#### Other Matter

##### 1085. Pending Bills

3471) Note 17.1 to the financial statements reflects pending bills of Kshs.670,893,139 as at 30 June, 2020 which includes a balance of Kshs.11,473,560 incurred in the 2017/2018 financial year. Although the amount of Kshs.11,473,560 had been budgeted for payment over the last two years, no satisfactory explanation was provided for failure to settle the bill. The State Department is exposed to the risk of litigation, interest and penalties with the continued delay in settling the bills.

#### Submission by the Accounting Officer

3472) Accounting Officer admitted that an amount of Ksh.11,473,560 being pending bills for Professional Marketing Services Limited had not been settled. The original amount was Ksh.19,122,600 where the first instalments of Ksh.7,649,040 was paid. The subsequent instalments delayed while undergoing pending bills verification process prompting the supplier to go to court where a determination was made in favour of the supplier. The State Department has since engaged the National Treasury for budgetary provision in the supplementary estimate in order to clear the bill.



### **3473) Committee Observations and Findings**

The Committee observed and found that the pending bills amounting to Kshs.11,473,560 did not form the first charge in the financial year 2018/2019, 2019/2020 and subsequently 2020/2021 and the Accounting Officer therefore in breach of Regulation 42 of the Public Finance Management - National Government Regulations 2015. The delay could lead to further loss of public funds through penalties and interest on the awarded amounts.

### **3474) Committee Recommendations**

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

### **1086. Unresolved Prior Year Issues**

3475) Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues.

#### **Submission by the Accounting Officer**

3476) Accounting Officer admitted that the Committee observed that the unresolved issues related to NOFBI and CCP project, where a forensic audit by the Office of the Auditor General is on- going.

### **3477) Committee Observations and Findings**

The Committee observed that in its report on the 2017/2018 financial year, it had recommended that the Auditor-General conducts a forensic audit on the matter and report back to the National Assembly within three months.

### **3478) Committee Recommendations**

**Within thirty days upon adoption of this report, the Auditor-General should transmit the report on the forensic audit to the National Assembly without further delay.**

### **1087. Budgetary Control and Performance**

3479) The summary statement of appropriation- recurrent and development combined reflected actual receipts of Kshs.17,007,093,895 against a budget of Kshs.21,526,864,180 resulting into a receipts shortfall of Kshs.4,518,960,285 or 21% of the budgeted receipts. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.21,526,864,180 and Kshs.16,991,880,511 respectively resulting to an under expenditure of Kshs.4,534,983,669 or 21% of the budget. The shortfall in budgeted receipts and under-expenditure implies that the overall goals and objectives of the State Department were not achieved as planned impacting negatively on service delivery to the public.

#### **Submission by the Accounting Officer**

3480) Accounting Officer admitted that shortfall in budgeted receipts and under-expenditure implies that the overall goals and objectives of the State Department were not achieved as planned. These shortfalls were caused by unfunded exchequers. However, most of the activities were undertaken resulting to pending bills that were settled in financial year

2020/2021. The additional under expenditure was caused by non-processing of payments related to Huawei Technology Ltd due to non-payment of taxes. However, taxes have since been paid and payments processed.

**3481) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to budgetary performance was satisfactory as the supporting documents were verified by the Auditor General; and
- (ii) The Committee therefore marked the matter as resolved.

**Basis for Conclusion**

**1088. Acquisition of Assets**

**1088.1 Deliveries Made after Lapse of Statutory Period**

3482) The statement of receipts and payments reflects an amount of Kshs.3,630,792,323 in respect of acquisition of assets which, as disclosed in Note 8 of the financial statements, included an amount is Kshs.133,016,528 relating to purchase of office furniture and general equipment. However, examination of sampled payments under the account revealed that while local purchase orders were issued to various suppliers, the deliveries were made after 30 days contrary to Regulation 53(1) of the Public Finance Management (National Government) Regulations, 2015 which stipulates that a local purchase order shall be valid for a period of thirty (30) days from the date of issue.

3483) The details of the deliveries are as below: -

LPO No	Item supplied	LPO Date	Date of delivery	Lead time (days)	amount
584	Supply of desk top computer type 2 for culture and heritage	9/1/19	3/5/19	114	2,580,000
1072	Supply for printers for SRC	27/5/19	25/10/19	151	1,875,000
563	Supply of laptop computer type 2 for public service	4/1/19	21/3/19	76	1,259,000
973	Supply of laptop computer type 2 for tourism	24/4/19	14/6/19	51	3,777,000
1971	Supply of desk top computer type 1 state department for interior	20/3/20	17/6/20	89	10,780,000
987	Supply of laptop computer type 2 for the state department for ICT	30/4/19	27/6/19	58	2,518,000
Total					22,789,000

3484) Evidence of extension of the validity of the local purchase orders was not provided and the State Department was therefore in breach of the Law.

### **Submission by the Accounting Officer**

3485) Accounting Officer admitted that various suppliers were issued with purchase orders for purchase of ICT equipment. However, some suppliers serviced the purchase orders beyond the stipulated 30 days. Some of the goods were sourced from the international markets where there were shortages, while some other delays were caused by covid -19 pandemic thereby affecting the lead-time. Copies of supplier's letters indicating how the situation was in the international market was availed for perusal by the Committee.

### **3486) Committee Observations and Findings**

The Committee observed that the Accounting Officer admitted breach of Regulation 53(1) of the Public Finance Management (National Government) Regulations, 2015.

### **3487) Committee Recommendations**

**The Committee cautions the then Accounting Officer for breach of Regulation 53(1) of the Public Finance Management (National Government) Regulations, 2015.**

### **1088.2 Domestic Public Non-Financial Enterprise**

3488) The acquisition of assets amount of Kshs.3,630,792,323 includes an amount of Kshs.2,679,729,564 in respect of financial assets described as Domestic Public Non-Financial Enterprise. However, the nature of assets and the breakdown of the amount was not provided for audit verification. In addition, available information indicated that the expenditure was in respect of the National Fibre Optic Backbone Infrastructure (NOFBI) whose first phase was initiated in 2010 and completed in 2012. Subsequent extensions in scope and geographical coverage were automatically granted to the contractor without undertaking any procurement process in line with the Public Procurement and Asset Disposal Act, 2015. Some of the extensions were yet to be completed and commissioned as at 30 June, 2020. Further, the technical report for supplies of the project to confirm adherence to the specifications was not provided and the operational acceptance certificate was signed by the Project Manager and an Administrator whose technical capacity could not be confirmed.

### **Submission by the Accounting Officer**

3489) Accounting Officer admitted that the assets amounting to Ksh.2,679,792,564 in respect of financial assets under domestic public non-financial enterprise related to National Fibre Optic Backbone Infrastructure. The detailed nature of the assets and breakdown of the amount was provided for in the register of assets attached in the financial statement. An extract of the register was availed for perusal by the Committee.

3490) The extensions were entered under Government-to-Government form of procuring project finance that ordinarily come with a preferred contractor. Government-to-Government arrangement is covered under Public Procurement and Asset Disposal Act,

2015 section 4 (2) (f). The extensions have since been completed; copies of the final certificates of operational acceptance have been attached for review.

3491) Sampled copies of technical reports for supplies of the projects prepared during inspections were also availed for perusal by the Committee. The operational acceptance certificate was signed by the project manager who was an expert in telecommunication while the administrator signed as the ministry representative and a member of the project implementation committee. The two signed after experts had carried out inspections.

#### **3492) Committee Observations and Findings**

The Committee observed that in its report on the 2017/2018 financial year, it had recommended that the Auditor-General conducts a forensic audit on the matter and report back to the National Assembly within three months.

#### **3493) Committee Recommendations**

**Within thirty days upon adoption of this report, the Auditor-General should transmit the report on the forensic audit to the National Assembly without further delay.**

### **1088.3 National Optic Fibre Backbone Infrastructure (NOFBI) and County Connectivity Project (CCP) Structure**

3494) As previously reported, the State Department undertook two projects namely National Optic Fibre Backbone Infrastructure (NOFBI) and County Connectivity Project (CCP). However, the projects did not have a defined structure that assigns responsibility for delivery by the contractors. In addition, although the contract was between the State Department and the contractor, the payment for works done was initiated by Information Communication and Technology Authority (ICTA) and the payments made by The National Treasury. No documented inspection and acceptance reports were provided in support of the payments amounting to Kshs.10,258,054,196 in respect of NOFBI and Kshs.1,337,832,556 in respect to CPP over the last four (4) years. Further, no evidence has been provided for audit verification to show that User Acceptance Tests (UAT) have been undertaken on the project. In addition, appointment letters for Project Managers and members of the Inspection and Acceptance Committees for both Projects were not provided for audit verification.

3495) In addition, the documents to show how the two Contractors were identified, procured and awarded the contracts were not availed for audit verification and hence the validity of the payments as a charge to public funds is not confirmed. Further, the contracts availed for audit examination did not include the annexures containing the terms and conditions of the contract including timelines, deliverables and payment schedules. It was therefore not possible to verify the compliance to the contractual obligation, and the propriety and validity of the payments made on account of these contracts so far. In view of the foregoing, value for money for the cumulative expenditure of Kshs.11,595,886,752 on the two projects as at 30 June, 2020 could not be confirmed.

### **Submission by the Accounting Officer**

3496) Accounting Officer admitted that the State Department undertook two projects namely National Optic Fibre Backbone Infrastructure (NOFBI) and County Connectivity Project (CCP). The structure that assigned responsibility for delivery by the contractor was defined by the commercial contracts for the two projects. ICT Authority; a SAGA in the State Department acted as its agent. Payments were done by The National Treasury since the projects were financed through loan AIA arrangement. Copies of inspections and acceptance certificates for both NOFBI and CCP were availed for perusal by the Committee. Equipment and fibre performance user acceptance tests were undertaken in all the sites and certificates raised. Copies of the same were also availed for perusal by the Committee. The two projects had qualified project managers; their appointment letters were similarly availed for perusal by the Committee.

3497) The two contractors came into the projects through Government-to-Government form of procuring project finance which ordinary have preferred contractors. Copies of the framework agreements were equally availed for perusal by the Committee. This form of arrangement is not subject to the public procurement and disposal act 2015 pursuant to section (4) (2) (f). Copies of the annexures for the contracts were availed for perusal by the Committee.

### **3498) Committee Observations and Findings**

The Committee observed that in its report on the 2017/2018 financial year, it had recommended that the Auditor-General conducts a forensic audit on the matter and report back to the National Assembly within three months.

### **3499) Committee Recommendations**

**Within thirty days upon adoption of this report, the Auditor-General should transmit the report on the forensic audit to the National Assembly without further delay.**

### **1089. National Optic Fibre Infrastructure (NOFBI) – Loan Repayment**

3500) As previously reported, the NOFBI project is implemented by the State Department in conjunction with Information and Communications Technology Authority (ICTA) and is funded by the Export Import Bank of China for RMB.1,110,000,000 made up of two loans. The first loan of RMB 460,000,000 was signed on 08 October, 2012 and the second loan amounting to RMB.650,000,000 was signed on 19 May, 2016. Although ICTA has started funding the repayment of the loan through the opening and operation of an escrow account that is being funded through periodic disbursements by The National Treasury through the State Department for Information Communication and Technology and Innovation, the loans have not been recorded in the Authority's financial statements or accounting records. Under the circumstances, the legality, propriety and justification of the loans totalling RMB.1,100,000,000 (Kshs.16,500,000,000) and repayments by ICTA amounting to Kshs.727,929,220 could not be ascertained.

### **Submission by the Accounting Officer**

3501) The budget was provided for under the State Department for ICT being the entity that signed the commercial contract with the contractors. While the financing was through loan AIA. Escrow account acted as a security for the fulfilment of the obligation of The National Treasury in terms of the loan agreement. The Ksh.727 Million disbursed to the escrow account was part of the minimum expected balance as per the agreement. ICT authority is the operator of the escrow account. Copy of the escrow account agreement was availed for perusal by the Committee.

### **3502) Committee Observations and Findings**

The Committee observed that in its report on the 2017/2018 financial year, it had recommended that the Auditor-General conducts a forensic audit on the matter and report back to the National Assembly within three months.

### **3503) Committee Recommendations**

**Within thirty days upon adoption of this report, the Auditor-General should transmit the report on the forensic audit to the National Assembly without further delay.**

### **1090. Non-Billing of the National Optic Fibre Backbone Infrastructure (NOFBI)**

3504) As previously reported, the NOFBI project network has been operational since 2014 and has been used by most of the data service providers in the Country. However, although the financing agreement indicated that the Government would sell out excess capacity commercially to the public and bill them to finance the loan repayments, there has been no billing done over the last five (5) years it has been in operation. Further, the Service Provision Framework Agreement between the NOFBI Project Managers and the Internet Service Providers has not been implemented. The Government has therefore, been funding the operations of commercial entities without recovering the cost which amounts to lack of prudent use of public resources. In addition, no records have been provided detailing the users that have been connected to NOFBI for the last five (5) years, their utilization levels, and the amount payable by each.

### **Submission by the Accounting Officer**

3505) Accounting Officer admitted that the financing agreement indicated that the Government would sell out excess capacity commercially to the public and bill them to finance the loan repayments. However, this was not possible until the Ministry through ICT Authority received a network provider license from communication authority, a process that took long to complete. Copy of the license was availed for perusal by the Committee.

3506) The State Department through ICT Authority being the escrow account operator has signed contracts with internet Service Providers such as Jamii Telecom and Safaricom Ltd and discussions are on-going with Telkom Kenya, Airtel Kenya and Fibre Optic Network (FON). So far, under NOFBI commercialization an amount totaling to Ksh.305,722,650.38



has been collected. The list of users that had been connected to NOFBI for the last five (5) years were also availed for perusal by the Committee.

### **3507) Committee Observations and Findings**

The Committee observed that in its report on the 2017/2018 financial year, it had recommended that the Auditor-General conducts a forensic audit on the matter and report back to the National Assembly within three months.

### **3508) Committee Recommendations**

**Within thirty days upon adoption of this report, the Auditor-General should transmit the report on the forensic audit to the National Assembly without further delay.**

### **1091. Unfair and Improper Sourcing of Suppliers**

3509) Following the consolidation of procurement of ICT equipment and related services for the entire Government, the State Department identified fifty-four (54) products and fifty-four (54) suppliers were awarded framework contracts to supply each of the identified products to the entire national government for a period of two (2) years each corresponding to the products identified. However, the framework contracting was done contrary to Section 114(1)(c) of the Public Procurement and Asset Disposal Act, 2015, as only one supplier was selected for each category instead of the mandatory minimum of seven (7). This eliminated competition necessary to ensure prices for commodities procured are comparable to the market value. This also eliminated equity, value for money and fairness in the procurement of ICT related products. An analysis of the acquisition of assets revealed that total Purchase Orders issued by the State Department for the financial year ended 30 June, 2020 in respect of purchase of ICT equipment and related services amounted to Kshs.847,011,026 relating to procurement done on behalf of other Government Ministries, Departments and Agencies. Further analysis indicates that 77% of the supplies were awarded to seven (7) suppliers for a duration of two years. Consequently, fairness, equity, transparency, competitiveness and cost effectiveness in the procurement of public assets as required under Article 227 of the Constitution could not be confirmed.

### **Submission by the Accounting Officer**

3510) Framework contracting was undertaken in compliance with section 114 of the Public Procurement and Asset Disposal Act, 2015. It was carried out through open tender where out of the evaluation process which involved more than seven (7) bidders under each category, the most responsive and lowest evaluated bidder was picked for goods. It was this supplier that would get call offs as and when need arose.

3511) For services, since the nature of services and cost could not be determined in advance, a minimum of seven (7) suppliers were pre-qualified under different categories. Mini competition would therefore be carried out amongst the seven or more suppliers whenever the services were required. A list of pre-qualified suppliers for goods and services was availed for perusal by the Committee.



### **3512) Committee Observations and Findings**

The Committee observed that the explanation provided by the Accounting Officer was satisfactory.

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

### **3513) Conclusion**

**1092.** There were no material issues relating to effectiveness of internal controls, risk management and governance

## **DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR INFORMATION COMMUNICATION AUTHORITY. EASTERN AFRICA REGIONAL TRANSPORT, TRADE AND DEVELOPMENT FACILITATION PROJECT (IDA CREDIT NO.5638-KE) - INFORMATION AND COMMUNICATION TECHNOLOGY AUTHORITY REPORT ON THE FINANCIAL STATEMENTS**

### **3514) Unqualified Opinion**

**1093.** There were no material issues noted during the audit of the financial statements of the Project.

### **Emphasis of matter**

#### **1094 Special Account Reconciliation**

3515) As disclosed under Note 10.3 to the financial statements, the statement of receipts and payments reflects proceeds from domestic and foreign grants of Kshs.123,676,921. However, this excludes amounts withdrawn but unclaimed of USD 30,573.03 equivalent to Kshs.3,196,275 as at 30 June, 2020 reflected in the Project special account statement. The amount represents cumulative funds transfers to the Project bank account, but whose expenditure returns had not been submitted to The National Treasury by the close of the financial year.

### **Submission by the Accounting Officer**

3516) The special account reconciliation as at 30<sup>th</sup> June, 2020 has been provided.

### **3517) Committee Observations and Findings**

The Committee was satisfied with the explanation provided by the Accounting Officer.

### **1095 Slow Project Funds Absorption**

3518) The Project commenced in November, 2015 with an estimated completion date of December, 2021. However, as reflected under the funding summary, out of the total commitment of Kshs.2,979,795,000 by IDA and the Government of Kenya, only

Kshs.325,831,189 or 11% had been released to the Project as at 30 June, 2020. The Project is unlikely to fully achieve the intended objectives for the stakeholders.

#### **Submission by the Accounting Officer**

**3519)** The management engaged the National Treasury for timely release of funds. Additionally, project activities as set out in the work plan were accelerated in order to meet the timelines. So far the absorption rate is at 85% of the funds and the balance would be met by December, 2023 being the deadline for the extension period from the World Bank.

#### **3520) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Slow Project Funds Absorption was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **Other matter**

#### **1096 Budgetary Control and Performance**

**3521)** The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.150,000,000 and Kshs.123,480,921 respectively resulting to an under-funding of Kshs.26,323,079 or 18% of the budget. Similarly, the Project expended Kshs.131,421,321 against an approved budget of Kshs.150,000,000 resulting to an under-expenditure of Kshs.18,578,679 or 12% of the budget. The underfunding and underperformance affected the planned activities and may impact negatively on service delivery to the public.

#### **Submission by the Accounting Officer**

**3522)** Most of the activities were not implemented due to covid-19 pandemic hence the underperformance. The management is committed to ensuring that the activities are carried out and objectives met before the project is completed by December, 2021.

#### **3523) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to the Budgetary Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

#### **3524) Conclusion**

**1097.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

**27. STATE DEPARTMENT FOR BROADCASTING AND  
TELECOMMUNICATIONS**

**REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1123**

**Ms. Esther Koimett, the Principal Secretary and Accounting Officer for the State Department for Broadcasting and telecommunication (Vote 1123) appeared before the Committee on 17<sup>th</sup> August, 2021 to adduce evidence on the Audited Financial Statements of the State Department for Broadcasting and telecommunication (Vote 1123) for the Financial Year 2019/2020. She was accompanied by the following officers:**

- |                         |   |  |
|-------------------------|---|--|
| 1. Mr. John O. Nyarwari | – | Chief Finance Officer                  |
| 2. Ms. Lucy Kananu      | – | Head Of Accounts                       |
| 3. Mr. Siele Henry      | – | Deputy Accountant General              |
| 4. Henry Momanyi        | - | Finances Admin Manager                 |
| 5. Mr. Joseph K. Nguyo  | – | Director Accounts                      |
| 6. Mr. Racheal Ndungu   | – | Assistant Accountant General           |
| 7. Ms. Helen Muchiri    | – | Principal Accountant                   |
| 8. Dr. Naim Bilal       | – | Managing Director, KBC                 |
| 9. Mr. Ogaro Gwaro      | – | Director Government Advertising Agency |
| 10. Mr. Job Kirimi      | – | MTS, KBC                               |

And submitted as follows:

**Basis for Qualified Opinion**

**1099. Bank balances**

3525) As disclosed in Note 10 A to the financial statements, the statement of financial assets and liabilities reflects bank balances of Kshs.304,133,182 as at 30 June, 2020. However, the bank reconciliation statements in support of the cash book balances were at variance with the certificate of bank balances as at 30 June, 2020 as analyzed below:

<b>Bank Account</b>	<b>Certificate of Balance (Kshs.)</b>	<b>Bank Balance as per Reconciliation (Kshs.)</b>	<b>Difference (Kshs.)</b>
Development Account	0	232,275	(232,275)
Deposit Account	268,696,622	280,749,093	(12,052,471)
<b>Totals</b>	268,696,622	280,981,367	(12,284,745)

3526) Details of the reconciling items and supporting documents were not availed for audit review.

3527) In the circumstances, the accuracy, and fair statement of the reported bank balances of Kshs.304,133,182 as at 30 June, 2020 could not be ascertained.

### **Submission by the Accounting Officer**

3528) The reported total cash and cash equivalent of Kshs.232,274.59 and Kshs.280,749,092.6 were the balances on the last date of operations for the financial year 2019/2020 i.e. 27th July 2020. The supplementary II budget was approved on 5th May 2020 and therefore uploaded in the IFMIS late in the Financial Year. As such the last Exchequer issuance for development amounting to Kshs.18,629,610 was received on 2nd of July as shown in the Bank Statement (Appendix 1099.1) and payments worth Kshs.18,457,335.00 paid out leaving a balance of Kshs.232,274.50. Bank reconciliations have been done reflecting this position. With regard to the Deposit bank account, the difference relates to the transactions after 30th June as clearly shown in the Bank Reconciliations Statements attached. (Appendix 1099.2).

### **3529) Committee Observations and Findings**

- (i) The Committee observed that the reported total cash and cash equivalent of Kshs.232,274.59 and Kshs.280,749,092.6 were the balances on the last date of operations for the financial year 2019/2020
- (ii) The Committee also observed that the difference noted on the Deposit bank account, relates to transactions after 30th June as shown in the Bank Reconciliations Statements.

### **3530) Committee Recommendation**

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

#### **1100. Accounts Receivables**

3531) As disclosed in Note 11 of the financial statements, the statements of financial assets and Liabilities reflects a balance of Kshs.11,463,526 under accounts receivables – outstanding imprests and clearance account balances. Included in the balances are long outstanding imprests and District Suspense of Kshs.815,671 and Kshs.10,554,650 respectively. The long Outstanding imprests of Ksh.815,671 ought to have been surrendered or recovered on or before 30 June 2020 in accordance with Section 93 of the Public Finance Management (National Government) Regulations, 2015.

3532) Further, the movements in District Suspense account balance of Kshs.81,937,063 as at 30 June, 2019 to the closing balance of Kshs.10,554,650 has not been supported.

3533) In the circumstances, the accuracy and fair statement of accounts receivables-outstanding imprest and clearance accounts balances of Kshs.11, 463,526 as at 30 June, 2020 could not be ascertained.

#### **Submission by the Accounting Officer**

3534) The State Department of Broadcasting had outstanding imprest from prior years. These were discussed during the PAC meeting held on 15th June 2020 and the matter was resolved. Schedules supporting the changes/movement in the District suspense are available for review. The same had been included in the Financial Statements and was also availed for Committee perusal. The District data from all Ministries are captured in a dynamic system which allows districts to submit their backup for file uploads to the National Treasury to guide preparation of Ledger entries. This has been characterized by delays due to handling of files in text files.

3535) Further, the Ministry has continued to capture the expenditure and the District suspense figure now stands at Kshs.6,366,450.35. The State Department experiences a challenge in clearing the balance since the District data from the National Treasury and the expenditure returns from the district was not available due to the change in the Departments Vote from 1121 to 1123. Efforts are being made to clear the amount.

#### **3536) Committee Observations and Findings**

- (i) The Committee observed that the Accounting Officer failed to ensure that imprest amounting to Ksh.815,671 was surrendered within seven (7) working days after returning to duty station as per Section 93 (5) of the Public Finance Management (National Government) Regulations, 2015;**
- (ii) The Committee also observed that the Accounting Officer failed to recover the full amount from the salary of the defaulting officers with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015.**
- (iii) The matter remained unresolved.**

#### **3537) Committee Recommendations**

- 1) Within three months of adoption of this report, the Accounting Officer ensures the outstanding suspense balances of Kshs.6,366,450.35 is cleared and books submitted to the Auditor-General for review and reporting in the subsequent audit cycle.**
- 2) Within three months of adoption of this report, the Accounting Officer ensures that he/she shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.**
- 3) The Accounting Officer ensures that, in order to effectively and efficiently manage and control the issue of temporary imprests, no second imprest shall issued to any officer before the first imprest is surrendered or recovered in full from his or her salary.**

### **1101. Accounts Payables - Deposits**

3538) As disclosed in Note 12 to the financial statements, the statements of financial assets and liabilities reflects a balance of Kshs.280, 749,093 under accounts payables – deposits. As previously reported, included in the balance are long outstanding deposits received from various government institutions amounting to Kshs.38,659,849 which has been outstanding for periods exceeding one year. No explanation was given as to why the deposits continue to be held by the State department and the purpose for which they were expected to be utilized. Further analysis provided in support of the deposits did not include the date of contract while the supporting documents were inadequate to authenticate the accuracy and validity of each of the disclosed balances.

3539) In addition, included in the accounts payable –deposit balances are receipts in respect of services rendered by Government Advertising Agency and disposal of motor vehicle amounting to Kshs.15,528,920 and Kshs.266,000 respectively that represent Appropriation in Aid and should not have been recorded as deposits.

3540) Under the circumstances, the accuracy and fair statement of accounts payable – deposit balances of Kshs.280,749,093 as at 30 June, 2020 could not be ascertained.

### **Submission by the Accounting Officer**

3541) The Accounts payable in the Deposit Account has long outstanding Deposits received from various government institutions amounting to Kshs.38, 659,849.00. These are part of the balances brought forward from the mother Ministry of Information, Communication and Technology when it was split between the state department of information, communication and technology and state department of broadcasting and telecommunication. As per Treasury Circular No. 9 of 2015 on Centralization of Public sector advertisements, the state department receives funds from Agencies for the purposes of payment for advertisement services with GAA.

3542) The amount of Kshs.38, 659,849.00, shown being balances as at 30th June, 2018 comprised of Kshs.37,116,181 for Government Advertising Agency for payment to the media for advertising services and Kshs.1,543,668.00 being retention monies as per the schedules availed to the Committee. While the handing over notes indicated clearly the source of the monies, payment documents that could facilitate processing of payment were not available. This necessitated the State Department to write to the respective agencies that had remitted monies to the deposit to provide more information about the money in the Deposit Account. Two agencies, Insurance Regulatory Authority and Privatization Commission responded while the rest have not.

3543) The State Department upon receipt of the relevant information or documents will pay the amounts to the various media houses. Some agencies like the Kenya Revenue Authority



(KRA) have special advertising consumptions that usually transit across financial years, thus the need to remit to the Deposit Account.

3544) The amount of Kshs.15,528,910.10 was for advertising service rendered by Mediamax (People Daily), Star Newspaper, the Standard Newspaper and Daily Nation – which was deposited on 2nd July 2020 and could have risked being swept to the exchequer if deposited in the Recurrent which could have led to the creation of unnecessary pending bills. The State Department has now opened a Special Deposit Account for GAA for collection of AIA.

**3545) Committee Observations and Findings**

- (i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
- (ii) The Committee further observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and
- (iii) The matter remained unresolved.

**3546) Committee Recommendation**

- 1) Within one (1) month upon tabling and adoption of this report, the Accounting Officer should provide to the National Assembly and the Auditor-General details and evidence of existence of the long outstanding deposits received from various government institutions amounting to Kshs.38,659,849 for audit verification. The Auditor-General should review the details to determine the existence of deposits and report to the National Assembly.**
- 2) Within one (1) month upon tabling and adoption of this report, the Accounting Officer should provide to the National Assembly and the Auditor-General the Special Deposit Account opened for GAA for collection of AIA. The Auditor-General should review the details to determine the existence of deposits and report to the National Assembly**

**1102. Differences between the financial statements and IFMIS generated Trial Balance**

3547) There were differences noted between the amounts reflected in the financial statements and the IFMIS generated Trial Balance as detailed below:

<b>Item</b>	<b>Financial Statement (Kshs)</b>	<b>IFMIS Trial Balance (Kshs)</b>	<b>Difference (Kshs)</b>
Imprests	815,671	1,018,828	(202,857)
Cash in Hand	254,951.00	4,795,046,444.00	-(4,794,791,493)
District Suspense	10,554,650.00	4,440,516	6,114,134
Other Current Assets	-	329,670.00	- 329,670.00
Salary Advance	93,205.00	- 366,022.00	459,227.00



Development Bank Account	232,275.00	- 981,816,580.00	982,048,855.00
Recurrent Bank Account	23,151,815.00	- 4,229,352,620.00	4,206,200,805
General Deposits Account	280,749,093.00	- 273,023,646.00	553,772,739.00

3548) The variances between the two sets of figures have not been explained or reconciled. Consequently, the accuracy and completeness of the financial statements as prepared and presented could not be confirmed.

#### **Submission by the Accounting Officer**

3549) There were differences noted between the amounts reflected in the Financial Statements and the IFMIS generated Trial Balance. This was as a result of challenges with the IFMIS cash management module having disputable figures from prior periods and thus the differences in the above items that is Cash in hand, Development, Recurrent and Deposit Bank Account figures. However, a manual Trial Balance was prepared reflecting the true position of the state Department. These differences will eventually clear upon completion of the auto Reconciliation which is underway with the technical assistance of the National Treasury. As at today the variances have reduced for the various items as per the statements vailed for Committee perusal.

#### **3550) Committee Observations and Findings**

- (i) The Committee observed that the reconciliation process is ongoing;
- (ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
- (iii) The Committee further observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
- (iv) The Accounting Officer did not avail the reconciliation statements at the time of audit which constitute dereliction of duty.
- (v) The matter remained unresolved.

#### **3551) Committee Recommendation**

- 1) Within three (3) months after tabling and adoption of this report, the accounting officer should reconcile the variances and provide reconciliation statements to the Auditor General for verification to be reported to the National Assembly.**
- 2) The Accounting Officer must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012 and also**

**ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

**1103. Unsupported Prior year adjustments**

3552) As disclosed in Note 14 to the financial statements, the statement of financial assets and liabilities reflects a balance of Kshs.82,693,143 under prior year adjustments. However, an adjustment of Kshs.78,814,143 is included in respect of district suspense which was not in agreement with the movement in the account balance of Kshs.72,751,756 during the period. This resulted in an unexplained variance of Kshs.6,062,387. Furthermore, there were no documents in support of the movements in the district suspense adjustments.

3553) Consequently, it was therefore not possible to confirm the validity of prior year adjustments of Kshs.82,693,143 for the year ended 30 June, 2020.

**Submission by the Accounting Officer**

3554) The variance of Kshs.6,062,387 relates to district suspense for prior year 2015/2016 when the State Department vote head was 1121, as such this amount could not be captured under vote 1123. It could not be included in the account balance of Kshs.72,551,756 in the ledger under vote 1123 However, for the purposes of the Financial Reporting it is included in the adjustment of Kshs.78,814,143 to show the true position. Documents supporting the adjustment of Kshs.78,814,941.55 on district suspense figure as per the amended financial statement are available for review by the auditors. This document could not form part of the attachment to the financial statement since it's a bulky document. However this is available for review.

**3555) Committee Observations and Findings**

(iii)The Committee observed that the documents supporting the adjustment of Kshs.78,814,941.55 on district suspense figure were not provided to the auditors during the audit.

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

(v) The matter remained unresolved.

**3556) Committee Recommendation**

**1) Within three (3) months after tabling and adoption of this report, the accounting officer should provide the supporting documents to the Auditor General for audit verification and report to the National Assembly.**

**2) The Committee reprimands the Accounting Officer for failing to provide documents 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 and to ensure that**

he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.

**1104. Excessive Payments.**

3557) The statement of receipts and payments reflects payments amounting to Kshs.1,136,277,796 on use of goods and services. Included in the payments are payments to one of the media houses of Kshs.14,163,600 for which the Pending Bills Committee Report of March/April 2020 had recommended the payment less of Kshs.2,360,600 for offering fewer spots. However, the invoice was paid in full leading to an overpayment of Kshs.2,360,600. Another media house was paid Kshs.614,225 while the supporting invoice was for an amount of Kshs.356,120, resulting to an overpayment of Kshs.258,105.

3558) Even though the Management had written to the media house requesting for refund or credit notes in respect to the overpaid amounts totaling Kshs.2,618,705, no response had been received as at 2 December, 2020.

3559) Consequently, the propriety of the expenditure of Kshs.2,618,705 in respect to use of goods and services for the year ended 30 June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

3560) The media houses ie Nation Media and Standard Group were paid a total of Kshs.2,618,705 in excess of the recommendations of the Pending bills committee. The anomaly was realized later and the said firms were formally contacted to make the refunds or issue credit notes thereto. The matter has since been resolved as follows: -

3561) The overpayment of Kshs.258,105 to Nation Media was recovered vide a Credit Note on Invoice No. 1000182645 as per attached PV 4476 (Appendix 1104.1).

3562) The Standard Group presented support documents (transmission reports running up to 2nd August as per the contract) to fully support the Invoice No. 80040305 hence there was no excess payments (Appendix 1104.2) with regard to the invoice amount of Kshs.2,360,600.

**3563) Committee Observations and Findings**

- (i) The committee observed that Nation Media and Standard Group were paid a total of Kshs 2,618,705 in excess of the recommendations of the Pending bills committee.
- (ii) The committee also observed that, the Accounting Officer recovered the amounts through credit notes and thus he/she did not use public resources in a prudent and responsible way. Contrary to Article 201(d) of the Kenya Constitution 2010.

**3564) The Committee recommends that:**

**Within three months of tabling and adoption of this report, the Accounting Officer should provide evidence of recovery of the amounts overpaid failure to which the overpaid amount should be recovered from him/her.**

**1105. Pending Bills**

3565) Note 16.1 to the financial statements reflects Pending bills amounting to Kshs.1,905,090,673 as at 30 June,2020. Included in the pending bills is an amount of Kshs.294,810,644 in respect of contested claims which according to the audit report on pending bills dated 24 April 2020 carried out by a committee appointed by the Principal Secretary of Broadcasting and Telecommunications were found to be ineligible for payment. It was noted that the ineligible claims amounting to Kshs.26,063,999 relate to the year 2019/2020 while Kshs.268,746,645.32 relate to prior years. The bills were found to be ineligible for payment either due to having been paid earlier, or the obligation for payment being with Semi-Autonomous Government Agencies (SAGAS) or the claims not being adequately supported by requisite documents.

3566) A review of the Pending Bills Committee Report indicated that verification carried out on the Integrated Financial Management Information System (IFMIS) by the State Department within the year under review revealed that the bills amounting to Kshs.123,462,988 that had already been paid but are still being classified as contested pending bills. No proper explanation was given for this anomaly.

3567) In view of the foregoing, the accuracy, validity, fair statement of the reported pending bills balances of Kshs.1,905,090,676 as at 30 June 2020 could not be ascertained.

**Submission by the Accounting Officer**

3568) The non-settlement of pending bills was due to inadequate budget provisions under the Government Advertising Agency. With regard to claims worth Kshs.123,462,988.00 that were included in the contested pending bills category, the said bills were included as the reconciliation of accounts between the department and the media houses were yet to be concluded. This has since been done and the same were expunged from the subsequent pending bills report.

**3569) Committee Observations and Findings**

- (i) The Committee observed that the non-settlement of pending bills was due to inadequate budget provisions under the Government Advertising Agency. However, there were no documents to show the exchequer requisitions or justification for procuring without adequate budget.
- (ii) The Committee observed that the reconciliations for the contested pending bills category, included as the reconciliation of accounts between the department and the media houses were not provided.

- (iii) The Committee also observed that claims worth Kshs.123,462,988.00 were included in the contested pending bills category as the reconciliation of accounts between the department and the media houses were yet to be concluded and were subsequently reconciled.
- (iv) The matter remained unresolved.

3570) **The Committee recommends that:**

**Within three months of tabling and adoption of this report, the Accounting Officer should provide documents to show the exchequer requisitions or justification for procuring without adequate budget. The Accounting officer should also provide the list and reconciliations for the contested pending bills category.**

### **Other Matters**

#### **1106. Budget Control and Performance**

3571) The summary statement of appropriation; recurrent and development combined reflects total receipts budget and actual on comparable basis of Kshs.5,370,193,203 and Kshs.4,683,912,197 resulting in underfunding of Kshs.686,281,006 or 13%.The underfunding may impact negatively on the implementation of the planned activities for the year, thereby affecting delivery of goods and services to the citizens.

#### **Submission by the Accounting Officer**

3572) This was attributed to under collection of AIA and under issuance of Exchequer.

#### **3573) Committee Observations and Findings**

- (vii) The Committee observed that the explanation given by the Accounting Officer with regard to Budget Control and Performance was satisfactory; and
- (viii) The Committee marked the matter as resolved.

#### **1107. Unconfirmed Arrears of Appropriation in Aid (AIA) owed by State Agencies**

3574) The statement of receipts and payments reflects an amount of Kshs.1,841,317,712 as proceeds from sale of assets as at 30 June,2020. The amount however excludes Appropriation in Aid amounting to Kshs.483,152,144 owed to the government advertising agency by various state Agencies for Advertising services. Of the amount, Kshs.118,796,092 relates to services rendered during the year while the remainder of Kshs.364,356,052 relates to prior years. The outstanding amount is expected to supplement the Publicity and Advertising budget for the State department.

3575) Although the Government Advertising Agency had sent out demand letters for payment of amounts owed, the State Agencies have not been responsive and this has partly contributed to an increase in pending bills as the Appropriations in Aid (AIA) had been factored in the budget. It was also noted that even though a schedule of outstanding AIA

receipts from the State Agencies was provided for audit examination, the amount could not be verified against specific individual accounts as primary records from which the schedule was extracted were not availed for audit verification.

3576) Under the circumstances, the accuracy and validity of the outstanding AIA balance of Kshs.483,152,144 as at 30 June,2020 could not be confirmed.

#### **Submission by the Accounting Officer**

3577) This was attributed to unresponsiveness of State Agencies who consumed advertising services but failed to honor their commitments in time citing lack of funds. Some institutions have positively responded and a total of Kshs.191,170,073.00 has been recovered hence a balance of Kshs.291,982,070.82 is yet to be recovered.

3578) Further, GAA has put in place a recording system that tracks the advertisements and the related AIA.

#### **3579) Committee Observations and Findings**

- (i) The Committee observed that the Accounting Officer recovered a total of Kshs.191,170,073 leaving 291,982,070.82 unreconciled.
- (ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012; and
- (iii)The matter remained balance of unresolved.

#### **3580) The Committee recommends that:**

**Within three months of tabling and adoption of this report, the Accounting Officer should recover the amount of Kshs.291,982,070.82 and provide evidence of recovery to the Office of the Auditor General and the National Assembly.**

#### **1108. Unresolved Prior Year Issues**

3581) The following prior year audit issues remained unresolved as at 30 June, 2020:

##### **1108.1 Payment of Rent Without Valid Lease Agreement**

3582) As previously reported, the statement of receipts and payments for the year ended 30 June, 2019 reflected use of goods and services figure of Kshs.3,024,349,426 which included payments totaling Kshs.64,866,176 in respect of rentals of produced assets as disclosed in Note 6 to the financial statement. This amount included Kshs.30,750,000 paid for rent under Headquarters Administrative services. Further examination of these rent payments revealed that there was no lease agreement between Teleposta Pension Scheme who are the landlords, and the State Department for Broadcasting even though there existed



a lease agreement signed between Teleposta Pension Scheme and Ministry of Information, Communication and Technology for office space occupied at the Teleposta Towers.

3583) In the circumstances, it was not possible to determine the basis of the rent paid of Kshs.30,750,000 and whether the same was consistent with the market rates and thus a proper charge to public funds.

#### **Submission by the Accounting Officer**

3584) The Ministry of ICT, innovations and Youth Affairs has leased office space at Teleposta Towers for both the State Departments for Broadcasting and Telecommunications and that of ICT and Innovations. There is therefore no separation of floors for each State Department except in allocation of offices per Departments. Some sections even share offices between the two state departments due to shortage of space.

3585) The budget for the Teleposta tower's rent and parking amounts to Kshs 82 Million based on the leased agreement. Treasury has funded this budget in the two State Departments where Broadcasting and Telecommunications was allocated 30,750,000 and the balance to the State Department for ICT and Innovations. For harmony of payments, each State Department pays its portion of the provided invoice based on the budget available under rent.

#### **3586) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Payment of Rent was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **3587) The Committee Recommended that:**

**The Accounting Officer must at all times ensure that he/she produces 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.**

#### **1108.2 Uchumi House Office Space**

3588) As previously reported, included in the balance of Kshs.64,866,176 under rent of produced assets is an amount of Kshs.7,785,275 paid for lease of Uchumi House occupied by the Department of Information Services. However, the Lease Agreement between the State Department for Broadcasting and the Management Agents of Uchumi House has not been availed for audit verification. Although Management explained that delay in execution of the lease agreement was as a result of variances between the rental charges offered by the landlord and the rate recommended by the State Department for Housing, Urban Development and Public Works, the impasse had not been resolved as at the time the audit report was finalized.



3589) In the circumstances it has not been possible to confirm the validity and propriety of rent payment totaling Kshs.7,785,275 for occupation of Uchumi House.

**Submission by the Accounting officer.**

3590) It is true a valid lease agreement was lacking at the time of audit due to an impasse on rental charges offered by the land lord and those recommended by the State Department for Housing, Urban Development and Public works. Industrial and Commercial Development Corporation (ICDC), the landlord issued a letter of offer to the Ministry to renew the lease at the rates of Kshs.106 per square foot per month and service charge at Kshs.25 per square foot per month from the 1st October 2018. The rates for rent were unchanged from the expired lease. (Appendix 1108.2A).

3591) In the month of January 2019, the Ministry of Transport, Infrastructure, Housing, Urban Development & Public Works recommended that rent payable on the premises is Kshs. 95 per square foot per month. Service charge was the same at Kshs.25 per square foot per month. ICDC insisted on getting their rent as prescribed in their letter of offer. The State Department and landlord finally agreed and signed the lease agreement based on the recommendation of the State Department for Housing.

**3592) Committee Observations and Findings**

Valid lease agreement was lacking at the time of audit due to an impasse on rental charges offered by the landlord and those recommended by the State Department for Housing, Urban Development and Public works. The explanation by the Accounting is satisfactory and the matter is resolved.

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

**Basis for Conclusion**

**1109. Failure to Conduct Media Monitoring on Distribution of MyGov Publication**

3593) The statement of receipts and payments reflects payments of Kshs.1,137,108,537 in respect of use of goods and services for the year ended 30 June, 2020. Included in this figure are payments amounting to Kshs.892,418,840 for printing, advertising, information supplies and services. As disclosed under Note 6 to the financial statements, Kshs.864,192,498 relates to payments made to four (4) media houses for publication of MyGov newspaper as detailed below:

<b>Media House</b>	<b>Amount (Kshs)</b>
Daily Nation	318,753,000
The Standard	193,444,520
The People Daily	189,240,600
The Star	162,754,378

<b>Total</b>	<b>864,192,498</b>
--------------	--------------------

3594) It was noted, however, that the Government Advertising Agency has never carried out a media monitoring exercise to determine the number of copies published and distributed by each media house, which would have formed a basis for any contractual negotiations on amounts payable for placing of Government and associated advertising in the print media.

3595) In the circumstances the propriety and value for money on the Kshs.864,192,498 paid to the media houses could not be confirmed.

#### **Submission by the Accounting Officer**

3596) The Accounting Officer submitted that the payments were apportioned to the media houses in accordance with the monies owed. At the time, Nation had the least amount of monies owed, followed by The Star, People Daily and The Standard. The decision to prorate was arrived at in order to ensure that all media houses are given fair share of the payments vis a vis the bills.

#### **3597) Committee Observations and Findings**

- (i) The State Department has signed framework contracts for Media monitoring and undertakes to execute the exercise in the financial year 2021/22 to inform procurement of advertisement services and gauge value for money.
- (ii) The explanation by the Accounting Officer was satisfactory and the Committee marked the matter as resolved.

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

#### **3598) Conclusion**

**1110.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## 28. STATE DEPARTMENT FOR SPORTS DEVELOPMENT

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE – 1132

**Mr. Joe Okudo, the Principal Secretary and Accounting Officer for the State Department of Sports and Development (Vote 1132), appeared before the Committee on 26<sup>th</sup> October 2021 to adduce evidence on the Audited Financial Statements for the State Department of Sports and Development (Vote 1132) for the Financial Year 2019/2020. He was accompanied by the following officers: -**

- |                           |   |                              |
|---------------------------|---|------------------------------|
| 1. Ms. Josphine Onunga    | - | Secretary Administration     |
| 2. Mr. Samwel Mugambi     | - | Senior Chief Finance Officer |
| 3. Mr. Samson M. Ongalo   | - | Deputy Accountant General    |
| 4. Mr. Mark Wambugu       | - | Ag. Director Programs        |
| 5. Mr. Japson Gitonga     | - | Director Sports              |
| 6. Mr. James Odungu       | - | Director Planning            |
| 7. Mr. Felix Omondi       | - | P. A. PS Sports              |
| 8. Mr. Alex Mwaniki Kamau | - | Economist                    |

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **1111. Compensation of Employees**

3599) The statement of receipts and payments reflects an expenditure of Kshs.187,772,897 under compensation of employees which includes an amount of Kshs.5,301,802 that was wrongly coded and paid outside payroll using payment vouchers. Consequently, the accuracy and validity of the reported compensation of employees' expenditure of Kshs.187,772,897 could not be ascertained.

##### **Submission by the Accounting Officer**

3600) The Accounting Officer submitted that it was true that the statement of receipts and payments reflects an expenditure of Kshs.187,772,897 under compensation of employees which includes an amount of Kshs.5,301,802 wrongly coded and paid outside payroll using payment vouchers.

The payments related to service gratuity, payment of legal allowance to Sports Registrar, payments of commutation for leave and payments of baggage allowances which could not be processed through the payroll codes but paid through payment vouchers. However, these expenses relate to compensation for employees.

3601) List of all payments made through vouchers were availed for Committee perusal.

**3602) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and the supporting documents produced were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1112. Transfers to Other Government Units**

3603) The statement of receipts and payments reflects transfers to other government entities amounting to Kshs.10,497,352,129 which, as disclosed in Note 6 to the financial statements, includes Kshs.538,980,000 transferred to Sports Kenya. However, a disbursement of Kshs.14,209,312 was erroneously charged under grants and transfer to other Government entities instead of use of goods and services. In addition, disbursements of Kshs.3,152,500 and Kshs.8,000,000 to the Kenya National Sports Council and Gor-Mahia Football Club respectively were not supported by confirmations from recipients.

**Submission by the Accounting Officer**

3604) The Accounting Officer submitted as follows:

- a) Kshs.14,209,312 was AIE sent by the State Department for Sports, to Sports Kenya to cater for utility costs. The amount was treated as expenditure by the State Department for Sports, having been budgeted for under items 2210101 – Electricity and 2210102 – Water and Sewerage Charges and not as grant.
- b) The confirmation reports for grants disbursed to the Kenya National Sports Council and Gor-Mahia of Kshs.3,152,500/- and Kshs.8,000,000/- respectively have since been availed for audit verification.

**3605) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Transfers to Other Government Units and the supporting documents produced were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1113. Accounts Receivable- District Suspense**

3606) The statement of assets and liabilities reflects an accounts receivables balance of Kshs.2,037,215 which, as disclosed in Note 9 to the financial statements, includes an amount of Kshs.102,541 relating to district suspense. However, as previously reported, the movement of the balance from Kshs.20,756,326 reported in 2017/18 financial year to Kshs.102,541 in financial year 2018/19 was not supported.

3607) Under the circumstances, the accuracy, validity and completeness of the accounts receivables balance of Kshs.2,037,215 as at 30 June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

3608) The Accounting Officer submitted that a response to this matter was provided and deliberated on by the Public Accounts Committee in the Audit Report of financial year 2018/2019 paragraph 1057 on Wednesday 14<sup>th</sup> July, 2021 and we are waiting for its recommendation.

3609) However, the schedule of the movement of the balance from Kshs.20,653,785 to Kshs.102,541 was submitted to the auditors for verification. The delay in getting the documents has been caused by movement of officers and reorganization of government functions since 2017. Reminder letters were sent to the respective District offices to submit expenditure returns of the remaining expenditure of Kshs.102,541.

**3610) Committee Observations and Findings**

- (i) The Committee observed the matter was discussed in the report for financial year 2018/19 and recommendations made thereof;
- (ii) The Accounting Officer had made efforts to address the matter as the unresolved district suspense had reduced from Kshs.20,756,326 in 2018/19 to only Kshs.102,541 as at 30 June 2020; and
- (iii) The Committee observed that the explanation given by the Accounting Officer on the movement from Kshs.20,756,326 Kshs.102,541 as at 30 June 2020 and the supporting documents produced were satisfactory.

**3611) Committee Recommendation**

**The Committee recommends within sixty (60) days on adoption of this report, the Accounting Officer to ensure the balance of Kshs.102,541 is reconciled and documents submitted to the Auditor General for further review and reporting in the next audit cycle.**

**1114. Undisclosed Pending Bills**

3612) As reported in the year ended 30 June, 2019, the State Department had pending bills totaling Kshs.134,092,005 which were carried forward to the 2019/2020 financial year. During the year under review, bills totaling Kshs.52,268,940 were paid leaving an unpaid balance of Kshs.81,823,065. However, the unpaid balance of Kshs.81,823,065 is not disclosed and Note 14 to the financial statements reflects nil pending bills for the financial year 2019/2020.

3613) Under the circumstance, the accuracy and completeness of the financial statements presented for audit could not be ascertained.

**Submission by the Accounting Officer**

3614) The Accounting Officer submitted that it was true that, the state department had reported pending bills totaling to Kshs.134,092,005. The bills were subjected to further verification by the pending bills committee which included the internal auditors as members. During the verification, bills valued at Kshs.52,268,940 were approved and paid

while bills valued at Kshs.81,823,065 were rejected; thus ineligible for payment. This was due to inadequate supporting documents. Therefore, these bills valued at Kshs.81,823,065 were not disclosed in the financial statements for the year 2019-2020.

**3615) Committee Observations and Findings**

The Committee observed that the Accounting Officer had settled bills valued at Kshs.52,268,940 approved by the Pending Bills Committee while bills valued at Kshs.81,823,065 were rejected due to inadequate supporting documents.

**3616) Committee Recommendation**

**The Committee recommends within sixty (60) days on adoption of this report, the Accounting Officer take measures and resolve the question of unsupported pending bills of Kshs.81,823,065 in order to have the matter brought to a closure.**

**Other Matter**

**1115. Budgetary Control and Performance**

3617) The summary statement of appropriation-recurrent and development combined reflects actual receipts of Kshs.10,861,266,853 against a budget of Kshs.14,962,327,660 resulting into a receipts shortfall of Kshs.4,101,060,807 or 27% of the budgeted receipts. Similarly, the statement reflects an actual expenditure of Kshs.10,862,003,476 against budgeted amount of Kshs.14,962,327,660 resulting to an under-expenditure of Kshs.4,110,324,184 or 27%, an indication that the goals and objectives of the State Department may not have been achieved as planned.

**Submission by the Accounting Officer**

3618) The Accounting Officer submitted that it was true that, the summary statement of appropriation recurrent and development reflect a shortfall of Kshs.4,101,060,807 of the 27% of the budgeted receipts. This also reflects an under expenditure of Kshs.4,110,324,184. The shortfall was attributed to the effect of COVID-19 pandemic. This resulted to low collections from betting and lotteries activities.

3619) In addition, all sporting activities were banned by the government in March, 2020 due to the COVID-19 pandemic contributing to the under expenditure of the budgeted amount).

**3620) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and the supporting documents produced were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1116. Unresolved Prior Year Matters**

3621) Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues.

**Submission by the Accounting Officer**

3622) The Accounting Officer submitted that the management has addressed the causes of delay in resolving prior year audit issues and any outstanding issues are responded to in good time.

**3623) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and the supporting documents produced were satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

**Basis for Conclusion**

**1117. Payment of Special Duty Allowance**

3624) The State Department paid a sum of Kshs.682,192 being arrears of special duty allowance in financial year 2018/2019. However, some of the officers had been called upon to perform duties of posts that were more than two (2) grades higher than their substantive grades while others were paid the allowance for more than six (6) months contrary to the provisions of Section C.15 (3) and (4) of Public Service Commission – Human Resource Policy and Procedures Manual for the Public Service, 2016.

**Submission by the Accounting Officer**

3625) The Accounting Officer submitted that officers performing higher duties against substantive posts did not act for more than two (2) grades as indicated in the audit report. Attached see the Ministerial Human Resource Management Advisory Committee meetings (MHRMAC) Minutes to support the payment.

3626) For the officers that were paid Special Duty Allowance (SDA) for more than six (6) months, it is imperative to note that, there was a break in between the payments since the SDA's were being renewed, this was occasioned by the existing gaps that had not been filled substantively by various schemes administrators and at the same time the State Department had not revised its organization structure and staff needs which affected mostly the Sports Officers.

3627) For the arrears paid, this was as a result of the delay of the approval and implementation of the Ministerial Human Resource Management Advisory Committee meetings



(MHRMAC) Minutes by the Authorized officer and taking into account the effective date of the said meeting(s).

**3628) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and the supporting documents produced were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1118. Failure to Maintain an Assets Register**

3629) The summary of fixed assets register presented at Annex 1 to the financial statements reflects a cumulative historical cost of Kshs.1,832,985,791. However, the State Department did not maintain an assets register contrary to Regulation 143 of Public Finance Management (National Government) Regulations, 2015. Further, although the State Department does not own any buildings or structures, the annex reflected an amount of Kshs.1,814,044,124 relating to buildings and structures. In addition, the State Department had ten (10) vehicles which were not registered in its name, thereby casting doubts on their ownership.

3630) In the circumstances, the State Department was in breach of law and it could not be confirmed that the assets of the State Department had been properly safeguarded.

**Submission by the Accounting Officer**

3631) The Accounting Officer submitted that this matter was deliberated by the Public Accounts Committee in the Audit Report of financial year 2018/2019 paragraph 1060 on Wednesday 14th July, 2021 and we are waiting for its recommendation.

3632) However, some motor vehicles that are in use by the State Department for Sports have not been disclosed as assets since they belong to our Semi-Autonomous Government Agencies (SAGAs) who possess ownership documents. The other motor vehicles were inherited by the State Department for Sports during the various re-organization of the Government and more particularly this Ministry from time to time; where the ownership documents could be in possession by the departments that left the ministry on re-alignment.

3633) The fixed assets amounting to Kshs.1,814,044,124 (building and structures) which initially were under the Ministry, are now under Sports Kenya after the management of the Stadia was solely placed under them in accordance to the Sports Act. The adjustment to reflect this position has been made to the summary of fixed assets register for the year ended 30th June, 2021. The State Department maintains an asset register which was provided for perusal by the Committee.

**3634) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and the supporting documents produced were satisfactory; and
- (ii) The Committee marked the matter as resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3635) **Conclusion**

**1119.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**THE COMMITTEE WAS INFORMED THAT PARAGRAPHS 1120- 1137 RELATES TO SPORTS FUNDS AND FALLS WITHIN THE PURVIEW OF SPECIAL FUND ACCOUNTS COMMITTEE**

## 29. STATE DEPARTMENT FOR CULTURE AND HERITAGE

### REPORT ON THE FINANCIAL STATEMENTS VOTE 1134

**Josephtha O. Mukobe, the Principal Secretary and Accounting Officer for State Department for Culture and Heritage (Vote 1134), appeared before the Committee on 27<sup>th</sup> July, 2021 to adduce evidence on the audited financial statement for the State Department for Culture and Heritage (Vote 1134) for the Financial Year 2019/2020. She was accompanied by the following officers:**

- |                           |                                     |
|---------------------------|-------------------------------------|
| 1. Mr. Stephen N. Mutham  | -Head of finance                    |
| 2. Mr. Nelson M. Osioru   | -Head of Accounting Unit.           |
| 3. Mr. Boniface Simba     | -Senior Deputy Secretary.           |
| 4. Mrs. Stella Moraa      | -Deputy Head of Accounting Unit.    |
| 5. Dr. Kiprof Lagat       | -Director of Culture.               |
| 6. Mr. Jane Murago Munene | -Former Executive Director.         |
| 7. Mr. Maurice K. Murimi  | -Former Finance and Admin Director. |

And submitted as follows:

#### **Basis for Qualified Opinion**

#### **1138. Unsupported Transfers to Other Government Units**

3636) Examination of the payment vouchers reveals that the State Department transferred Ksh.48,220,000 to four (4) State Agencies as stimulus funds to cushion musicians and artists against adverse effects of the Covid-19 pandemic as per the Presidential Directive as analyzed below:

<b>Entity</b>	<b>Pv No.</b>	<b>Date</b>	<b>Amount (Ksh.)</b>
Kenya Film Commission	004	10/06/2020	8,500,000
Kenya Cultural Centre	006	10/06/2020	18,120,000
National Museums of Kenya	005	10/06/2020	11,600,000
National Museums of Kenya	018	17/6/2020	10,000,000
<b>Total</b>			<b>48,220,000</b>

3637) However, no returns had been obtained from the beneficiaries as at the time of the audit in November, 2020. Therefore, it was not possible to ascertain whether these funds were received and utilized for the intended purposes.

#### **Submission by the Accounting Officer**

3638) The Accounting Officer submitted that all the four State Agencies have since availed the expenditure returns and they are available for audit verification.

#### **3639) Committee Observations and Findings**

- (i) The Committee observed that the State Department has not provided supporting documents to the Office of the Auditor General for Audit Verification;
- (ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
- (iii) The Committee also observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and
- (iv) The matter remained unresolved.

**3640) Committee Recommendation**

- 1) The Committee reprimands the Accounting Officer for failing to ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also failed to ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015**
- 2) Within three months of adoption of this report, the Accounting Officer should avail a conclusive list of beneficiaries for the stimulus fund including Names, Accounts Numbers and amount advanced per beneficiary to Parliament and Auditor General for verification.**

**1139. Unsupported Accounts Payables**

3641) As disclosed in Note 12 to the financial statements, the statement of assets and liabilities reflects a balance of Ksh.36,460,829 under accounts payables which includes an amount of Ksh.4,544,668 in respect of retention money whose miscellaneous receipts were not availed and therefore, their ownership could not be confirmed.

**Submission by the Accounting Officer**

3642) The Accounting Officer submitted as follows;

- Out of the figure of Ksh.4,544,668 an amount of Ksh.4,098,683.65 was deposit bank balances transferred to the State Department for Culture and Arts after the Ministry of Sports Culture and Arts was split into two State Departments. The Department has since written to the State Department for Sports vide letters REF SDCH/AC/1 VOL.1(15) dated 19th November,2019, SDCH/AC/13 VOL.1(30) dated 8th July,2020 and SDCH /AC/13 VOL.1(31) dated 14th September ,2020 requesting them to avail details of the retentions in order to determine what the projects relate to for audit verification.
- The balance of Ksh.445,984 relates to refurbishment services provided by Patience Services Limited and Miscellaneous Receipt No.6591167 has since been availed for audit verification.

**3643) Committee Observations and Findings**

- (i) The Committee observed that the miscellaneous receipt of ksh.445,984 has since been produced and verified while miscellaneous receipt of Ksh.4,098,683.65 remained unavailable;
- (ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
- (iii) The Committee also observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015; and
- (iv) The Committee observed that the matter was discussed its report of 2018/2019 and made following recommendations.

#### 3644) **Committee Recommendations**

- 1) **Within one (1) month upon tabling and adoption of this report, the Accounting Officer should provide to the National Assembly and the Auditor General details of the retention amount of Ksh.4,098,684.00 for audit verification.**
- 2) **Where the Accounting Officer fails to provide the details of the retention amount of Kshs.4,098,684.00, the Accounting Officer should be surcharged for failure to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012.**

#### 1140. **Unsupported Pending Bills**

3645) Note 18.1 to the financial statements reflects pending bills amounting to Ksh.56,506,211 that were not settled in the year under review but were carried forward to 2020/2021 financial year. The pending bills include an amount of Ksh.25,104,887 that had no supporting documents.

3646) Further, included in the pending bills is Ksh.14,596,148 payable to the Standard Group Limited for the advertisement of the Smithsonian Kenya Mambo Poa Event and hosting of a radio talk show dating back to 2014.

3647) Examination of the payment details revealed that the initial contract sum of Ksh.24,288,480 was not supported by a contract agreement and the amount payable of Ksh.14,596,148 recorded in payables is overstated by Ksh.864,025 as a result of erroneously capturing outstanding pending bill as Ksh.14,596,148 instead of Ksh.13,732,123.

3648) In addition, the payment voucher for Ksh.14,596,148 had not been authorized and there was no order advertising space to confirm that the service was properly procured.

3649) In the circumstances, the accuracy and authenticity of total pending bills of Ksh.56,506,211 could not be confirmed.

#### **Submission by the Accounting Officer**

3650) The Accounting officer submitted that the supporting documents for pending bills amounting to Ksh.25,104,887 have since been availed for audit verification.

3651) With regard to the pending bill of Ksh14,596,148, the State Department has sought the intervention of the National Treasury on the same bill since it is not supported by a duly executed contract agreement. In addition, the State Department has since requested for legal advice of the Solicitor General on the legality of the whole transaction and if necessary recovery of the already paid amount.

**3652) Committee Observations and Findings**

- (i) The Committee observed that the supporting documents of Ksh.25,104,887 and Kshs.14,596,148 have not been provided for audit verification to date;
- (ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
- (iii) The Committee also observed that during the audit, the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
- (iv) The committee in addition observed, despite the Accounting Officer being directed to provide current status and the way forward regarding the above query after engaging the office of the Solicitor General within two weeks after the committee sitting, the Accounting Officer did not provide the information to the Committee; and
- (v) The matter remained unresolved.

**3653) Committee Recommendation**

- 1) The Committee reprimands the Accounting Officers for failing to ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also failed to ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
- 2) Within three months of adoption of this report, the Accounting Officer to provide records to Parliament and Auditor General for verification.**
- 3) Within three months of adoption of this report, the Accounting Officer to obtain legal advice from the Attorney-General on the legality of the whole transaction and if necessary recovery of the already paid amount and provide the information to Parliament.**

**1141. Use of Goods and Services**

3654) As disclosed in Note 6 to the financial statements, the statement of receipts and payments reflects an expenditure balance of Kshs.224,795,180 under use of goods and services which includes an amount of Kshs.36,677,852 in respect of rentals of produced assets. However, the latter balance on rentals of produced assets excludes rent for the

current year amounting to Kshs.37,185,480 whose draft lease agreement had been disputed on the recommendation by the State Department for Housing and Urban Development, as the rent disclosed in the draft lease agreement was above the recommended rates for government to government entities.

**Submission by the Accounting Officer**

3655) The Accounting Officer stated that it is true that as disclosed in Note 6 to the financial statements, the statement of receipts and payments reflects an expenditure balance of Ksh.224,795,180 under use of goods and services which includes an amount of Ksh.36,677,852 in respect of rentals of produced assets. It is also true that, the latter balance on rentals of produced assets excludes rent for the current year amounting to Ksh..37,185,480 whose draft lease agreement had been disputed on the recommendation by the State Department for Housing and Urban Development, as the rent disclosed in the draft lease agreement was above the recommended rates for government to government entities.

3656) The amount of Ksh.37,185,480 was a lease offer provided by Kenya National Library Services. A letter of offer was issued by the landlord to the State Department for Culture and Heritage. The State Department for Housing and Urban Development informed the State Department for Culture and Heritage that the rate indicated by the landlord was above the recommended rates for government to government entities. The amount can only be captured in the financial statements when the actual payment is made. A lease agreement of Ksh.23,689,195.20 per annum has since been executed as per the recommendation of the State Department for Housing and Urban Development.

**3657) Committee Observation and Findings**

The Committee observed that the matter was responded satisfactorily and marked it as resolved.

**Other Matter**

**1142. Prior Year Unresolved Issues**

**1142.1 Variance between IFMIS Generated Trial Balances and Financial Statements on Reported Cash and Cash Equivalents**

3658) As previously reported, comparison between IFMIS generated cash balances and financial statements cash balances revealed unexplained variance as indicated below:

<b>Item</b>	<b>Codes</b>	<b>IFMIS Balance (Kshs.)</b>	<b>Trial</b>	<b>Financial Statements (Kshs.)</b>	<b>Difference (Kshs.)</b>
Bank Balances					
Cash Balances					



6530000	Recurrent	1,358,280,986	309,889	1,357,971,097
6540000	Development	127,827,672	77,700	127,749,972
6550000	Deposits	43,828,373	26,426,654	17,401,719
6580000	Cash in Hand	2,925,797,122	304,437	2,925,492,685
<b>Total</b>		<b>4,455,734,153</b>	<b>27,118,680</b>	<b>4,428,615,473</b>

3659) Management did not provide any explanation or reconciliation of these variances as at 30 June, 2020.

**3660) Committee Observations and Findings**

The Committee observed that the matter was discussed its report of 2017/2018 and marked it as resolved.

**1142.2 Construction of Civil Works**

3661) As previously reported, and as disclosed in Note 9 to the financial statements, included in the acquisition of assets figure of Kshs.70,874,612 as at 30 June, 2019 is an amount of Kshs.40,000,000 being Development Grant transferred to the National Museums of Kenya for rehabilitation and upgrade of Tom Mboya Mausoleum in Rusinga Island, Homabay County. The National Museums of Kenya awarded the tender for construction to a local firm on 25 April, 2019 at a contract sum of Kshs.45,457,740 thereby exceeding the budget by Kshs.5,457,740, without prior approval by the State Department for Culture and Heritage who were the initiators of the project.

3662) Consequently, the regularity of acquisition of assets figure of Kshs.70,874,612 as at 30 June, 2019 could not be confirmed.

**3663) Committee Observation and Findings**

The Committee observed that the matter was discussed its report of 2017/2018 and marked it as resolved.

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

**1143. Acquisition of Assets**

3664) As disclosed in Note 9 to the financial statements, the statement of receipts and payments reflects an expenditure balance of Kshs.29,000,466 which includes an amount of Kshs.4,199,000 paid to a company on 28 June, 2020 for purchase of a motor vehicle. The payment was made in advance without a bond/guarantee as required by Sections 146 and 147 of the Public Procurement and Asset Disposal Act, 2015. As at the time of audit in December, 2020, the vehicle had not been delivered to the State Department. No explanation was given as to why the vehicle had not been delivered.

3665) In the circumstances, it was not possible to confirm the probity of Kshs.4,199,00 paid and if this was a proper charge to public funds.

#### **Submission by the Accounting Officer**

3666) The Accounting officer submitted that a bank guarantee equivalent to the said amount of Ksh. 4,199,000 was provided to the State Department from Absa bank dated 20th November ,2020 which was valid for six months. Unfortunately, the supplier was not able to deliver the vehicle due to the COVID-19 pandemic, with the factory in Europe closing from March until end of August 2020.The said amount has since been returned to the State Department.

#### **3667) Committee Observation and Findings**

The Committee observed that the matter was responded satisfactorily and marked it as resolved.

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

#### **Basis for Conclusion**

##### **1144. Incomplete Fixed Asset Register**

3668) Annex 2 to the financial statements reflects a balance of Ksh.253,274,467 being total historical cost of the assets owned by the State Department. An audit review of records supporting the assets revealed that, the asset register did not disclose serial numbers of the assets. Further, logbooks for fifteen (15) out of thirty-five (35) motor vehicles owned by the State Department were not availed for audit review. In addition, twelve (12) motor vehicles have been grounded at different locations for long and the State Department did not demonstrate any efforts to dispose the grounded vehicles to avoid further value loss.

3669) In the circumstances, it has not been possible to ascertain the accuracy and security of the assets worth Ksh. 253,274,467.

#### **Submission by the Accounting Officer**

3670) The Accounting Officer submitted that the asset register has since been updated to disclose serial numbers of the assets and the same is available for Audit Verification. The logbooks for the State Department have been affected by the frequent reorganization of government ministries and agencies, hence the logbooks were left with the parent State Departments which bought the vehicles. Four (4) vehicles belonging to Permanent Presidential Music Commission (PPMC) were acquired through Gender and Social Services; Eight (8) for Kenya National Archives & Documentation Services and three (3) for Department of Culture were acquired through the then Home Affairs which is currently under the Ministry of Interior and Co-ordination of National Government (State Department for Correctional Services).

3671) The State Department has since requested the various State Departments to furnish them with the logbooks as required by the regulations. The State Department is also in the process of verifying the logbooks with the NTSA for purposes of being accorded duplicates. For the motor vehicles grounded at different locations for long, the State Department has since disposed seven (7) vehicles while the remaining ones did not pass reserve price threshold.

**3672) Committee Observations and Findings**

- (i) The Committee observed that the Asset Register submitted by the Accounting Officer did not conform to the Standards of an Asset Register since items were tagged without serial numbers;
- (ii) The Committee further observed that logbooks for 15 motor vehicles are yet to be produced;
- (iii) In addition, the Committee observed that the State Department has only disposed eight (8) of the twelve (12) grounded vehicles; and
- (iv) The query remained unresolved.

**3673) Committee Recommendation**

- 1) Within three months of adoption of this report, the Accounting Officer to present to Parliament and Auditor General for verification a complete Asset Register.**
- 2) Within three months of adoption of this report, the Accounting Officer to obtain and present to Parliament and Auditor General for verification the fifteen outstanding motor vehicle logbooks.**
- 3) Within three months of adoption of this report, the Accounting Officer to provide records to Parliament and Auditor General Measures taken dispose the outstanding four grounded vehicles.**

### 30. MINISTRY OF ENERGY

#### REPORT OF THE FINANCIAL STATEMENTS FOR VOTE 1152

**Maj. Gen. (Rtd) Gordon Kihalangwa, CBS, the Principal Secretary and Accounting Officer the Ministry of Energy (Vote 1152) appeared before the Committee on 2<sup>nd</sup> November, 2021 to adduce evidence on the audited financial statement for the Ministry of Energy (Vote 1152) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                           |   |                                     |
|---------------------------|---|-------------------------------------|
| 1. Ms. Rosemary Oduor     | - | Ag. Managing Director and CEO, KPLC |
| 2. Mr. Tom Imbo           | - | Finance Officer.                    |
| 3. Mr. Jason Oumo         | - | Senior Accountant.                  |
| 4. Mr. Samuel Ondiek      | - | Managing Director and CEO KPLC      |
| 5. Mr. William Mbaka      | - | Senior Chief Finance Officer.       |
| 6. Mr. David Mutisya      | - | Ag. Director General Energy.        |
| 7. Mr. Paul Ngugi         | - | Ag. Managing Director and CEO       |
| 8. Ms. Jacklyne Wakhungu  | - | Chief Accountant.                   |
| 9. Mr. Davis K. Cheruiyot | - | Manager, Finance, REREC.            |
| 10. Mr. Edward Gathunju   | - | Manager Business, REREC.            |

And submitted as follows

#### 3674) **Unqualified Opinion**

**1145.** There were no material issues noted during the audit of the financial statements of the Project.

#### **1146. Land without Titles Deeds**

3675) As reported in previous years, the State Department does not have title deeds for eight (8) parcels of land it occupies totaling 21.42 hectares, with book value of approximately Kshs.180,700,000 as detailed out below.

No.	Land Parcel	Size	Location	Approximate Value (Kshs)	Condition
		(Hectares)	(County)		
1	Kericho Energy Centre	0.8	Kericho	15,000,000	Developed and fenced
2	Kisii Energy Centre	1	Kisii	12,000,000	Developed and fenced
3	Migori Energy Centre	0.4	Migori	2,200,000	Developed and fenced
4	Bukura Energy Centre	2	Kakamega	3,500,000	Developed and fenced
5	Uasin Gishu Energy Centre	0.8	Uasin Gishu	12,000,000	Developed and fenced
6	Kitui Energy Centre	10.4	Kitui	53,000,000	Developed and fenced
7	Wambugu Energy Centre	4	Nyeri	80,000,000	Developed and fenced
8	Mitunguu Energy Centre	2.02	Meru	3,000,000	Developed and fenced

	<b>Total</b>	<b>21.42</b>		<b>180,700,000</b>	
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3676) Available information indicates that the process of acquiring title deeds for some of the land parcels has been underway for a significantly long period of time. Management has explained that The National Treasury in liaison with the Ministry of Energy is in the process of acquiring the title deeds. However, by the time of concluding the audit, the title deeds were yet to be issued. In the absence of ownership documents, it has not been possible to confirm the rightful ownership of these parcels.

#### **Submission by the Accounting Officer**

3677) The Accounting Officer submitted that it was true that the State Department for Energy does not have title deeds for eight (8) parcels of land it occupies totaling 21.42 hectares valued at approximately Kshs.180, 700,000. It is also true that the process of acquiring titles for some of the land parcels has been underway.

3678) The Ministry confirms that the measures taken in pursuit of acquiring title deeds has continued to yield positive results as detailed in the attached comprehensive report.

3679) The highlights of the report include the following:

1. An allotment letter has been issued for Kitui Energy Centre by the National Land Commission vide their letter to the Cabinet Secretary for Energy Ref. No. 310147/112 of 19<sup>th</sup> November 2019. The requisite fees has been paid and the Ministry has requested Ministry of Lands and Physical Planning to expedite the process.
2. For Kericho Energy Centre, the Ministry of Lands and Physical Planning submitted quotations for carrying out cadastral survey of the energy Centre vide their letter Ref. KER/64/QT/VOL. 1/55 dated 21 June 2019. The survey exercise is targeted to be completed during the third quarter of the current Financial Year.
3. For Uasin Gishu Energy Centre, the Ministry in addition to the visit to the County Authorities wrote to Ministry of Lands and Physical Planning to resurvey the land to facilitate issuance of tile deed.
4. Through the support of surveyors from the Ministry of Lands, survey maps were prepared for all of the Energy Centers following the fact finding mission carried out in July 2019 by the inter-ministerial Committee. The fact finding report provides detailed land titling status of every Energy Centre.
5. The Ministry further tasked the respective Energy Centers to continuously follow the land title deeds and submit regular progress reports. Towards this end, a meeting was held between the Energy Centre Managers and the Headquarter Officers of Renewable

Energy Directorates in October 2019. The meeting among other things received reports from the Centre Managers on the title deeds and discussed further actions;

6. The details of the progress made in pursuit of the Energy Centers title deeds are contained in the comprehensive report attached for your ease of reference. Moreover, the Rural Electrification and Renewable Energy Corporation, whose expanded mandate as per Energy Act 2019 will include the Energy Centre functions, have in the meantime been incorporated in the inter-ministerial committee dealing with the acquisition of title deeds for the Energy Centers. Two officers have been nominated into the said committee as per their letter Ref. No. REREC/CEO/M/1 dated 17 February 2020.
7. The above information was included as a foot note as a disclosure in our financial statement. Further, Section 12 (2) (g) of PFM Act states that the National Treasury shall “be the custodian of all inventory of national government assets except as may be provided by other legislation or the Constitution. To affirm this position, the National Treasury in consultation with the Public Sector Accounting Standard Board (PSASB) issued a circular on the preparation of Assets and Liabilities Registers in the Public Sector. This will assist in consolidation of all the National Assets by the National Treasury who are the custodian of all assets in Government. We wish to state that Land is one of the Key assets as classified in the templates and guidelines which is under the purview of the National Treasury. Attached is a copy of National Treasury Circular.

#### 3680) **Committee Observations and Findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

- 1) **Within three months of tabling and adoption of this report, the Accounting Officer should provide the status report from the Inter-ministerial Committee.**
- 2) **The Cabinet Secretary responsible for matters of Energy and the Chairperson, National Land Commission should expedite the process of survey and issuance of title for the land and report back the progress to the National Assembly within three (3) months of the adoption of this report.**

#### **Other Matters**

##### **1147. Budgetary Performance and Control**

3681) As reflected in the Summary Statement of Appropriation - Recurrent and Development Combined, the Ministry had a total budgeted revenue of Kshs.61,906,101,596 but received Kshs.49,453,256,516 resulting to under collection of Kshs.12,452,845,081 or 20%. Further, the Ministry projected to spend a total of Kshs.61,906,101,596 on various budget lines but actually spent Kshs.49,625,713,980 resulting to an overall budget under absorption of Kshs.12,280,387,615 or 20%. The under absorption of the budget may have resulted in slow implementation of the planned activities of the Ministry impacting negatively on service delivery to the public.

### **Submission by the Accounting Officer**

3682) The Accounting Officer submitted that it was true that the Ministry projected to receive Kshs.61,906,101,596 on various budget lines but received Kshs.49,625,713,980 funding resulting to under receipts by Kshs.12,452,845,081 or 20%. It is also true that the Ministry projected to spend Kshs.61,906,101,596 on various budget lines but actually incurred an expenditure amounting to Kshs.49,625,713,980 or 80% resulting to an overall under absorption of Kshs.12,280,387,615. The ministry was not able to realize all the budgeted AIAs because of the reduced activities caused by the effects of Covid-19 pandemic. The effects of Covid-19 also affected the implementation of activities in the Ministry's work plan resulting to under absorption of the approved budget by the National Assembly. Further, the late approval of Supplementary budget 2, Of 2019/20 FY affected the timelines for implementation of the planned activities.

### **3683) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Budget Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

### **3684) Conclusion**

**1148.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

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

### **Basis for Conclusion**

#### **1149. Lack of Risk Management Policy Framework**

3685) According to Regulation 165(1) of the Public Finance Management Regulations, 2015, a National Government entity should develop risk management strategies which should include fraud prevention mechanisms, a disaster recovery plan and a system of risk management and internal control that builds robust operations. However, as previously reported, an audit review of the policies in place at the Ministry revealed that a Risk Management Policy Framework to assist the Ministry in forecasting, evaluation of risk and identification of procedures for avoiding or minimizing the impact of the risk had not been developed. This is despite the 2018-2022 Strategic Plan being developed and launched during the year. In absence of a formal approved risk management framework, ability to identify risks and definition of strategy to eliminate or minimize the impact of the risks could be compromised.



### **Submission by the Accounting Officer**

3686) It is true that the Ministry did not have an effective risk management policy to assist the Ministry in forecasting and evaluation of risk and identification of procedures which would assist in avoiding the risks or minimizing their impact. I wish to state that the Principal Secretary has constituted a Risk Management Committee while being guided by Public Finance Management Act 2012 and the attendant regulations composed of all heads of departments in the ministry chaired by the Secretary Administration. The team has been tasked to develop a risk management policy, risk management framework and risk management register that will be updated periodically. The committee is set to commence its tasks in the financial year 2021/2022 having been affected by Covid-19 pandemic in the financial year ended 2020/2021.

### **3687) Committee observations and findings**

- (i) The Committee observed that the ability by the State Department to identify threats or risks and definition of strategy to eliminate or minimize the impact of the risks was compromised in the absence of a formal approved risk management framework.
- (ii) However, the Committee observed that the explanation given by the Accounting Officer with regard to Lack of Risk Management Policy Framework was satisfactory; and
- (iii) The Committee marked the matter as resolved.

### **1150. Incomplete Fixed Assets Register**

3688) According to the summary of fixed assets register at Annex 1, the Ministry had fixed assets with a total historical cost of Kshs.268,664,633,879 as at 30 June, 2020. However, as previously reported, the register of assets maintained and availed for audit verification did not contain comprehensive details of the assets such as cost, disposals, depreciation, location of the asset, tagging and the officer responsible for each asset, among other details, as required under Regulation 143 (2) of Public Finance Management Regulations, 2015 and the Treasury Circular 1 No. 5/2020 of 25 February, 2020. In the absence of a comprehensive register of assets, it was not possible to confirm the completeness and proper safeguard of the reported assets.

### **Submission by the Accounting Officer**

3689) The Accounting Officer admitted that the State Department had not maintained a comprehensive record relating to cost, disposals, depreciation, accumulated depreciation, location of the asset, tagging and officer responsible for each fixed asset as at the time of audit.

3690) This has been occasion by numerous splitting of the ministry. However, the National Treasury has come up with a standard format of generating and maintaining a Fixed Asset/Liabilities register and the State Department has adopted the same to enhance clear framework of accounting and maintaining public assets.

3691) The Ministry is in the process of updating the Fixed Asset Register Template as per the National Treasury Circular No.5/2020 dated 25th February, 2020.

**3692) Committee observations and Findings**

- (i) The Committee observed that there was no Asset register listing all the assets, their location and other critical details regarding them; and
- (ii) The matter remained unresolved.

**3693) Committee Recommendations**

**The Committee recommended that, within three (3) months of adoption of this report the Accounting Officer to complete an asset register and present it to the National Assembly and the Auditor General for verification.**

**DONOR FUNDED PROJECTS**

**KENYA ELECTRICITY MODERNIZATION PROJECT (IDA CR. NO. 5587 KE)**

**REPORT ON THE FINANCIAL STATEMENTS**

**3694) Unqualified Opinion**

**1151.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1152. Budget Control and Performance**

3695) The statement of comparative budget and actual amounts reflects budgeted receipts of Kshs.121,000,000 and actual receipts of Kshs.29,807,657 resulting to under receipt of Kshs.91,192,343 or 75%. Similarly, the Project budgeted Kshs.90,000,000 under purchase of goods and services but incurred Kshs.24,854,314 or utilization of only 28%. Management has attributed the underutilization to the deferment of trainings due to Covid19 pandemic. Consequently, the under absorption of the budget may have resulted in no implementation of the Project's planned activities, thus slowing down achievement of the intended goals and objectives.

**Submission by the Accounting Officer**

3696) The Accounting Officer admitted that there was an underutilization of the budget. He stated that as at 30 June 2020; -

- i) Effects of covid19 affected the implementation of activities like various trainings, which were scheduled in March 2020. The lock down on movement and strict adherence to covid19 health protocols could not allow the activities to take place, hence the underutilization.
- ii) During the period under review, we had planned to procure various consultancies but due to restrictions of meetings we were not able to complete procurement processes as

expected. The technical nature of procurements could not be done online since we had to peruse physical documents in compliance with World Bank procurement procedures, hence the underutilization.

3697) In the current Financial Year 2020/21 we hope to improve the absorption of funds while adhering to COVID 19 health protocol guidelines in place.

**3698) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Budget Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

**3699) Conclusion**

**1153.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

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

**3700) Conclusion**

**1154.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**KENYA OFF-GRID SOLAR ACCESS PROJECT FOR UNDERSERVED COUNTIES (IDA CR. NO. 6135-KE)**

**REPORT ON THE FINANCIAL STATEMENTS**

**3701) Unqualified Opinion**

**1155.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1156. Budget Control and Performance**

3702) The statement of comparative budget and actual amounts reflects receipts budget and actual amounts on comparable basis of Kshs.2,200,000,000 and Kshs.2,327,448,361 respectively resulting to a surplus of Kshs.127,448,361 or 6% of the budget. Similarly, the Project spent an amount of Kshs.2,386,198,802 against the approved budget of Kshs.2,200,000,000 resulting to an over absorption of Kshs.186,198,802 or 8% over the approved budget. Management has attributed the absorption to the reduction of the budget

through the supplementary budget when the project had already expended the amounts in procurement of goods and services.

#### **Submission by the Accounting Officer**

3703) The Accounting Officer admitted that the statement of comparative budget and actual amounts reflected on receipts budget and actual amounts on comparable basis of Kshs.2,200,000,000 and Kshs.2,327,448,361 respectively resulting to a surplus of Kshs.127,448,361 or 6% of the budget. He further admitted that the Project spent an amount of Kshs.2,386,198,802 against the approved budget of Kshs.2,200,000,000 resulting to an over absorption of Kshs.186,198,802 or 8% over the approved budget. The Accounting Officer reported that there was a reduction in the Supplementary 11 from a budget of Kshs.3 billion to the budget to 2.2 billion. The commitment and other payments had already been made and funds utilized at the time of the supplementary budget cut. Attached is extracts of the Supplementary II and III budget estimates.

#### **3704) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Budget Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **1157. Unauthorized Expenditure**

3705) The statement of comparison between the budget and actual amounts reflects a final budget of Kshs.2,200,000,000 against actual expenditure of Kshs.2,386,198,802 resulting to an overall absorption of Kshs.186,198,802 or 108%. Similarly, the statement reflects a final budget of Kshs.1,200,000,000 under other grants and transfers and payments against actual expenditure of Kshs.2,223,466,000 resulting to over expenditure of Kshs.1,023,466,000 or 185% of the budget for the year under review. This is contrary to the Appropriation Act, 2018, the Supplementary Appropriation Act, 2018 and Section 43(b) of Public Finance Management Regulations, 2015 which provides that the Accounting Officer shall ensure that public funds entrusted to their care are applied for purposes for which they were intended as appropriated by the National Assembly. Consequently, the Management is therefore in breach of the Law

#### **Submission by the Accounting Officer**

3706) The Accounting Officer submitted that the Ministry Contracted Consultants to undertake the services of Debt and Results Based Finance Facilities Manager. After meeting the condition in the Financing agreement where the Facilities Manager submitted a facilities implementation manual to be approved by the Ministry and the World Bank. The first disbursement to the Facilities manager was Euro 20 Million which translated to Kshs.2,223,466,000. This was disbursed to the Facilities main accounts operated by SNV Netherlands Development Organization. As required by the financing agreement, the budget allocation for 2019/2020 was provided under Contracted Technical services item

(2211311) and Contracted Professional Services item (2211310). During supplementary II budget process the contracted technical services budget item 2211311 was reduced from Kshs.2 billion to Kshs.1.2 billion. At the time the transfer had already been made hence the over expenditure. Attached is extracts of the Supplementary II and III budget estimates for the above mention budget items.

**3707) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Unauthorized Expenditure was satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

**3708) Conclusion**

**1158.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR ENERGY**

**BOGORIA SILALI GEOTHERMAL PROJECT (LOAN NO.2013.66.103) - GEOTHERMAL DEVELOPMENT COMPANY LIMITED**

**REPORT ON THE FINANCIAL STATEMENTS**

**3709) Unqualified Opinion**

**1159.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1160. Pending Bills**

3710) According to Note 11.1 and 11.2 to the financial statements, the Project had pending accounts payables totalling Kshs.137,389,000 (2019: Kshs.693,993,000) as at 30 June, 2020. Management has not explained why the bills were not settled during the year they occurred. The Project is at risk of incurring significant interest costs and penalties with the continued delay in payment.

3711) Failure to settle bills during the year they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

**Submission by the Accounting Officer**

3712) The pending bills of Ksh.137,389,000 were attributed to invoices received after year end. The invoices have subsequently been settled except for some pending bills that had contractual challenges and or disputed which are being resolved by the parties before settlement. Besides, the project budget cuts of Ksh.250 million from ex-chequer, and the Covid-19 pandemic which impacted receipts from steam charge payments from KENGEN amounting to Ksh.841,500,000 had an impact on settlement of pending bills.

3713) Management has since settled pending bills amounting to Ksh.105,150,000 out of Ksh.137,389,000 with plans to resolve and clear the balances within the financial year.

**3714) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to pending bills was satisfactory; and
- (ii) The Committee marked the matter as resolved.

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

**3715) Conclusion**

**1161.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

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

**Basis for Conclusion**

**1162. Commingling of Funds**

3716) The Management received Exchequer funds for two (2) ongoing Projects, Bogoria-Silali and Menengai. However, it was noted that Management did not maintain separate bank accounts for the two Projects but commingled the funds in one bank account. This may lead to difficulties in reconciling funds received and accurate reporting.

**Submission by the Accounting Officer**

3717) With effect from July 2020, Management designated a separate bank account for Bogoria-Silali project. The project bank account is maintained at the Kenya Commercial

Bank, Kipande House, Bank Account number 1119615208. The Accounting Officer submitted ratification of GDC's Bank accounts and approval to open bank account.

**3718) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to commingling of funds was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**MULTINATIONAL - KENYA SECTION OF INTERCONNECTION PROJECT OF ELECTRIC GRIDS OF NILE EQUATORIAL LAKES COUNTRIES (ADF LOAN NO. 2100150022643) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED  
REPORT ON THE FINANCIAL STATEMENTS**

**3719) Unqualified Opinion**

**1163.** There were no material issues noted during the audit of the financial statements of the Project.

**Emphasis of Matter**

**1164. Expiry of Loan Agreement**

3720) As reported in the previous year, the Loan Agreement between the Republic of Kenya and the African Development Bank expired on 31 December, 2017. However, the Project has stalled at 61% level of completion after the Company terminated the services of the main contractor for non-performance in April, 2016. Further, no funds have been received from the Bank since 2016. Analysis of the Project's cash and pending bills records as at 30 June, 2020 revealed a funding shortfall of Kshs.798,907,767. There was no evidence that the Loan Agreement had been renewed or other sources of funds, had been identified. It has not therefore, been possible to confirm whether or when the Project will be completed.

**3721) Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

- 1. The Committee reprimands the CEO of Kenya Electricity Transmission Company (KETRACO) at the material time for the inordinate delay in the implementation process.**
- 2. Within three (3) months after tabling and adoption of this report, the Accounting Officer should submit the ruling and other tender documents for the new contract to the Auditor-General and the National Assembly for review.**

**1165. Outstanding Arbitration on Terminated Contract**



3722) As reported in the previous year, an arbitration case was filed in April, 2016 between the contractor and Company, in relation to termination of a contract for works which had not been finalized. On 30 July, 2020, the tribunal, which was the arbitrator on the matter, issued their award in favour of the contractor. However, Management is of the opinion that the decision made by the arbitrator is against public policy and intends to present an appeal to have the award set aside. As at 30 June, 2020 Management had incurred legal fees totalling Kshs.220,444,652, on the matter.

3723) It has not therefore been possible to confirm when the matter will be resolved, and how the cost in terms of legal fees that the Company will incur will be reflected in the financial statements.

3724) My opinion is not qualified with respect to effects of these matters.

#### 3725) **Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

- 1) **The Committee reprimands the CEO of Kenya Electricity Transmission Company (KETRACO) at the material time for the inordinate delay in the implementation process.**
- 2) **Within three (3) months after tabling and adoption of this report, the Accounting Officer should submit the ruling documents to the Auditor-General and the National Assembly for review.**

#### **Other Matter**

##### **1166. Pending Bills – Goods and Services**

3726) As reported in the previous year, the Project Management contracted works and services amounting to Kshs.4,196,353,894, as disclosed in Annex 2A. The amounts certified as payable amounted to Kshs.3,453,000,803 out of which Kshs.3,006,460,944 was paid leaving a pending bill of Kshs.446,539,858. The unpaid bill is likely to result in penalties or litigation and related legal expenses, which are wasteful expenditure.

#### 3727) **Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

**Within three (3) months after tabling and adoption of this report, the Accounting Officer should submit the ruling documents to the Auditor-General and the National Assembly for review.**

## **1167. Long Outstanding Wayleave Compensation**

3728) As reported in the previous year, the expected compensation to landowners for wayleaves acquired since inception of the Project, amounted to Kshs.1,722,348,174, as disclosed in Annex 2B. The amounts certified as payable amounted to Kshs.1,716,108,611, out of which Kshs.1,363,740,702 was paid leaving an unpaid balance of Kshs.352,367,909. The Management has attributed failure to pay the amount to lack of budgetary allocation from The National Treasury and lengthy land valuation negotiations due to absentee land owners coupled with various court injunctions on disputed cases.

### **3729) Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

- 1) The Committee reprimands the Cabinet secretary in charge of Energy at the material time for lack of proper project implementation planning to ensure smooth flow of the implementation process.**
- 2) Within three (3) months after tabling and adoption of this report, the Accounting Officer should reconcile the records on amount owing. Further, the Cabinet Secretary National Treasury should undertake to set aside enough funds to fully compensate the certified land owners without delay.**

## **1168. Budgetary Control and Performance**

3730) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.567,000,000 and Kshs.577,227,841 respectively resulting to an over funding of Kshs.10,227,841 or 2% of the budget. Similarly, the statement reflects final payments budget and actual on comparable basis of Kshs.567,000,000 and Kshs.270,411,184 respectively resulting to an under expenditure of Kshs.296,588,816 or 52% of the budget.

3731) The under expenditure affected the planned activities and may have impacted negatively on service delivery for the public.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **3732) Conclusion**

**1169.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **Basis for Conclusion**

## **1170. Automation of the Financial Reporting Process**

3733) Review of the financial reporting process revealed significant manual interventions. Although the sub-ledgers are extracted from the SAP system through the reporting module, the processing of the trial balance and financial statements is done manually on excel worksheet.

3734) Consequently, the manual interventions may result in errors in the financial statements.

## **MULTINATIONAL KENYA-TANZANIA POWER INTERCONNECTION PROJECT (KENYAN COMPONENT) (ADF LOAN NO.2100150032846) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **3735) Unqualified Opinion**

**1171.** There were no material issues noted during the audit of the financial statements of the Project.

#### **Other Matter**

#### **1172. Pending Bills – Goods and Services**

3736) As reported in previous years, the total value of works and services contracted under the Project amounted to Kshs.3,303,669,940, as disclosed in Annex 2A to the financial statements. The amounts certified as payable total Kshs.2,004,043,756 out of which payments totalling Kshs.1,819,352,830 were made over the years resulting in outstanding bills totalling Kshs.184,690,926 as at 30 June, 2020.

3737) Delay in settling the pending bills may result in wasteful expenditure on penalties and litigation costs.

#### **3738) Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

**The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year.**

#### **1173. Long Outstanding Wayleave Compensation**

3739) As previously reported, the total compensation payments owed to landowners for wayleaves acquired since inception of the Project on 5 December, 2012, amounted to Kshs.740,936,855, as disclosed in Annex 2B to the financial statements. The amount certified as payable totalled Kshs.664,939,500 and payments made were Kshs.435,996,950 leaving a balance of Kshs.228,942,550 unpaid as at 20 June, 2020.

3740) Management has attributed the failure to pay the balance to lack of budgetary allocations by The National Treasury, lengthy negotiations on land valuation, absentee landlords and legal disputes on ownership of some of the lands.

3741) Since the implementation of the Project is behind schedule, any further delay in resolving these issues is likely to delay its completion.

3742) **Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

**Within three (3) months after tabling and adoption of this report, the Cabinet Secretary National Treasury should undertake to set aside enough funds to fully compensate the certified land owners without delay.**

**1174. Budgetary Control and Performance**

3743) During the year under review, the Project was budgeted to receive loans from external partners totalling Kshs1,000,000,000 but received Kshs.731,199,572 only, resulting to a revenue shortfall of Kshs.2,68,800,428 or 27% of the budget. Further, the Project was budgeted to spend Kshs.1,540,000,000 but spent Kshs.1,114,303,419 resulting in under absorption of Kshs.425,696,581 or 28% of the budget. Further analysis indicated that Kshs.417,546,970 of the expenditure totalling Kshs.425,696,581 was incurred in acquisition of non-financial assets where Kshs.1,425,388,956 was budgeted but only Kshs.1,007,841,986 was spent.

3744) The shortfall in revenue and the under-expenditure indicates that some of the Project's activities for the year were not implemented. This may delay its completion, and the attainment of its objectives.

**Submission by the Accounting Officer**

The under absorption of Ks 425,696,581 or 28% was occasioned by numerous stoppages and Court cases, Persons Affected by the projects demanded additional compensation resulting in slow progress by the contractors.

3745) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Budgetary Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **Basis for Conclusion**

#### **1175. Delay in Implementation of Lot K1 Component of the Project**

3746) Examination of records on progress of work on the Isinya-Namanga transmission line under Lot K1 indicated that the works were 49% complete as at 30 June, 2020. They were, therefore, much behind schedule as their expected completion date was in April, 2020.

3747) Failure to complete the works in due time has hindered the Project from realizing its objectives and amplified the risk of an increase in its costs due to economic and other factors.

#### **3748) Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

**The contractor to provide completion certificates and evidence of project commissioning as of 31 December 2021 to the Auditor-General and the National Assembly for review.**

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### **Basis for Conclusion**

#### **1176. Unexplained Mix of Financial Reporting Systems**

3749) Audit review of the Project's financial reporting system indicated that Management uses both electronic and manual systems to prepare financial reports. Whereas the sub-ledger accounts are derived from the electronic system, the trial balance and financial statements are processed manually on spreadsheets. No plausible explanation has been provided by Management as to why the trial balance is not processed electronically as well.

3750) The use of both manual and electronic accounting systems has increased the risk of errors and omissions in the financial statements.

## **LAST MILE CONNECTIVITY PROJECT 1 (LOAN NO.2100150032195) – KENYA POWER AND LIGHTING COMPANY PLC**

### REPORT ON THE FINANCIAL STATEMENTS

#### **3751) Unqualified Opinion**

**1177.** There were no material issues noted during the audit of the financial statements of the Project.

#### REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**3752) Conclusion**

**1178.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

#### REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**3753) Conclusion**

**1179.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

#### LAST MILE CONNECTIVITY PROJECT II (LOAN NO.2000200000152) – KENYA POWER AND LIGHTING COMPANY PLC

#### REPORT ON THE FINANCIAL STATEMENTS

**3754) Unqualified Opinion**

**1180.** There were no material issues noted during the audit of the financial statements of the Project.

#### Other Matter

**1181. Pending Bills**

**3755) Note 11.1** to the financial statements reflects pending bills of Kshs.959,730,000 as at 30 June, 2020. Management has not provided explanations for non-payment of the bills. The Project is at risk of incurring significant interest costs and penalties with the continued delay in payment. Further, failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

#### REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**3756) Conclusion**

**1182.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

#### REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

3757) **Conclusion**

**1183.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**EASTERN ELECTRICITY HIGHWAY PROJECT (IDA CREDIT NO. 5148-KE; AFD LOAN NO: CKE 1030 01B AND ADF LOAN NO: 2100150027845) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED**

**REPORT ON THE FINANCIAL STATEMENTS**

3758) **Unqualified Opinion**

**1184.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1185. Pending Bills**

3759) According to Note 11.1 and 11.2 to the financial statements, the Project had pending accounts payables totalling Kshs.2,640,343,389 (2019: Kshs.8,869,107,397) as at 30 June, 2020. During the year under review, the Project Management made payments totalling Kshs.10,805,039,832 while accumulating bills totalling Kshs.4,576,275,824. Management has not explained why the bills were not settled during the year they occurred. The Project is at risk of incurring significant interest costs and penalties with their continued delay in payment.

3760) Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

3761) **Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

**The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year**

**1186. Long Outstanding Wayleave Compensation**

3762) The expected compensation to landowners for wayleaves acquired since inception of the Project amounts to Kshs.2,365,517,091 out of which Kshs.2,387,141,878 was certified payable. The Project Management has so far paid Kshs.2,320,939,248 leaving an unpaid



balance of Kshs.66,202,630. The Management has attributed failure to pay the amount to lack of budgetary allocation from The National Treasury and lengthy land valuation negotiations due to absentee land owners and various court injunctions on disputed cases.

**3763) Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

**Within three (3) months after tabling and adoption of this report, the Cabinet Secretary National Treasury should undertake to set aside enough funds to fully compensate the certified land owners without delay.**

**1187. Undrawn Balances**

3764) As reported previously, the Project had an approved budget of USD 441,000,000, UA 75,000,000, EUR 77,500,000 and counterpart funding by Government of Kenya of Kshs.8,585,000,000, all equivalent to Kshs.75,803,028,400. The Project was envisaged to be completed by 30 September, 2020. However, as at 30 June, 2020, there was an undrawn balance of Kshs.35,658,914,156 or approximately 47% of the Project funding with total pending bills of Kshs.2,640,343,389. It is likely that the funding might not be fully absorbed, by the time of expiry of the funding period.

3765) The Management attributes the slow absorption of funds to the anticipated costs derived from the Project appraisal document and the savings realized after the tendering process and awards to various contractors, while wayleave financing is based on actual valuations which is currently lower than the estimates.

3766) Consequently, the significant unutilized funding balance may result in funds being locked in the current Project, whereas these funds could have been utilized on other Projects which could have delivered services to the Kenyan citizens.

**3767) Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

**Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide documents relating to approval by the financiers to divert the savings into another project and the procurement documents for the new project to the Auditor-General and National Assembly for review.**

**1188. Budgetary Control and Performance**

3768) The statement of comparative budget and actual amounts for the year ended 30 June, 2020 reflects actual receipts of Kshs.11,142,839,573 against final receipts budget of Kshs.11,810,750,000 resulting in a shortfall of Kshs.667,910,427. Further, actual

expenditure for the year amounted to Kshs.11,115,045,519 against final expenditure budget of Kshs.11,810,750,000 resulting to under absorption of Kshs.695,706481. Management has not provided explanation regarding the under absorption.

3769) Consequently, the underfunding and low expenditure may affect the planned activities and impact negatively on service delivery to the public.

#### **Submission by the Accounting Officer**

3770) The under-absorption was occasioned by the slow progress of lot 6 of the project due to court injunctions which slowed down the progress of the project. The cases have since been settled and the contractor has mobilized to site to progress the completion of the project

#### **3771) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Budgetary Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

##### **3772) Conclusion**

**1189.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

#### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

##### **Basis for Conclusion**

##### **1190. Automation of the Financial Reporting Process**

3773) Review of the financial reporting process for the Project revealed significant manual interventions. Although the sub-ledgers are extracted from the SAP system through the Business Intelligence Reporting Module, the processing of the trial balance and financial statements is done manually on excel worksheets.

3774) Consequently, the manual interventions may result to errors in the Project financial statements

#### **RURAL ELECTRIFICATION IN FIVE REGIONS PROJECT (CR.NO.11/597KE, 1407PKE) - RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION**

## REPORT ON THE FINANCIAL STATEMENTS

### 3775) **Unqualified Opinion**

**1191.** There were no material issues noted during the audit of the financial statements of the Project.

### **Emphasis of Matter**

#### **1192. Low Absorption of Project Funds**

3776) Note 1.7 on funding summary indicates that the Donor had made commitments amounting to Kshs.5,856,180,000 (USD 57,000,000). The actual amount received during the Project's period totalled to Kshs.1,091,661,248 (USD 10,625,474) leaving a balance of Kshs.4,764,518,751 (USD 46,374,525) undrawn. However, with the Project closing date of 31 December, 2020, the credit may lapse without being fully utilized and the Project's planned deliverables earmarked for completion using the funding may not be realized.

3777) My opinion in respect of this matter is not modified.

#### 3778) **Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 under paragraph 1148 of Report of Auditor General as delays in project implementation and recommended as follows;

**The Accounting officer to provide copies of the withdrawal rights extensions and correspondences with the National Treasury to the Auditor General and the National Assembly for review.**

### **Other Matter**

#### **1193. Budgetary Control and Performance**

3779) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,668,000,000 and Kshs.252,497,718 respectively resulting to an under-funding of Kshs.1,414,502,282 or 85% of the budget. The Project expenditure was limited to the amount realized. Although Management has attributed the low performance to technicalities in opening of letters of credit, the underfunding and the under expenditure affected the planned activities impacting negatively on service delivery to the public.

### **Submission by the Accounting Officer**

3780) The Accounting Officer submitted that, as observed the project had In-sufficient budget allocation in 2019/2020 FY. The Corporations budget under the project was not enough to accommodate the letters of credits that were issued. The corporation wrote to treasury through the Ministry of Energy requesting for authority to incur expenditure. The budget

was availed in February 2020 through supplementary 2 after which the Letters of Credit were processed.

3781) The contractors commenced delivery of materials but unfortunately Covid-19 Pandemic slowed down the manufacturing of materials and delivery of materials the Corporation resulted to online inspections due to travel restrictions. Due to the pandemic movement to sites for installation was also affected. There is still slow delivery of materials as online inspections continues. A detailed status of the project is attached for reference.

3782) The financiers extended the withdrawal rights to expire on 31.12.2021. which is not tenable due to the slowed down activities, and plans are underway to request for extension of withdrawal rights to June 2022, to give ample time to complete the project and pay the retentions. The expected completion date is December 2022.

**3783) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Budgetary Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1194. Pending Bills**

3784) Note 10.1 to the financial statements reflects pending bills totalling Kshs.5,733,369 as at 30 June, 2020. Although Management has attributed the failure to clear the bills to invoices submitted in the wrong currency, the Project is at risk of incurring significant interest costs and penalties with the continued delay in payment. Further, failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

**Submission by the Accounting Officer**

3785) One of our contractors Fountain Technologies Ltd had submitted invoice for wooden poles in local currency which was contrary to the addendum signed in October 2017. The Corporation requested for revised invoices which were submitted and settled within the payment periods.

**3786) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to pending bills was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**3787) Conclusion**

**1195.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### 3788) **Conclusion**

**1196.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

### **PARAGRAPH 1197 TO 1202 OF REPORT OF AUDITOR GENERAL IS A REPEAT OF PARAGRAPH 1191 TO 1196**

## **OLKARIA-LESSOS-KISUMU TRANSMISSION LINES CONSTRUCTION PROJECT (JICA LOAN NO. KE-P28) – KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED**

### REPORT ON THE FINANCIAL STATEMENTS

### 3789) **Unqualified Opinion**

**1203.** There were no material issues noted during the audit of the financial statements of the Project.

### **Other Matter**

#### **1204. Pending Bills – Goods and Services**

3790) As disclosed in Annex 2A in the financial statements, the Project Management contracted works and services amounting to Kshs.12,086,419,352,. The amounts certified as payable amounted to Kshs.7,399,029,428 out of which Kshs.7,309,463,940 was paid leaving pending bills of Kshs.89,565,488. The unpaid bills are likely to result in penalties or litigation and related legal expenses, which are wasteful expenditure.

### **Submissions by Accounting Officer**

3791) The Accounting Officer submitted that it should be noted out of Ksh.7,399,029,428 certified as payable, Ksh.7,309,463,940 was paid in the financial year leaving an outstanding balance of 89,565,488 The balances outstanding as at 30<sup>th</sup> June 2020 was attributable to outstanding invoices for services received but which have subsequently been paid.

### 3792) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to pending bills was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **1205. Long Outstanding Wayleave Compensation**

3793) As disclosed in Annex 2B, the expected compensation to landowners amounted to Kshs.4,248,570,720, for wayleaves acquired since inception of the Project in February, 2016. The amounts certified as payable amounted to Kshs.2,733,219,860 of which Kshs.2,350,977,439 was paid leaving an unpaid balance of Kshs.382,242,421.

3794) Management attributed failure to pay the amount to lack of budgetary allocation from The National Treasury and lengthy land valuation negotiations due to absentee land owners and various court injunctions.

#### **3795) Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

- 1) Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide the list of certified land owners and evidence of payment to the National Assembly.**
- 2) Within three (3) months after tabling and adoption of this report, the Auditor General should undertake a Forensic Audit on wayleave Compensations done by the state department of Energy in all donor funded projects.**

### **1206. Budgetary Control and Performance**

3796) The Project budgeted to receive a total of Kshs.2,232,000,000 as transfers from Government entities and loans from external development partners, but received a total of Kshs.2,037,637,514, resulting to a budget shortfall of Kshs.194,362,486 or 9%. Similarly, the Project budgeted to spend a total of Kshs.1,861,527,974 on purchase of goods and services and acquisition of non-financial of assets, but spent Kshs.214,277,661, resulting to an under absorption of Kshs.370,472,027 or 17%.

3797) The reported under funding and under absorption of the Project's budget may have resulted in delayed implementation of planned Project's activities and achievement of the objectives.

### **Submissions by Accounting Officer**

3798) Performance against budget was affected by travel restrictions in the later half of 2019/2020 brought about by Covid-19 containment measures announced by the government. External financing uptake was also low as all our contractors ceased operations by reason of force majeure due to Covid-19 containment measures.

**3799) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to budgetary control and performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**3800) Conclusion**

**1207.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**Basis for Conclusion**

**1208. Automation of the Financial Reporting Process**

3801) Review of the financial reporting process for the Project revealed significant manual intervention. Whereas the sub-ledgers are extracted from SAP system through the Business Intelligence Reporting Module, the processing of the trial balance and financial statements is done manually on excel.

3802) Consequently, the manual intervention may result in errors in the Project financial statements.

**220KV AND 132KV TRANSMISSION LINES AND SUBSTATIONS (EXIM BANK OF INDIA FUNDED) PROJECTS - KENYA ELECTRICITY TRANSMISSION COMPANY**

**REPORT ON THE FINANCIAL STATEMENTS**

**3803) Unqualified Opinion**

**1209.** There were no material issues noted during the audit of the financial statements of the Project.

**Emphasis of Matter**



## **1210. Liquidation of Contractor**

3804) As reported in the prior year, the contractor for Lot 1A 220KV Turkwel-Ortum-Kitale substations was contracted on 16 April, 2013 with a contract sum of USD19,972,680 later revised to USD18,100,120. As at the date of the audit, the contractor had achieved an overall completion status of 78%. The contractor was put into liquidation in July, 2018 by the courts in India resulting in challenges in completing the Project due of lack of finances.

3805) According to Management, another contractor is in the process of being identified as a replacement to take over the remaining works. Consequently, the Project may not be completed on time and may also experience cost overruns.

3806) My opinion is not qualified with respect to this matter.

### **3807) Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

**Within three (3) months after tabling and adoption of this report, the Cabinet secretary National Treasury undertake to allocate enough funds to enable completion of the project as required.**

## **Other Matter**

### **1211. Pending Bills – Goods and Services**

3808) According to Note 11.1 and 11.2 to the financial statements, the Project had pending accounts payables totalling Kshs.270,044,247 (2019: Kshs.263,844,328) as at 30 June, 2020. During the year under review, the Project Management made payments totalling Kshs.168,907,461 while accumulating bills totalling Kshs.175,107,380. Management has not explained why the bills were not settled during the year they occurred. The Project is at risk of incurring significant interest costs and penalties with their continued delay in payment.

3809) Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

### **3810) Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

### **3811) The Committee recommended that:**

**The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable they should form the first charge in the budget of the subsequent year. The Accounting officer should finalize the accounts and settle the outstanding amounts for the company within three (3) months after tabling and adoption of this report.**

#### **1212. Long Unpaid Wayleave Compensation**

3812) The expected compensation to landowners for wayleaves acquired since inception of the Project amounts to Kshs.958,943,467 out of which Kshs.929,756,255 was certified payable. The Project Management has so far paid Kshs.746,848,361 leaving an unpaid balance of Kshs.182,907,894. The Management has attributed failure to pay the amount due to lack of budgetary allocation from The National Treasury and lengthy land negotiations between land owners, Kenya Electricity Transmission Company and the County Government of Kajiado.

#### **3813) Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

- 1) Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide the list of certified land owners and evidence of payment to the National Assembly.**
- 2) Within three (3) months after tabling and adoption of this report, the Auditor General should undertake a Forensic Audit on wayleave Compensations done by the state department of Energy in all donor funded projects.**

#### **1213. Delayed Project Implementation**

3814) The Lot 1A - 220KV Substations at Turkwel, Ortum & Kitale and Lot 3A - 132/33KV Machakos-Konza-Kajiado-Namanga Transmission Lines - reported 78% and 60% completion rate respectively, by 30 June, 2020. Lot 1A of the Project is currently suspended and significant work remains undone. Works are yet to commence at the main strategic substation in Turkwel, which may lead to underutilization of the Project. Lot 3A was expected to be complete by 30 December, 2019, hence the Project is behind schedule and may delay delivery of services to the intended beneficiaries.

3815) Consequently, the Project may also experience cost overruns and possible withdrawal of funding by the project financier.

#### **3816) Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

**Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide List of land owners, valuation reports, compensation list and evidence of settlement of the compensation sum to the land owners to the National Assembly and Auditor General for review**

#### **1214. Budgetary Control and Performance**

3817) The statement of comparative budget and actual amounts for the year ended 30 June, 2020 reflects actual receipts of Kshs.456,956,904 against budgeted receipts of Kshs.781,000,000 resulting in a shortfall of Kshs.324,043,096 or 41% of the final receipt budget. Further, actual expenditure for the year amounted to Kshs.338,502,600 against the actual receipts of Kshs.781,000,000 resulting to under absorption of Kshs.442,497,400 or 57% of the final receipt budget. Management attributed this to late disbursement of the 4th Quarter which was disbursed in July, 2020 and reduced proceeds from borrowing due to termination of contractual works.

3818) Consequently, the underfunding and low expenditure may affect the planned activities and impact negatively on service delivery to the public.

#### **Submissions by Accounting Officer**

3819) The absorption was affected by Covid-19 disruptions also affected the wayleaves acquisition process especially in the last quarter of the year under review due to travel restrictions and slowed operations in numerous county land offices hence low funds utilization. The budget absorption performance is expected to improve in FY 2020/2021.

#### **3820) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to budgetary control and performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **3821) Conclusion**

**1215.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **Basis for Conclusion**

#### **1216. Automation of the Financial Reporting Process**

3822) Review of the financial reporting process for the Project revealed significant manual interventions. Although the sub-ledgers are extracted from SAP system through the Business Intelligence Reporting Module, the processing of the trial balance and financial statements is done manually on excel worksheets.

Consequently, the manual interventions may result to errors in the Project financial statements.

## **KENYA ELECTRICITY MODERNISATION PROJECT (IDA CREDIT 5587-KE) – RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **3823) Unqualified Opinion**

**1217.** There were no material issues noted during the audit of the financial statements of the Project.

#### **Other Matter**

##### **1218. Budgetary Control and Performance**

3824) The statement of comparative budget and actual amounts reflects final receipts budgeted and actuals on comparable basis amounting to Kshs.350,000,000 and Nil respectively, resulting in under-funding of Kshs.350,000,000 or 100% of the budget. As a result, the Project's activities in the year under review were limited as only Kshs.10,468,020 or 3% of the approved budget was spent. The funding shortfall constrained implementation of the Project's work plans and the quest to attain its objectives and purpose.

3825) Management has explained that the under-expenditure resulted from delay in finalization of contracts on which the budgeted funds were to be spent.

#### **Submission of Accounting Officer**

3826) The Accounting Officer submitted that as observed the Corporation budgeted for Kshs 350,000,000 under KEMP project for the year 2019/2020. As at the close of the financial year the same had not been utilized because implementation delayed. Signing of the Operation and Maintenance contract with KPLC also delayed commencement of the project. Several meetings between World Bank, KPLC, Ministry of Energy and REREC were held on the issue and concluded. The contract is awaiting signing by the contractor.

3827) Delay in processing and payment of Advance Payment also affected implementation of the project and absorption of project funds. This was occasioned Covid-19 affecting submission of original advance payment invoice and also delay in authentication of advance payment guarantee by central Bank of Kenya (CBK) which was completed in May 2020. The payment was paid to the contractor on 16/7/2020 and currently the contractor is

on site after sites handover was completed. Manufacturing commenced but has been slowed down by the pandemic. The materials are awaiting inspection and delivery. Withdrawal rights were extended to expires on 31st December 2021, when the project is expected to be completed.

**3828) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to budgetary control and performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**Basis for Conclusion**

**1219. Long Delay in Execution of the Project**

3829) As previously reported, the Project commenced on 29 June, 2015 and was set for completion on 30 December, 2021. However, as at 30 June, 2020, the activities executed were valued at Kshs.78,234,961 or 8% of the total funds totaling US\$ 10million (Kshs.1,013,000,000) committed to the Project in the Financing Agreement. Management has indicated that a new implementation plan has been drawn to execute the pending works by 30 December, 2021.

3830) In view of the long delay suffered previously, the Project's outputs are unlikely to be realized and its purpose achieved unless its execution timelines and operational systems are reset.

**Submission of Accounting Officer**

3831) The Accounting Officer submitted that as per the contract agreement, the fulfilment of the effectiveness condition of the project was achieved following the advance payments to the contractor on 16.07.2020 despite the delay in processing of the payment as explained above.

3832) Immediately after the advance payment was done the contractor commenced compilation of the Bill of Quantities and preparation of the final designs. The contract agreement requires the contractor to submit final designs for approval to facilitate delivery of materials for installation of the mini grids. Due to the Covid-19 pandemic manufacturing has been delayed. However, the materials are awaiting factory inspections which will be done virtually owing to the persisting pandemic. Withdrawal rights were extended to expires on 31st December 2021 when the project is expected to be completed.

**3833) Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

**Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide the status report with the supporting certificates of work done and approved for payment to the National Assembly and Auditor General for review.**

#### REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

##### 3834) **Conclusion**

**1220.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

#### **NAIROBI RING TRANSMISSION LINE PROJECT (AFD CREDIT NO. CKE6012.01, AFD CREDIT NO. CKE1068 01, AFD CREDIT NO.**

#### **CKE1030.01.B, EIB CREDIT NO.25.367/KE AND GOK) – KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED**

#### REPORT ON THE FINANCIAL STATEMENTS

##### 3835) **Unqualified Opinion**

**1221.** There were no material issues noted during the audit of the financial statements of the Project.

##### **Other Matter**

##### **1222. Pending Bills**

3836) According to Note 11.1 and 11.2 to the financial statements, the Project had pending accounts payables totalling Kshs.644,130,340 (2019: Kshs.249,150,226) as at 30 June, 2020. During the year under review, the Project Management made payments totalling Kshs.264,795,402 while accumulating bills totalling Kshs.652,752,780. Management has not explained why the bills were not settled during the year in which they occurred. The Project is at risk of incurring significant interest costs and penalties with their continued delay in payment.

3837) Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

##### **Submission by Accounting Officer**

3838) The Accounting Officer submitted as follows;

The composition of pending bills is made up of:

- Iberdrola bills amounting to Ksh.272,225,654 which amount was settled in August 2020.
- Consolidated Power projects bills amounting to Ksh.103,509,894 which amount was settled in December 2020.
- Jyoti Structures limited bills amounting to Ksh.58,363,937. The contractor was declared bankrupt. The legal proceedings to determine on his case is yet to be determined hence the bills will be settled once the account to transfer the bills has been advised.
- Terna Cesi bills amounting to Ksh.46,798,954.90 which amount was settled by January 2020 as the invoices had been put on hold awaiting approval of contract addendum.

3839) Since the Project Account are reported on cash basis, the balances outstanding as at 30<sup>th</sup> June 2020 are attributable to outstanding invoices for goods/services received but not settled as at that date as they were still being subjected to reviews by our Technical team. Most of these have subsequently been settled.

3840) In view of the above most of the bills have already been settled hence the issue of penalties or ligation does not arise.

**3841) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to pending bills was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1223. Long Outstanding Wayleave Compensation**

3842) As reported in the previous year, the expected compensation to landowners for wayleaves acquired since inception of the Project in October, 2012, amounted to Kshs.2,561,863,170, as disclosed in Annex 2B. The amounts certified as payable amounted to Kshs.2,561,863,170, out of which Kshs.2,399,561,269 was paid leaving an unpaid balance of Kshs.162,301,901. The Management has attributed failure to pay the amount due to lack of budgetary allocation from The National Treasury and lengthy land valuation negotiations due to absentee land owners and various court injunctions on disputed cases.

**3843) Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

- 1) Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide the documents for extra budget requisitions and correspondences between the state department and National treasury on the issue to the National Assembly.**



- 2) **Within three (3) months after tabling and adoption of this report, the Auditor General should undertake a Forensic Audit on wayleave Compensations done by the state department of Energy in all donor funded projects.**

#### **1224. Delay in Project Deliverables**

3844) Review of the Project deliverables revealed that the Project was behind schedule, with respect to the completion of the Malaa Sub-Station. Construction works at the Sub-Station were 64% complete by the end of the year under review. This was despite having the completion date revised twice to May, 2020 and June, 2021.

3845) Consequently, delays in completion of the Project may result in escalation of projected costs or expiry and withdrawal of funding by project financiers.

#### **Submission by Accounting Officer**

3846) Delays in completion of Malaa substation were due to delayed site hand over for the substation in June 2018 as well as the disruptions of Covid-19 pandemic in year 2020. Management has ensured that the project is adequately funded, and the escalation of project costs is less probable since the project is currently on course. The project is 79 % complete.

#### **3847) Committee observations and findings**

The Committee observed that the Accounting Officer has taken measures to complete the project.

#### **3848) Committee Recommendations**

**Within three months of tabling and adoption of this report, the Accounting Officer should provide the status report, payment certificates and public works report on the status of the project to the National Assembly.**

#### **1225. Budgetary Control and Performance**

3849) The statement of comparative budget and actual amounts reflects final receipts budget and actual amounts on comparable basis of Kshs.316,000,000 and Kshs.319,636,085. This has resulted to an over utilization of Kshs.3,636,085 or 1% of the budget. Further, actual expenditure for the year amounted to Kshs.385,262,392 against the final expenditure budget of Kshs.316,000,000 unapproved leading to over expenditure of Kshs.69,262,392.

#### **Submissions by Accounting Officer**

3850) Payables under acquisition of non-financial assets for financial year 2018/19 were paid in the subsequent year (FY 2019-2020). The payments were made from the project bank accounts that had a closing cash balance of Ksh.326,338,342 as at 30<sup>th</sup> June 2019 and a closing cash balance of Ksh.260,712,035 as at 30<sup>th</sup> June 2020. In this regard the issue of

over utilization of the budget does not arise as payments were made from the cash balances held in the project bank accounts.

**3851) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to budgetary control and performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**3852) Conclusion**

**1226.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**Basis for Conclusion**

**1227. Automation of the Financial Reporting Process**

3853) Review of the financial reporting process for the Project revealed significant manual interventions. Although the sub-ledgers are extracted from the SAP system through the Business Intelligence Reporting Module, the processing of the trial balance and financial statements is done manually on excel worksheets.

3854) Consequently, the manual interventions may result to errors in the Project financial statements. The Committee marked the matter as resolved.

**POWER TRANSMISSION SYSTEM IMPROVEMENT PROJECT (ADF LOAN NO.2100150023752) - KENYA ELECTRICITY TRANSMISSION COMPANY LTD**

**REPORT ON THE FINANCIAL STATEMENTS**

**3855) Unqualified Opinion**

**1228.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1229. Pending Bills – Goods and Services**

3856) According to Note 11.1 and 11.2 to the financial statements, the Project had pending accounts payables totalling Kshs.727,729,026 (2019: Kshs.596,443,793) as at 30 June, 2020. During the year under review, the Project Management made payments totalling

Kshs.74,802,466 while accumulating bills totalling Kshs.206,087,699. Management has not explained why the bills were not settled during the year in which they occurred. The Project is at risk of incurring significant interest costs and penalties with the continued delay in payment.

3857) Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

#### **Submissions by Accounting Officer**

3858) The Accounting Officer submitted as follows;

The composition of Ksh.429,406,762 is made up of:

- Jyoti Structures Limited bills amounting to Ksh.294,923,200. This amount is retained earnings for the initial contractors who went insolvent. The contractor was declared bankrupt. The legal proceedings to determine on his case is yet to be determined hence the bills will be settled once the account to transfer the bills has been advised.
- The balance of Ksh.133,487,626 is due for the new contractor China CAMCE Co. Ltd who is currently executing the project and is expected to conclude in May 2022.
- The balance of Ksh.995,936 to SMEC International PTY Ltd has since been settled.

3859) In view of the above, the issue of penalties or litigation does not arise. Since the Project Account are reported on cash basis, The balances outstanding as at 30<sup>th</sup> June 2020 are attributable to outstanding invoices for goods/services received but not settled as at that date as they were still being subjected to reviews by our Technical team. Most of these have subsequently been settled.

#### **3860) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to pending bills was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **1230. Budgetary Control and Performance**

3861) The statement of comparative budget and actual amounts for the year ended 30 June, 2020 reflects actual receipts of Kshs.548,643,715 against budgeted receipts of Kshs.462,000,000 resulting in an excess of Kshs.86,643,715. Further, actual expenditure for the year amounted to Kshs.150,604,931 against the actual receipts of Kshs.462,000,000 resulting to under absorption of Kshs.311,395,069, for which Management attributed to slow implementation of work plans between February and June, 2020. The Committee marked the matter as resolved.

#### **Submissions by Accounting Officer**

3862) The balance of Ksh.311,395,069 was utilized to accrue for pending payments due to be paid to the new contractor whose work was delayed by the covid 19 restrictions during the nationwide lockdown, the contractor resumed works and we are processing majority of the payments before end of September 2021.

**3863) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to budgetary control and performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1231. Long Outstanding Wayleave Compensation**

3864) As reported in the previous year, the expected compensation to landowners for wayleaves acquired since inception of the Project on 16 April, 2013, amounted to Kshs.2,292,467,699, as disclosed in Annex 2B. The amounts certified as payable amounted to Kshs.1,979,064,986, out of which Kshs.1,680,742,722 was paid leaving an unpaid balance of Kshs.298,322,264. The Management has attributed failure to pay the amount due to lack of budgetary allocation from The National Treasury and lengthy land valuation negotiations due to absentee land owners and various court injunctions on disputed cases. The Committee marked the matter as resolved.

**3865) Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows;

- 1) Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide the documents for extra budget requisitions and correspondences between the state department and National treasury on the issue to the National Assembly.**
- 2) Within three (3) months after tabling and adoption of this report, the Auditor General should undertake a Forensic Audit on wayleave Compensations done by the state department of Energy in all donor funded projects.**

**1232. Delay in Project Implementation**

3866) Review of completion status of the Project revealed completion status of the various Lots, as detailed below:

<b>Line</b>	<b>Foundations</b>	<b>Erections</b>	<b>Stringing</b>
Olkaria – Narok	86.0%	54.7%	0.0%
Lessos – Kabarnet	96.0%	73.1%	0.0%
Nanyuki – Rumuruti	99.6%	99.1%	66%
Sultan Hamud – Wote – Kitui – Mwingi	72.6%	70.7%	56.5%

3867) This Project, whose expected completion date was 30 June, 2019, was re-scheduled to April, 2020, following the engagement of another contractor for the remaining works on the Project, which were significant. Further, it was observed that the Project funding from the African Development Bank (AfDB) was terminated, when the main contractor was declared insolvent in his home country.

3868) Consequently, this Project may not be completed within schedule, resulting in delayed provision of expected services to the stakeholders. The Committee marked the matter as resolved

#### **Submissions by Accounting Officer**

3869) The Accounting Officer submitted that Ms Jyoti the previous contractors was declared bankrupt. KETRACO engaged a new contractor in April 2019, Ms China CAMCE CO. Ltd., who is accelerating completion of the remaining works before end of September 2021. KETRACO has also engaged The National Treasury through Ministry of Energy for the financing of the project through Government of Kenya funding. The budget allocation is expected to finance the remaining works.

#### **3870) Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 under paragraph 1177 of Report of Auditor General as slow project implementation and recommended as follows;

**Within three (3) months after tabling and adoption of this report, the Accounting Officer should provide the project implementation status report, certificates of work done and statements of payment on account prepared by the technical departments for payment to the National Assembly and Auditor General for review.**

#### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

##### **3871) Conclusion**

**1233.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

#### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

##### **Basis for Conclusion**

##### **1234. Automation of the Financial Reporting Process**

3872) Review of the financial reporting process for the Project revealed significant manual interventions. Although the sub-ledgers are extracted from the SAP system through the

Business Intelligence Reporting Module, the processing of the trial balance and financial statements is done manually on excel worksheets.

3873) Consequently, the manual intervention may result to errors in the Project financial statements. The Committee marked the matter as resolved.

## **MENENGAI GEOTHERMAL PROJECT - GEOTHERMAL DEVELOPMENT COMPANY LIMITED**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **3874) Unqualified Opinion**

**1235.** There were no material issues noted during the audit of the financial statements of the Project.

#### **Other Matter**

##### **1236. Pending Bills**

3875) Note 11.1 and Note 11.2 to the financial statements reflects pending bills totalling Kshs.418,685,000 comprised of Kshs.389,648,000 due to suppliers of goods and services and Kshs.29,037,000 due to staff. The Project is likely to incur significant interest costs and penalties with continued delay in making the payments. Further, failure to settle bills during the year to which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge. The Committee marked the matter as resolved.

#### **Submissions by Accounting Officer**

3876) The Accounting Officer submitted that, the pending bills of Ksh.418,685,000 related to invoices mainly received after year end as a result were not settled in the year. The delay was also attributed to the effect of project budget cuts of Ksh.500 million from ex-chequer, and the Covid-19 pandemic which impacted receipts from steam charge payments from KENGEN amounting to Ksh.841,500,000. Additionally, some pending bills had contractual challenges and disputes that are being resolved by the parties before settlement.

3877) Management has settled pending bills amounting to Ksh.345,002,000 out of Ksh.418,685,000 with plans to resolve and clear the balances within the financial year.

#### **3878) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to pending bills was satisfactory; and
- (ii) The Committee marked the matter as resolved.

## **1237. Unauthorized Expenditure**

3879) The statement of comparative budget and actual amounts reflects total budgeted receipts of Kshs.2,470,731,000 against actual receipts on comparable basis of Kshs.1,686,100,000 resulting in a budgetary deficit of Kshs.784,630,000 or 32%. Management attributed the receipts deficit to contractual issues and delayed payments from the Kenya Electricity Generating Company (Kengen). However, measures in place to avoid recurrence of the deficits have not been explained. Similarly, the statement reflects total expenditure of Kshs.2,757,651,000 against an approved budget of Kshs.2,470,731,000 resulting into an over expenditure of Kshs.286,920,000 or 12%. The over expenditure mainly occurred under acquisition of non-financial assets. The Committee marked the matter as resolved.

### **Submissions by Accounting Officer**

3880) The Accounting Officer submitted that, the deficits were as a result of the delays in remissions from Kengen amounting to Ksh.841,500,000 in the year. This situation has since been addressed through close collaborations leading to fast-tracked remittances.

3881) The over expenditure of Ksh.286, 920, 000 were budget carryovers from previous year for invoices received after year end. The payments were settled in the following financial year

### **3882) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to unauthorized expenditure was satisfactory; and
- (ii) The Committee marked the matter as resolved.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

#### **1238. Failure to Open and Operate a Project Bank Account**

3883) Regulation 76 (1) of the Public Finance Management (National Government) Regulations, 2015 provides that, for the purpose of disbursement of Project funds, a Project account for every project should be opened and maintained at the Central Bank of Kenya unless it is exempted by the Cabinet Secretary in writing, into which all funds should be kept and such an account shall be in the name of the Project for which it is opened. Each Project should maintain only one bank account. However, the Project funds were commingled with funds for the Company's general operations. Management had indicated in the prior year that the process of separating the Project's and the general Company's bank accounts was underway. However, the separation of the accounts is still pending.



### **Submissions by Accounting Officer**

3884) Management has designated separate bank accounts for its projects. The Co-operative Bank of Kenya account number 01136160857600 has been designated for the Menengai project, Absa Bank account number 2041818169 as the Company's general operations and the Kenya Commercial Bank, Kipande House, Bank Account number 1119615208 as the Bogoria Silali project account.

3885) Management is working towards fully aligning the funds in the respective project accounts.

### **3886) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to failure to open and operate a project bank account was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **1239. Overdrawn Bank Account**

3887) The statement of financial assets reflects a balance of Kshs.562,497,000 under borrowings which as disclosed in Note 10.12C relates to a credit balance held in the Cooperative Bank of Kenya account No. 01136160857600. This is contrary to Regulation 82(7) of the Public Finance Management Regulations, 2015 which provides that no official government bank account shall be overdrawn, nor shall any advance or loan be obtained from a bank account for official purposes beyond the limit authorized by The National Treasury in line with Section 28(4) of the Act.

3888) In the circumstance, the Project Management was in breach of law.

### **Submissions by Accounting Officer**

3889) The bank balance as at 30<sup>th</sup> June 2020 was Ksh.121,995,358 hence not overdrawn. The statement of financial assets included payments made on the premise of uncredited steam charge payments from KENGEN of Ksh.841,500,000 whose receipt was impacted by the COVID-19 pandemic

### **3890) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to overdrawn bank account was satisfactory; and
- (ii) The Committee marked the matter as resolved.

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **3891) Conclusion**

1240. There were no material issues relating to effectiveness of internal controls, risk management and governance.

## **RURAL ELECTRIFICATION SCHEME - KENYA POWER AND LIGHTING COMPANY PLC**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **3892) Unqualified Opinion**

1241. There were no material issues noted during the audit of the financial statements of the Project.

#### **Emphasis of Matter**

##### **1242. Material Uncertainty Relating to Going Concern**

3893) I draw attention to Note 2(a) to the financial statements which indicates that the Scheme incurred a deficit of Kshs.5,988,000,000 during the year ended 30 June, 2020 (Deficit 2019: Kshs.5,097,312,000) and had current liabilities of Kshs.25,643,137,000 which exceeded its current assets of Kshs.10,911,999,000 by Kshs.14,731,138,000 as at 30 June, 2020 (2019: Kshs.7,391,617,000). Further, the Scheme owes the Kenya Power and Lighting Company Plc an amount of Kshs.16,600,000,000 (2019: Kshs.11,400,000,000), on account of management fees, which in the current circumstances may not be discharged.

3894) Further, the Scheme has reported negative working capital in in the financial statements of the current year, and those of the last five (5) consecutive years. As disclosed in the current and past financial statements, the Scheme is funded by the Government of Kenya which secures financing through budgetary allocation and other International Development Partners. However, unless the trend is reversed, the Scheme will continue to experience liquidity challenges.

3895) These conditions indicate that a material uncertainty exists, which may cast significant doubt on the Scheme's ability to continue as a going concern.

3896) My opinion is not qualified in respect of this matter. The Committee marked the matter as resolved.

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **Basis for Conclusion**

##### **1243. Long Outstanding Trade and Other Payables**

3897) As disclosed in Note 12 to the financial statements, the statements of financial position reflects trade and other payables amounting to Kshs.8,830,880,000. Included in this balance

is Kshs.12,453,210 which relates to long outstanding payables. Management indicates that the long outstanding accounts will be reviewed to determine the genuine ones, which will subsequently be paid. However, it is not clear why Management has not settled the accounts, some of which have been outstanding for over three (3) years. The Committee marked the matter as resolved.

#### **1244. Lack of Update on the Costing Formula**

3898) Costs incurred by KPLC in managing the entire electrical grid, including customers connected under the Rural Electrification Scheme (RES), are allocated to the Scheme through the Mercados formula. However, this formula which was adopted by the Company on 19 August, 2010, has not been revised to factor in developments in the industry between the year 2010 and 2020. For example, the Mercados formula does not explicitly cover the recharging of foreign currency differences and finance costs of KPLC to the Scheme. In addition, wheeling charges, which were introduced in 2013, payable by KPLC to Kenya Electricity Transmission Company (KETRACO), are also not explicitly covered by the formula. Management indicates that additional costs will be factored in the formula in the next tariff review. However, until the next review of tariffs, the risk of not capturing the total costs of the Scheme continues.

3899) In the circumstances, I am unable to confirm whether Management has an efficient formula for recognizing costs for utilization of public resources. The Committee marked the matter as resolved.

#### **1245. Non-Renewal of Operating Agreement**

3900) The Scheme was established through a signed agreement between the KPLC and the Government of Kenya, in 1973. However, there is no evidence of revision of this Agreement, which has been in place for the last forty-seven (47) years. This agreement does not incorporate the current strategy of the Scheme, including connectivity targets and future operations, notwithstanding the significant number of customers under the Scheme. In the absence of an updated agreement which provides guidance on formulation of a long term strategy for the Scheme, the Scheme's operations continue to be limited to the extent that they may not reflect the changing needs of the customers.

3901) In the circumstances, I am unable to confirm whether the agreement results to efficient use of public resources. The Committee marked the matter as resolved.

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **3902) Conclusion**

1246. There were no material issues relating to effectiveness of internal controls, risk management and governance.

**KENYA DEVELOPMENT OF SOLAR POWER PLANT IN GARISSA PROJECT  
(GCL NO.2015(10) – RURAL ELECTRIFICATION AND RENEWABLE ENERGY  
CORPORATION**

**REPORT ON THE FINANCIAL STATEMENTS**

**3903) Unqualified Opinion**

1247. There were no material issues noted during the audit of the financial statements of the Project.

**Emphasis of Matter**

**1248. Long Outstanding Retention Fee**

3904) Note 10.1 in the financial statements reflects an amount of Kshs.697,577,979 relating to a contractor's pending bill which mainly constitutes retention fees. The amounts have been outstanding for a long period of time. A supplementary agreement between the contractor and REREC states that, five percent of the contract price except technical services should be released within thirty days after presentation of retention money guarantee valid up to the date of issue of the last defects liability certificate plus sixty days thereafter. A retention money guarantee was duly executed by the contractor on 9 January, 2019 and was expiring in November, 2020.

3905) However, at the time of audit the retention money remained unpaid to the contractor. This may result to a legal suit against the Corporation for breach of the contractual terms. The Management has not explained how it intends to pay the contractor.

3906) My opinion is however not modified in respect of the effects on the above matter.

**Submissions by Accounting Officer**

3907) Documents supporting payment to the contractor were prepared accordingly and forwarded to treasury through the Ministry for Energy for direct payments. Treasury also forwarded the said documents to the financier but confirmation of payment has not been received to date. The letter forwarding documents to China Exim bank are attached for reference.

**Further Submissions**

The contractor was paid in October 2020.

**3908) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to long outstanding retention fee was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **Other Matter**

#### **1249. Budgetary Control and Performance**

3909) According to the statements of comparative budget and actual amounts, the Project's final budget for the year, was Kshs.722,000,000. However, no amount was disbursed to the Project resulting no activities on the project during the year. Management has attributed the underfunding to failure to make payments for invoices that had been processed but had not been honoured.

3910) Under the circumstances the closure of the project which is already commissioned may take longer beyond the project completion date which is almost due in August 2022.

#### **Submissions by Accounting Officer**

3911) The Accounting Officer submitted that documents supporting payment to the contractor were prepared accordingly and forwarded to treasury through the Ministry of Energy for direct payments. The budget was accordingly updated in IFMIS but could not be reported as absorbed since projects report on cash basis.

#### **Current Status**

3912) The project was completed in October 2018 as per commissioning report submitted, and is currently not funded. However, there are two pending certificates for November 2020 and January 2021 that are included in the pending bill report forwarded to the Ministry for submission to treasury.

#### **3913) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to budgetary control and performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **3914) Conclusion**

**1250.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

3915) **Conclusion**

**1251.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## **PETROLEUM DEVELOPMENT FUND**

### **REPORT ON THE FINANCIAL STATEMENTS**

3916) **Unqualified Opinion**

**1252.** There were no material issues noted during the audit of the financial statements of the Project.

#### **Other Matter**

**1253. Budgetary Control and Performance**

3917) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,026,000,000 and Kshs.2,039,157,360 respectively, resulting to an over collection by Kshs.13,157,360. However, Management spent Kshs.1,789,676,907 resulting to an under-absorption of Kshs.249,480,453 or 12.3% of the budget. The underfunding affected the planned activities and could have impacted negatively on service delivery for the public.

#### **Submission by the Accounting Officer**

3918) Petroleum Development Fund is a statutory fund under Special fund Accounts Committee. The matters in question has been considered by the SFAC.

3919) **Committee Observation and Findings**

The Committee observed that the fund is under the purview of Special Funds Accounts Committee.

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

3920) **Conclusion**

**1254.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

3921) **Conclusion**

**1255.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

# KENYA ENERGY-SECTOR ENVIRONMENT AND SOCIAL RESPONSIBILITY PROGRAMME FUND

## REPORT ON THE FINANCIAL STATEMENTS

### 3922) **Unqualified Opinion**

**1256.** There were no material issues noted during the audit of the financial statements of the Project.

### **Other Matter**

#### **1257. Budgetary Control and Performance**

3923) The budgeted expenditure of Kshs.100,000,000 against actual expenditure amounting to Kshs.36,336,600 resulting to under absorption of Kshs.63,663,400 or 64% of the budgeted amount.

#### **Submission by the Accounting Officer**

3924) The Accounting Officer submitted that the Semi-Autonomous Agencies under the Ministry of Energy have not been remitting their contribution as required due to budgetary constraints.

#### 3925) **Committee Observation**

(i) The Committee observed that the Fund may not meet its objectives as intended due to inadequate funding resulting from Semi-Autonomous Agencies under the Ministry of Energy not remitting their contribution as required.

#### 3926) **Committee observations and findings**

The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows

**Within three months of tabling and adoption of this report, the Cabinet Secretary should initiate the process of reviewing the fund regulations.**

#### **1258. Low Production of Energy Crops for Bio-Fuels**

3927) One of the main objectives of the Fund is production of energy crops for bio-fuels. However, and as previously reported, our review revealed no evidence of any activities towards achievement of this objective

#### **Submission by the Accounting Officer**

3928) The Accounting Officer submitted that two energy crops namely Croton and Jatropha were identified and promoted for biodiesel production. Jatropha did very well in the north Coast where a power plant at Mpeketoni in Lamu operated on biodiesel.

#### 3929) **Committee observations and findings**



The Committee observed that the matter was discussed in financial year 2018/19 and recommended as follows

**Within three months of tabling and adoption of this report, the Accounting officer should provide a comprehensive status and viability report on the project.**

#### REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

##### 3930) **Conclusion**

**1259.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

FINAL REPORT 2019/2020

## 32. STATE DEPARTMENT FOR LIVESTOCK

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1162

**Mr. Harry Kimutai, the Principal Secretary and Accounting Officer for the State Department of Livestock (Vote 1162), appeared before the Committee on 1<sup>st</sup> March, 2022 to adduce evidence on the Audited Financial Statements for the State Department of Livestock (Vote 1162) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                        |   |                                    |
|------------------------|---|------------------------------------|
| 1. Mr. Joseph Nyamira  | - | Deputy Accountant General          |
| 2. Mr. Stanley Mwaura  | - | Deputy Accountant General          |
| 3. Mr. Matayo Wangalwa | - | Principal Accountant.              |
| 4. Mr. Mungathia Peter | - | Director Admin Veterinary Services |
| 5. Mr. Paul Wangombe   | - | Principal Accountant               |
| 6. Mr. Patrick Ngiciru | - | Senior Chief Finance Officer       |
| 7. Mr. Joseph Mwangi   | - | Senior Principal Finance Officer   |

And submitted as follows

#### **1260. Unexplained Variances Between the Trial Balance and Balances in the Financial Statements**

3931) The trial balance for the year ended 30 June, 2020 reflects total debit balances of Kshs.6,035,111,243 and total credit balances of Kshs.6,036,874,626 resulting into an unexplained difference of Kshs.1,763,383. In addition, all the balances reflected in the statement of financial position are at variance with the IFMIS trial balance as at 30 June, 2020.

3932) In the circumstances, the accuracy and completeness of the financial statements as at 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

3933) The Accounting Officer submitted that the difference Kshs.1,763,383 was caused by omission of the following adjustments in our 2019/20 financial statements:

1) District suspense	1,680,525.00
ii) Imprests	<u>81,600.00</u>
<b>TOTAL</b>	<b>1,762,125.00</b>

3934) The error has since been rectified in the financial statements for the year 2020/2021.

#### **3935) Committee Observations and Findings**

(i) The Committee observed that the difference has since been rectified;

- (ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
- (iii) The Committee similarly observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012;
- (iv) However, the Committee observed that the explanation given by the Accounting Officer with regard to Unexplained Variances Between the Trial Balance and Balances in the Financial Statements was persuasive; And
- (v) **The Committee marked the matter as resolved.**

#### **1261. Unsupported Expenditure - Kshs.24,233,794**

3936) The statement of receipts and payments reflects expenditure totaling Kshs.1,781,297,790 and Kshs.1,764,537,732 under use of goods and services and acquisition of assets respectively. However, an amount of Kshs.24,233,794 included under use of goods and services expenditure and indicated to have been incurred at the Counties was not supported by disbursements and expenditure return schedules. Similarly, no supporting documents were provided for expenditure amounting to Kshs502,053,967 included under acquisition of assets.

3937) Consequently, the validity and accuracy of the reported expenditure on use of goods and services and acquisition of assets could not be ascertained.

#### **Submission by the Accounting Officer**

3938) The amount under consideration comprised of Authority to Incur Expenditure (A.I.E) issued to 23 stations under the State Department spread across country as listed. The copies of the respective Authority to incur expenditure was availed for perusal by the Committee.

<b>USE OF GOODS SERVICES (AIES F/Y 2019/2020)</b>		
<b>S/NO</b>	<b>NAME</b>	<b>AMOUNT</b>
1	GALOLE -TANA RIVER	1,430,800.00
2	RPLRP-LAMU	1,591,983.00
3	RPLRP-GARISSA	938,900.00
4	RPLRP-NAROK NORTH	1,609,560.00
5	RPLRP- WAJIR	1,673,760.00
6	RPLRP- MANDERA	1,281,170.00
7	RPLRP-MARSABIT	1,297,500.00
8	KIRINYAGA SOUTH	2,385,332.00
9	NYANDARUA NORTH	1,299,949.00
10	RPLRP-ISIOLO	1,680,016.00

11	RPLRP-TURKANA	1,854,780.00
12	RPLRP-W/POKOT	1,180,072.00
13	RPLRP- SAMBURU	1,659,550.00
14	RPLRP LAIKIPIA	1,417,500.00
15	RPLRP-MARSABIT	266,000.00
16	IDA GARISSA	265,000.00
17	IDA RPLRP TURKANA	327,000.00
18	IDA RPLRP ISIOLO	279,478.00
19	IDA RPLRP MANDERA	266,378.00
20	IDA RPLRP W/POKOT	351,850.00
21	IDA RPLRP BARINGO	368,032.00
22	IDA RPLRP GALOLE	371,068.00
23	SDCP LOAN REVENUE	609,448.00
	<b>TOTAL</b>	<b>24,405,126.00</b>

**1261 (ii) Unsupported Expenditure Kshs.502,053,967**

3939) The amount under consideration includes various authorities to incur expenditure (AIE) issued to various stations under the State Department as analyzed.

<b>ACQUISITION OF ASSETS F/Y 2019/20</b>			
<b>CONSTRUCTION OF BUILDINGS</b>			
NO;	COUNTY	AIE NO	AMOUNT ISSUED
1	SDCP LOAN REVENUE	A948669	6,000,000.00
2	SDCP REVENUE	A929140	4,054,118.00
3	SDCP LOAN REVENUE	A948673	6,000,000.00
4	TOTAL		<b>16,054,118.00</b>
<b>REFURBISHMENT OF BUILDINGS</b>			
5	IDA GALOLE	A948899	1,745,454.00
6	IDA GALOLE	A929128	1,745,454.00
	IDA MARSABIT	A929124	1,818,182.00
	IDA MARSABIT	A948892	1,818,182.00
	NGONG NATIONAL RABBIT	A948886	8,400,000.00
	NGONG NATIONAL RABBIT	A948797	8,400,000.00
	PRINCIPAL AHITI NYAHURURU	A929137	15,000,000.00
	PRINCIPAL AHITI NYAHURURU	A948591	15,000,000.00
			<b>53,927,272.00</b>
<b>CONSTRUCTION AND CIVIL WORKS</b>			
	PRINCIPAL AHITI NYAHURURU	A929137	15,000,000.00
	PRINCIPAL AHITI NYAHURURU	A948591	15,000,000.00
	NGONG NATIONAL RABBIT	A948886	4,550,000.00

<b>ACQUISITION OF ASSETS F/Y 2019/20</b>			
	NGONG NATIONAL RABBIT	A948797	4,550,000.00
	OIC VIL MARIAKANI	A948595	6,875,000.00
	OIC VIL MARIAKANI	A948997	6,875,000.00
	KIBOKO VECTOR STATION	A929132	3,000,000.00
	KIBOKO VECTOR STATION	A948590	3,000,000.00
	PRINCIPAL AHITI NDOMBA	A929134	15,250,000.00
	PRINCIPAL AHITI NDOMBA	A948592	15,250,000.00
	PRINCIPAL MEAT TRAINING INSTITUTE	A929135	5,650,000.00
	PRINCIPAL MEAT TRAINING INSTITUTE	A948593	5,650,000.00
	OIC GRIFTU PASTORAL TRAINING CENTRE	A948885	5,000,000.00
	OIC GRIFTU PASTORAL TRAINING CENTRE	A948798	5,000,000.00
	DTI NAIVASHA	A948799	7,500,000.00
	DTI NAIVASHA	A948884	7,500,000.00
	OIC NAROK NORTH	A948874	5,000,000.00
	OIC NAROK NORTH	A948955	5,000,000.00
	OIC NAROK NORTH	A948874	1,000,000.00
	OIC NAROK NORTH	A948955	1,000,000.00
	MACALDER NYATIKE	A948882	1,200,000.00
	OIC KITENGELA-ATHI RIVER SHEEP AND GOAT	A948960	2,000,000.00
	OIC KITENGELA-ATHI RIVER SHEEP AND GOAT	A948879	5,500,000.00
	GRIFTU PASTORAL TRAINING CENTRE	A948702	30,000,000.00
	GRIFTU PASTORAL TRAINING CENTRE	A948862	30,000,000.00
			<b>206,350,000.00</b>
<b>PURCHASE OF SPECIALISED PLANT,EQUIPMENT AND MACHINERY</b>			
	SDCP LOAN REVENUE	A948673	9,673,210.00
	SDCP GOK	A929139	8,367,202.00
	NAROK NORTH	A948800	2,700,000.00
	NAROK NORTH	A948883	2,700,000.00
	BACHUMA STATION-VOI	A948963	2,500,000.00
	BACHUMA STATION-VOI	A948881	2,500,000.00
	MARINDAS MOLO	A948877	2,100,000.00

<b>ACQUISITION OF ASSETS F/Y 2019/20</b>			
	MACALDER NYATIKE	A948882	800,000.00
	MARINDAS MOLO	A948958	2,100,000.00
	MACHAKOS FARM	A948852	2,000,000.00
	OIC MACHAKOS FARM	A948759	2,000,000.00
	OIC NGONG FARM	A948758	2,000,000.00
	OIC NGONG FARM	A948856	2,000,000.00
	OIC MASENO FARM	A948757	2,000,000.00
	OIC MASENO FARM	A948853	2,000,000.00
	FASPOL SP.ZOO POLAND		33,481,500.00
	FASPOL SP.ZOO POLAND		3,315,000.00
	FASPOL SP.ZOO POLAND		123,318,000.00
			<b>205,554,912.00</b>
<b>PURCHASE OF VEHICLES AND TRANSPORT</b>			
	SDCP GOK		20,200,000.00
			<b>20,200,000.00</b>
	<b>GRAND TOTAL</b>		<b>502,086,302.00</b>

3940) The copies of the respective Authority to incur expenditure were availed for perusal by the Committee.

**3941) Committee Observations and Findings**

- (i) The Committee observed that the amount Ksh.24,233,794 has since been supported;
- (ii) However, the Committee similarly observed that the amount Ksh.502,053,967 has not been supported; and
- (iii) The issue remains unresolved.

**3942) Committee recommendations**

**Within sixty (60) days of adoption of the report, the Accounting Officer should ensure that the records regarding Ksh.502,053,967 are reconciled and analyzed with necessary supporting documents and submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented to the Auditor-General pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.**

**1262. Land Without Ownership Documents**

3943) The Kabete Veterinary Farm occupies Land parcels L.R. No. 189R and L.R No.2952R which, according to records held by the Directorate of Veterinary Services, the original land size was approximately 1634 acres (L.R No. 189R) and 1278 Acres (L.R No.2952).The records further indicate that 206 parcels and 113 parcels of land were

irregularly excised from L.R No.2952R and L. R No. 189R respectively. The title deeds for the parcels of land were, however, not provided for audit review.

3944) Similarly, as reported in the previous years, the Government, through Gazette Notice No. 890 dated 5 March, 1957, allocated 1,400 acres of land in Ngong, Kajiado County, to the Department of Veterinary Services for construction of a Veterinary Training School, establishment of a veterinary farm and installation of related facilities. However, information and documents available indicates that the land measures 1,500 acres.

3945) Further, information and records at the Ministry of Agriculture, Livestock, Fisheries and Irrigation and Ministry of Land and Physical Planning indicates that some Government agencies and private organizations have irregularly taken possession of 509 acres of the land. The State Department has to-date not obtained title of ownership of the land from the Ministry of Land and Physical Planning.

3946) In addition, information available indicates that the State Department for Livestock owns 124,000 hectares of land comprising Isiolo Mobile Pastoral Training Field Station in Isiolo County as at 30 June, 2019. However, ownership documents were not availed for audit review.

3947) Although Management explained that they had written to the National Land Commission to investigate with a view to repossessing irregularly allocated land and to provide title deeds, ownership documents had not been provided as at the time this audit report was finalized.

#### **Submission by the Accounting Officer**

#### **Kabete Veterinary Farm. LR NO 2952R-1278 Acres and LR 189R- Approx-1634 Acres**

3948) Kabete Veterinary Farm originally had two parcels of land, L.R. No. 189 and L.R. No. 2952. L.R. No. 189 measuring 1,614 acres was initially reserved for the Ministry of Agriculture. Part of this land was later excised and reserved for the Nairobi Juvenile Remand Home and Kabete Approved School vide Gazette Notice Number 214 of 1967. The remaining land referred to as 189 R remained under the Ministry of Agriculture and Livestock Development. Part of L.R. No. 2952 was excised to give two parcels namely: L.R No. 9993 measuring 137 acres that was leased to a veterinary medicines manufacturer namely Welcome Foundation Limited and another portion allocated for Kenya Agriculture Research Institute (KARI) Headquarters. The remaining land, L.R No. 2952R remained a reserve for the Ministry of Agriculture and Livestock Development. However, both L.R No. 9993 and L.R No. 2952R were further irregularly subdivided into multiple parcels of land. The increased subdivisions were carried out after Ms Kamwere & Associates Surveyors was contracted to survey L.R No. 189R in 1995.



3949) As observed by the Auditor, Kabete Veterinary Farm occupies the above mentioned parcels of land. Further, I wish to state the parcels of land on query emanated from a contested subdivision of the parcels of land occupied by Kabete Veterinary Farm. In 1995, the Permanent Secretary Ministry of Agriculture and Livestock Development contracted M/S Kamwere and Associates to conduct cadastral survey of Kabete Veterinary Farm LR 189R and produce a title deed. (Contract document Ref MTB/9/Min 13 of 1995/96 Quotation No. MOALD&M115/1995-96 were availed for perusal by the Committee).

3950) The surveyor did not satisfactorily execute the contract in accordance to the terms and conditions of the contract. The surveyor subdivided the land LR.NO 189R into 113 plots instead of surveying the land and produce a title deed. The surveyor further subdivided the parcel of LR No. 2952R into 206 plots. The State Department has not cleared balance payments of 25% of the professional due to non-satisfactorily execution of the contract.

3951) A multi-agency approach has since been pursued through administrative actions on need revocations of irregularly generated titles and produce a single title for the land. These include public notice to prevent encroachments on the veterinary land; caveat; and various requests to relevant agencies. Key offices and agencies involved include the National Land Commission, County Government of Nairobi, Water Resources Management Authority, National Environmental Authority, Office of Attorney General; Directorate of Criminal Investigation; and Multi Sectoral Agency Consultative Committee (MSACC).

3952) Copies of available titles for have been availed to the Auditor for review on headquarters, hay field, AHITI Kabete, disposal camp, KAGRIC. The list of some of the allottees provided by the National Land Commission showing some of the allottees is also provided. The Department has requested the Ministry of Lands and Physical Planning for comprehensive details on this land.

### **Ngong Veterinary Farm**

3953) It is true that the Gazette Notice No. 890 dated 5th March 1957 estimates the above Farm land to be 1400 acres and other documents available indicate the land to be 1500 land acres from the records available including green cards from the land office. The Director of Surveys carried out a survey for Ngong Veterinary Farm to ascertain the size of the land. The survey has provided the size of the Ngong Veterinary land as 601.19 ha equivalent to 1,485 acres.

3954) The following organizations both public and private have occupied part of Ngong Veterinary farm as follows:

#### **Public**

- a) Kajiado County Government – 20 acres (Approx)
- b) Ministry of Roads Housing (KIBIT) – 75 acres (Approx)

- c) Army Gravelling Unit and Training – 10 acres (Approx)
- d) Kenya police – 120 acres (Approx)
- e) Metrological Department – 100 acres (Approx)

**Total 325 acres (Approx)**

**Private**

- f) East Africa Motor Sports Club – 100 acres (Approx)
- g) Halal Meat products – 12 acres (Approx)

**Total 112 acres (Approx)**

**Grand Total 437 acres (Approx)**

3955) The State Department requested the Ministry of Lands and Physical Planning for a comprehensive survey of the land to facilitate documentation and titling of the original. The Ministry of Lands and Physical Planning has already made a draft copy for review by the nine government agencies.

**Isiolo Pastoral Training**

3956) The land where Mobile Pastoral Training is situated is disputed between Isiolo County Government and The State Department for Livestock. The matter was referred to the Intergovernmental Relationship Committee (ITGRC) for adjudication. The surveying and documentation of the Isiolo Complex Holding Ground in Isiolo County Government belonging to the State Department for Livestock is ongoing.

**3957) Committee Observations and Findings**

- (i) In regards to Kabete veterinary farm, the Committee observed that A multi-agency approach has since been pursued through administrative actions to revoke irregularly generated titles and produce a single title for the land;
- (ii) In regards to Ngong Veterinary Farm, the Committee observed that five Government Institutions and two private institutions are still occupying the land;
- (iii) In regards to Isiolo Pastrol Land, the Committee observed that the matter was referred to the Intergovernmental Relationship Committee (ITGRC) for adjudication; and
- (iv) The issue remains unresolved.

**3958) Committee recommendations**

**Within sixty (60) days of adoption of this report, the Accounting Officer should report to the National Assembly on the progress made with regard to ownership of various disputed parcels of land belonging to the Department.**

**1263. Unsupported Accounts Receivables - Kshs.18,956,526**

3959) The statement of assets and liabilities reflects an amount of Kshs.18,956,526 under accounts receivables – outstanding imprest and clearance accounts, which as disclosed under Note 11 to the financial statements, includes project account amount of Kshs.3,683,534 and district suspense of Kshs.11,241,872. However, supporting documentary evidence for the two accounts receivables balances was not provided for audit.

3960) Consequently, the validity, accuracy and full recoverability of the reported accounts receivables balance of Kshs.18,956,526 could not be confirmed.

#### Submission by the Accounting Officer

3961) The amount under consideration includes unsurrendered imprests and District Expenditure Returns as analyzed below.

#### Accounts Receivable

Description	2019-2020
	Kshs
Government Imprests	4,031,120.00
District Suspense	11,241,872.00
Project Account	3,683,534.00
<b>Total</b>	<b>18,956,526.25</b>

#### Outstanding Imprests

Name of Officer or Institution	Date Taken	Imprest	Amount Taken	Amount Surrendered	Balance
			Kshs	Kshs	Kshs
Simon Koskei	17/10/2019		81,600	-	81,600
Dorcas Inoti	09/06/2020		684,000	-	684,000
Paul Mukundi	26/02/2020		2,112,100	-	2,112,100
Sabdio M Hachu	19/02/2020		576,710	-	576,710
John Thurania	19/02/2020		576,710	-	576,710
<b>Total</b>			<b>4,031,120</b>	<b>-</b>	<b>4,031,120</b>

#### District Suspense FY 2019/2020

S/NO	STATION	1ST QUARTER	2ND QUARTER	3RD QUARTER	4TH QUARTER	TOTAL	ACCOUNTED FOR	BALANCE
1	PRINCIPAL MEAT TRAINING INSTITUTE	4,523,233.00	3,911,872.00	4,217,540.00	4,171,077.00	16,823,722.00	16,822,301.00	1,421.00
2	PRINCIPAL AHITI NYAHURURU	4,574,518.00	3,625,099.00	4,099,796.00	4,009,789.00	16,309,202.00	12,299,097.00	4,010,105.00
3	PRINCIPAL AHITI NDOMBA	6,788,634.00	5,448,422.00	6,118,513.00	6,063,320.00	24,418,889.00	24,413,045.50	5,843.50
4	PASTORAL TRAINING CENTRE NAROK	808,014.00	561,648.00	684,823.00	649,829.00	2,704,314.00	2,703,284.50	1,029.50

S/NO	STATION	1ST QUARTER	2ND QUARTER	3RD QUARTER	4TH QUARTER	TOTAL	ACCOUNTED FOR	BALANCE
5	PRINCIPAL DAIRY TRAINING SCHOOL- NAIVASHA	5,261,679.00	4,169,486.00	4,715,580.00	4,651,273.00	18,798,018.00	18,540,107.50	257,910.50
6	MOBILE PASTORAL TRAINING UNIT- ISIOLO	901,611.00	600,000.00	750,804.00	734,491.00	2,986,906.00	2,983,767.70	3,138.30
7	MOBILE GRIFTU PASTORAL TRAINING CENTRE	1,686,955.00	1,121,400.00	1,404,170.00	1,354,383.00	5,566,908.00	5,566,222.80	685.2
8	OIC KIBOKO VECTOR STATION	1,931,503.00	946,465.00	1,458,979.00	1,327,749.00	5,664,696.00	5,664,696.00	0.00
9	OIC NATIONAL LIVESTOCK RECORDING CENTRE- NAIVASHA	223,062.00	69,948.00	69,948.00	217,076.00	580,034.00	576,682.00	3,352.00
10	OIC NAIVASHA REGIONAL MILK ANALYSIS	57,084.00	17,487.00	17,487.00	48,543.00	140,601.00	140,601.00	
11	OIC KARATINA MATHIRA EAST	57,076.00	17,487.00	17,487.00	48,543.00	140,593.00	140,593.00	
12	OIC NAKURU STATION	57,076.00	17,487.00	17,487.00	48,543.00	140,593.00	138,418.25	2,174.75
13	OIC MASENO BUTTERFAT STATION	57,074.00	17,487.00	17,487.00	48,543.00	140,591.00	140,578.00	13
14	OIC ELDORET BUTTERFAT STATION	57,075.00	17,487.00	17,487.00	48,543.00	140,592.00	140,592.00	
15	OIC VOI BUTTERFAT STATION	57,076.00	17,487.00	17,487.00	60,574.00	152,624.00	152,624.00	
16	OIC MARIMBA FARM-IMENTI SOUTH	1,295,969.00	693,577.00	693,577.00	837,368.00	3,520,491.00	3,520,445.50	45.5
17	OIC MWATATE FARM- MWATATE	625,957.00	474,374.00	474,374.00	623,593.00	2,198,298.00	2,197,761.00	537
18	OIC WITU FARM-LAMU WEST	619,215.00	475,760.00	475,760.00	548,156.00	2,118,891.00	2,118,891.00	
19	OIC OYANI FARM-MIGORI	1,283,200.00	955,599.00	955,599.00	834,541.00	4,028,939.00	4,021,913.90	7,025.10
20	OIC MARINDAS MOLO SHEEP AND GOAT	388,418.00	383,805.00	383,805.00	414,349.00	1,570,377.00	1,570,220.00	157
21	OIC NAROK NORTH SHEEP AND GOAT	460,015.00	367,200.00	367,200.00	414,846.00	1,609,261.00	1,608,406.00	855
22	OIC KIMOSE SHEEP AND GOAT KOIBATEK	595,890.00	575,885.00	575,885.00	537,014.00	2,284,674.00	2,284,525.00	149
23	OIC NAIVASHA SHEEP AND GOAT- NAIVASHA	985,308.00	699,630.00	699,630.00	666,673.00	3,051,241.00	3,039,229.70	12,011.30
24	OIC MATUGA SHEEP AND GOAT MATUGA	407,697.00	357,295.00	357,295.00	529,982.00	1,652,269.00	1,649,811.00	2,458.00
25	OIC MACALDER SHEEP AND GOAT	349,391.00	357,060.00	357,060.00	502,604.00	1,566,115.00	1,566,113.00	2
26	OIC KITENGELA ATHI RIVER SHEEP AND GOAT	383,733.00	360,100.00	360,100.00	517,318.00	1,621,251.00	1,621,137.00	114

S/NO	STATION	1ST QUARTER	2ND QUARTER	3RD QUARTER	4TH QUARTER	TOTAL	ACCOUNTED FOR	BALANCE
27	OIC BACHUMA VOI SHEEP AND GOAT	495,008.00	441,800.00	441,800.00	449,233.00	1,827,841.00	1,827,841.00	
28	OIC MARIMANTI FARM	643,543.00	489,802.00	489,802.00	515,276.00	2,138,423.00	2,138,422.00	1
29	OIC MACHAKOS FARM	2,174,507.00	1,391,360.00	2,374,979.00	1,783,906.00	7,724,752.00	7,570,683.75	154,068.25
30	OIC MASENO FARM	1,697,387.00	936,840.00	1,871,652.00	1,329,383.00	5,835,262.00	5,835,262.00	
31	NGONG FARM	2,656,317.00	1,837,656.00	2,835,680.00	2,249,859.00	9,579,512.00	9,579,056.00	456
33	OIC VIL WITU	331,082.00	111,308.00	220,120.00	226,957.00	889,467.00	889,464.00	3
34	VIL GARISSA	723,711.00	285,189.00	507,081.00	519,475.00	2,035,456.00	1,512,837.00	522,619.00
35	OIC VIL ELDORET	759,712.00	321,190.00	543,082.00	555,476.00	2,179,460.00	2,179,160.00	300
36	OIC VIL NAKURU	844,961.00	406,439.00	628,331.00	640,725.00	2,520,456.00	2,304,110.45	216,345.55
37	OIC VIL KERICHO	816,553.00	378,031.00	599,923.00	612,317.00	2,406,824.00	2,399,960.10	6,863.90
38	OIC VIL MARIAKANI	841,413.00	402,891.00	624,782.00	637,176.00	2,506,262.00	1,868,495.00	637,767.00
39	OIC VIL KARATINA	788,128.00	349,606.00	571,498.00	583,892.00	2,293,124.00	2,293,124.00	
40	OIC VIL UKUNDA	385,869.00	166,085.00	279,890.00	285,848.00	1,117,692.00	1,117,692.00	
41	OIC MOI INTERNATIONAL AIRPORT MOMBASA	50,119.00	150,000.00	25,055.00	16,740.00	241,914.00	241,914.00	
42	OIC KISUMU REGIONAL OFFICE	64,453.00	7,400.00	33,174.00	31,447.00	136,474.00	136,023.00	451
43	BUSIA/MALABA BORDER POST	64,419.00	7,400.00	39,395.00	31,040.00	142,254.00	142,249.00	5
44	NAMANGA BORDER POST	64,419.00	7,400.00	39,355.00	31,040.00	142,214.00	141,005.00	1,209.00
45	OIC LUNGALUNGA BORDER POST	64,419.00	7,400.00	38,355.00	31,040.00	141,214.00	141,214.00	
46	OIC TAVETA BORDER POST	64,419.00	7,400.00	33,055.00	31,040.00	135,914.00	104,834.00	31,080.00
47	OIC MOMBASA PORT (KILINDINI SEA 7 PORT)/AIRPORT	170,119.00	200,000.00	525,055.00	16,740.00	911,914.00	911,914.00	
	<b>TOTAL</b>	<b>48,137,021.00</b>	<b>34,164,744.00</b>	<b>42,047,424.00</b>	<b>40,487,330.00</b>	<b>164,836,519.00</b>	<b>158,956,323.65</b>	<b>5,880,195.35</b>

S/NO	STATION	1ST QUARTER	2ND QUARTER	3RD QUARTER	4TH QUARTER	TOTAL	ACCOUNTED FOR	BALANCE
1	PRINCIPAL MEAT TRAINING INSTITUTE	8,500,000.00		8,500,000.00		17,000,000.00	16,999,999.40	0.60
2	PRINCIPAL AHITI NYAHURURU	30,000,000.00		30,000,000.00		60,000,000.00	60,000,000.00	0.00
3	PRINCIPAL AHITI NDOMBA	20,000,000.00		20,000,000.00		40,000,000.00	40,000,000.00	0.00
4	PASTORAL TRAINING CENTRE NAROK	8,000,000.00		8,000,000.00		16,000,000.00	15,998,447.70	1,552.30
5	PRINCIPAL DAIRY TRAINING SCHOOL-NAIVASHA	7,500,000.00		7,500,000.00		15,000,000.00	14,997,335.00	2,665.00

S/NO	STATION	1ST QUARTER	2ND QUARTER	3RD QUARTER	4TH QUARTER	TOTAL	ACCOUNTED FOR	
7	MOBILE PASTORAL TRAINING UNIT- ISIOLO	35,000,000.00		35,000,000.00		70,000,000.00	69,999,702.30	297.70
8	OIC KIBOKO VECTOR STATION	12,500,000.00		12,500,000.00		25,000,000.00	24,999,451.75	548.25
9	OIC NATIONAL LIVESTOCK RECORDING CENTRE-NAIVASHA	4,000,000.00		4,000,000.00		8,000,000.00	7,999,995.00	5.00
11	OIC KARATINA MATHIRA EAST	400,000.00		400,000.00		800,000.00	800,000.00	0.00
12	OIC NAKURU STATION	800,000.00		800,000.00		1,600,000.00	1,600,000.00	0.00
13	OIC MASENO BUTTERFAT STATION	400,000.00		400,000.00		800,000.00	800,000.00	0.00
14	OIC ELDORET BUTTERFAT STATION	400,000.00		400,000.00		800,000.00	800,000.00	0.00
15	OIC VOI BUTTERFAT STATION	1,000,000.00		1,000,000.00		2,000,000.00	2,000,000.00	0.00
16	OIC MARIMBA FARM-IMENTI SOUTH	3,025,000.00		3,025,000.00		6,050,000.00	6,049,995.00	5.00
17	OIC MWATATE FARM-MWATATE	3,675,000.00		3,675,000.00		7,350,000.00	7,349,650.00	350.00
18	OIC WITU FARM-LAMU WEST	2,675,000.00		2,675,000.00		5,350,000.00	5,350,000.00	0.00
19	OIC OYANI FARM-MIGORI	5,625,000.00		5,625,000.00		11,250,000.00	11,249,786.00	214.00
20	OIC MARINDAS MOLO SHEEP AND GOAT	4,170,000.00		4,170,000.00		8,340,000.00	8,334,614.00	5,386.00
21	OIC NAROK NORTH SHEEP AND GOAT	3,660,000.00		3,660,000.00		7,320,000.00	7,318,599.00	1,401.00
22	OIC KIMOSE SHEEP AND GOAT KOIBATEK	2,510,000.00		4,110,000.00		6,620,000.00	6,619,657.00	343.00
23	OIC NAIVASHA SHEEP AND GOAT-NAIVASHA	2,700,000.00		2,700,000.00		5,400,000.00	5,399,473.85	526.15
24	OIC MATUGA SHEEP AND GOAT MATUGA	3,160,000.00		3,660,000.00		6,820,000.00	6,819,539.00	461.00
25	OIC MACALDER SHEEP AND GOAT	2,764,000.00		3,764,000.00		6,528,000.00	6,528,000.00	0.00

S/NO	STATION	1ST QUARTER	2ND QUARTER	3RD QUARTER	4TH QUARTER	TOTAL	ACCOUNTED FOR	
26	OIC KITENGELA ATHI RIVER SHEEP AND GOAT	7,250,000.00		3,750,000.00		11,000,000.00	10,999,923.00	77.00
27	OIC BACHUMA VOI SHEEP AND GOAT	4,062,000.00		4,462,000.00		8,524,000.00	8,524,000.00	0.00
28	OIC MARIMANTI FARM	2,764,000.00		2,724,000.00		5,488,000.00	5,448,000.00	40,000.00
29	OIC MACHAKOS FARM	2,500,000.00		2,500,000.00		5,000,000.00	5,000,000.00	0.00
30	OIC MASENO FARM	2,500,000.00		2,500,000.00		5,000,000.00	5,000,000.00	0.00
31	NGONG FARM	2,500,000.00		2,500,000.00		5,000,000.00	5,000,000.00	0.00
32	OIC NGONG NATIONAL RABBIT FARM	13,500,000.00		13,500,000.00		27,000,000.00	26,699,999.90	300,000.10
33	OIC VIL WITU	2,500,000.00		2,500,000.00		5,000,000.00	4,999,998.00	2.00
34	VIL GARISSA	7,500,000.00		7,500,000.00		15,000,000.00	14,808,855.00	191,145.00
35	OIC VIL ELDORET	2,500,000.00		2,500,000.00		5,000,000.00	5,000,000.00	0.00
36	OIC VIL NAKURU	2,500,000.00		2,500,000.00		5,000,000.00	4,999,933.40	66.60
37	OIC VIL KERICHO	3,750,000.00		3,750,000.00		7,500,000.00	7,484,291.80	15,708.20
38	OIC VIL MARIAKANI	7,500,000.00		7,500,000.00		15,000,000.00	14,999,860.00	140.00
39	OIC VIL KARATINA	3,750,000.00		3,750,000.00		7,500,000.00	7,500,000.00	0.00
40	OIC VIL UKUNDA	0.00		0.00		0.00	0.00	0.00
	<b>TOTAL</b>	<b>227,500,000.00</b>		<b>227,500,000.00</b>		<b>455,040,000.00</b>	<b>454,479,106.10</b>	<b>560,893.90</b>

### Projects Resilience

S/NO	STATION	1ST QUARTER	2ND QUARTER	3RD QUARTER	4TH QUARTER	TOTAL	ACCOUNTED FOR	BALANCE
1	COUNTY PROJECT TEAM LEADER-GARISSA	2,564,053.00		2,964,053.00		5,528,106.00	5,461,182.00	66,924.00
2	COUNTY PROJECT TEAM LEADER-KAJIADO CENTRAL	3,399,651.00		3,799,651.00		7,199,302.00	4,422,084.00	2,777,218.00
3	COUNTY PROJECT TEAM LEADER-SAMBURU CENTRAL	3,163,891.00		3,563,891.00		6,727,782.00	6,383,395.00	344,387.00
4	COUNTY PROJECT TEAM LEADER-MARSABIT	3,232,436.00		3,632,436.00		6,864,872.00	6,852,311.00	12,561.00



S/NO	STATION	1ST QUARTER	2ND QUARTER	3RD QUARTER	4TH QUARTER	TOTAL	ACCOUNTED FOR	BALANCE
5	COUNTY PROJECT TEAM LEADER-WAJIR EAST	3,073,697.00		3,473,697.00		6,547,394.00	6,544,222.00	3,172.00
6	COUNTY PROJECT TEAM LEADER-NAROK SOUTH	3,073,692.00		3,473,692.00		6,547,384.00	6,546,616.00	768.00
7	COUNTY PROJECT TEAM LEADER-LAMU WEST	3,155,765.00		3,555,756.00		6,711,521.00	6,711,293.00	227.70
8	COUNTY PROJECT TEAM LEADER-MANDERA EAST	2,732,485.00		3,132,485.00		5,864,970.00	5,864,477.00	493.00
9	COUNTY PROJECT TEAM LEADER TURKANA CENTRAL	3,283,702.00		3,683,702.00		6,967,404.00	6,959,444.00	7,960.00
10	COUNTY PROJECT TEAM LEADER-WEST POKOT	2,963,772.00		3,363,772.00		6,327,544.00	6,280,543.00	47,001.00
11	COUNTY PROJECT TEAM LEADER-ISIOLO	3,243,092.00		3,643,092.00		6,886,184.00	6,886,187.05	-3.05
12	COUNTY PROJECT TEAM LEADER-GALOLE	2,798,293.00		3,198,293.00		5,996,586.00	5,984,382.20	12,203.80
13	COUNTY PROJECT TEAM LEADER-LAIKIPIA EAST	2,489,937.00		2,889,937.00		5,379,874.00	5,374,533.00	5341
14	COUNTY PROJECT TEAM LEADER-BARINGO CENTRAL	2,767,252.00		3,167,252.00		5,934,504.00	5,934,504.00	0
	<b>Total</b>					<b>89,483,427.00</b>	<b>86,205,173.55</b>	<b>3,278,253.45</b>

		1st half						
	<b>SDSP</b>							
1	PROJECT COORDINATION UNIT SDSP (GOK)	41,000,000.00	41,000,000.00			82,000,000.00	65,140,739.80	16,859,260.20
2	PROJECT COORDINATION UNIT (LOAN)	140,097,433.00	152,018,831.00			164,129,646.95	201,445,817.70	37,316,170.75
3				Opening balance and other receipts		21,721,412.55		<b>1,264,502.00</b>

S/NO	RESILIENCE( IDA)	1ST QUARTER	2ND QUARTER	3RD QUARTER	4TH QUARTER	TOTAL	ACCOUNTED FOR	BALANCE
1	COUNTY PROJECT TEAM LEADER-GARISSA	7,394,416.00		7,394,416.00		14,788,832.00	14,779,192.00	9,640.00
2	COUNTY PROJECT TEAM LEADER-KAJIADO CENTRAL	9,082,736.00		9,232,736.00	11,111,949.00	29,427,421.00	29,427,421.00	0.00
3	COUNTY PROJECT TEAM LEADER-SAMBURU CENTRAL	9,160,501.00		11,160,501.00	8,582,186.00	28,903,188.00	28,770,576.00	132,612.00
4	COUNTY PROJECT TEAM LEADER-MARSABIT	10,213,843.00		10,213,843.00		20,427,686.00	20,375,911.00	51,775.00
5	COUNTY PROJECT TEAM LEADER-WAJIR EAST	8,758,200.00		9,558,200.00		18,316,400.00	18,311,315.00	5,085.00
6	COUNTY PROJECT TEAM LEADER-NAROK SOUTH	9,045,294.00		9,195,294.00		18,240,588.00	18,238,174.00	2,414.00
7	COUNTY PROJECT TEAM LEADER-LAMU WEST	9,835,796.00		9,835,796.00		19,671,592.00	19,670,896.70	695.30
8	COUNTY PROJECT TEAM LEADER-MANDERA EAST	8,711,954.00		8,711,954.00		17,423,908.00	17,423,904.00	4.00
9	COUNTY PROJECT TEAM LEADER TURKANA CENTRAL	8,848,872.00		8,848,872.00		17,697,744.00	17,696,694.00	1,050.00
10	COUNTY PROJECT TEAM LEADER-WEST POKOT	8,676,696.00		8,676,696.00		17,353,392.00	17,310,675.00	42,717.00
11	COUNTY PROJECT TEAM LEADER-ISIOLO	9,098,232.00		9,098,232.00		18,196,464.00	18,192,349.70	4,114.30
12	COUNTY PROJECT TEAM LEADER-GALOLE	9,342,170.00		9,342,170.00		18,684,340.00	18,681,841.00	2,499.00
13	COUNTY PROJECT TEAM LEADER-LAIKIPIA EAST	7,459,241.00		10,303,641.00		17,762,882.00	17,757,460.80	5,421.20

S/NO	RESILIENCE( IDA)	1ST QUARTER	2ND QUARTER	3RD QUARTER	4TH QUARTER	TOTAL	ACCOUNTED FOR	BALANCE
14	COUNTY PROJECT TEAM LEADER-BARINGO CENTRAL	8,978,061.00		8,978,061.00	8,556,102.00	26,512,224.00	26,512,223.60	0.40
	<b>TOTAL</b>	<b>124,606,012.00</b>		<b>130,550,412.00</b>		<b>283,406,661.00</b>	<b>283,148,633.80</b>	<b>258,027.20</b>
	<b>Total Unspent A.I.Es</b>					<b>11,241,871.90</b>		

3962) Copies of the expenditure returns were submitted to the auditor for verification.

### 3963) Committee observations and Findings

- (i) The Committee observed and found that the explanation and documents given by the Accounting Officer with regard to the Unsupported Accounts Receivables - Kshs.18,956,526 was satisfactory; and
- (ii) **The Committee marked the matter as resolved.**

### 1264. Incomplete Ledger Details - Payee and Description

3964) Although, the statement of receipts and payments reflects expenditure totaling Kshs.6,012,276,156 for the year ended 30 June, 2020, the account analysis or ledger report generated from IFMIS and provided to support each individual expenditure item lacked details of payees and in some cases, there was no proper payment description against the payments made. In addition, a review of the development appropriation account revealed that the State Department charged expenditure in respect of the Big 4 Agenda under an account code 1003, which was defined for Mainstreaming Sustainable Land Management (SLM) in Agro-pastoral Land Project, a project which had ended.

### Submission by the Accounting Officer

3965) The Accounting Officer submitted that this is a standard report from Oracle programming which cannot be amended. The report does not show payee details as per existing system configuration. However, payee details can be retrieved separately using sub-components of the report like the invoice number. This matter has been relayed to IFMIS, National Treasury for consideration in future system upgrade. A copy of the standard form was availed for perusal by the Committee.

### 3966) Committee Observations and Findings

- (i) The Committee observed that the issue was occasioned by the system configuration and it requires system upgrade by the National Treasury, 2015; and
- (ii) The matter remained unresolved.

### Other Matter

### 1265. Pending Bills

3967) As disclosed in Note 18.1 and Annex 1 to the financial statements, the State Department had pending bills totaling Kshs.230,043,677 as at 30 June, 2020. Failure to settle bills during the year in which they relate to distorts the financial statements for that year and adversely affects the provisions of the subsequent year to which they have to be charged.

3968) In addition, the pending bills balance of Kshs.230,043,677 included an amount of Kshs.13,800,000 relating to construction of buildings for which supporting documents were not availed for audit review.

### **Pending Bills Kshs.13,800,000**

#### **Submission by the Accounting Officer**

3969) The Accounting Officer submitted that the State Department had pending bills equivalent to Kshs.230,043,667 as at 30 June 2020. The Principal Secretary National Treasury through circular Ref AG3 /87/ 1/VOL.VI/ 60 directed that all pending bills be subjected to an audit verification by Internal Audit Department. The above mentioned voucher did not meet the criteria for payment and was not subjected for further review as a pending bill.

#### **3970) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to pending bills was satisfactory;
- (ii) The Committee further observed that the pending bills had been settled; and
- (iii) The Committee marked the matter as resolved.

### **1266. Unresolved Prior Year Audit Matters**

3971) As disclosed under progress on follow up of prior years' auditor's recommendation section, audit matters reported in the previous financial years remained unresolved as at 30 June, 2020

#### **3972) Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2017/18 & 2018/19 and recommendations were issued therein.

### **1267. Contingent Liabilities**

3973) As disclosed at Annex 5 and as previously reported, the State Department for Livestock has had two protracted legal suits which has led to significant outstanding bills and contingent liabilities compounded by huge interests and penalties. The two cases are summarized as follows:

#### **1267.1 Halal Meat Products Limited**

3974) Halal Meat Products Limited Vs Ministry of Agriculture, Livestock, Fisheries and Irrigation: State Department for Livestock- High Court Civil Case No.1655/1986 whose court determination amounted to Kshs.5.242 billion and out of court negotiations final amount of Kshs.4 billion after a cap on interests. However, contract documents for Halal Meat Product Limited were not provided for audit review.

#### **Submission by the Accounting Officer**

3975) Halal is a protracted legal suit whose court determination amounted to Kshs.5.242 Billion and out of court negotiations final amount of Kshs.4 Billion after cap on interests. This issue has been submitted to the National Treasury (Pending Bills Closing Committee) for final settlement. Guidance by the National Treasury for resource bidding at Sector Level have not yielded part or full budgetary provisions. Copy of requests to the National Treasury, CS brief on Halal Meat Products Limited and extracts of resource bidding at Sector Level were availed for perusal by the Committee. The Accounting Officer also availed the following Documents as requested in the previous meeting: Isiolo Farm Appeal and the Halal Court Verdict.

#### **1267.2 Associated Architects**

3976) Associated Architects Vs Ministry of Agriculture, Livestock, Fisheries and Irrigation: State Department for Livestock – High Court Civil Case No. 488/2013 whose accrued interest balance is Kshs.25 million. The contract agreement provided for audit review dated 4 February, 2009 indicates that M/S Associated Architects was awarded a contract through direct procurement for consultancy services on construction of Mifugo House for the Ministry of Livestock Development at a contract sum of Kshs.84,505,999.99. However, it is not clear, and no satisfactory explanation was provided on why the consultant should be paid the contract sum, yet no construction was undertaken.

#### **Submission by the Accounting Officer**

3977) The contract agreement was for consultancy on designs for Mifugo house and the design was completed. On 23rd March, 2020 and 13th February, 2020, through the draft budget FY2020/2021 and Medium term budget estimates and FY2019/20 Supplementary Estimates No.2, the department requested an allocation of Ksh.25.95 million as final payment of accrued fees to settle payments on architectural designs. Copy of request to the National Treasury and Mifugo house design contract was availed for perusal by the Committee.

#### **3978) Committee observations and findings in regards to entire 1267**

- (i) The Committee observed that professional advise by the Attorney General has not been attached in the submission;
- (ii) The Committee further observed that Court decree has also not been attached in the Submission provided; and
- (iii)The matter remained unresolved.

**Basis for Conclusion**

**1268. Assets and Projects Management**

3979) The State Department, though holding valuable assets across the country does not have an Assets Management Unit. It was noted that some of the properties were poorly maintained. The ceiling board of the dining hall at the Beekeeping Institute was worn out and part of it had fallen off. No reason was given for the failure to have the ceiling repaired.

3980) Some projects, although well past their contractually agreed completion time remained unfinished; these include construction of a proposed biosafety Level 3 laboratory at Kabete Veterinary Farm at a contract sum of Kshs.69,012,866, and construction and completion of a kitchen and dining block at AHITI Nyahururu at a cost of Kshs.39,638,476.

3981) In addition, a tender was awarded to a Company for construction of classrooms and laboratories amounting to Kshs.52,123,198 at AHITI Nyahururu. The Company was required to have a valid National Construction Authority (NCA) certification and a bank certificate. It was observed that the NCA certificate attached was invalid and no bank statement was provided.

3982) A fence costing Kshs.8,962,021 at the Leather Institute, was vandalized in 2017 and no action had been taken to bring the culprits to book. Furthermore, some equipment meant for Leather Institute, and which had been procured at a cost of Kshs.50,398,459 remained idle.

3983) In the circumstances, it could not be confirmed that the State Department had complied with Regulation 139(1) (a) of Public Finance Management (National Government) Regulations, 2015 which provides that the Accounting Officer of a National Government entity shall take full responsibility and ensure that proper control systems exist for assets and that preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse.

**Submission by the Accounting Officer**

3984) The Accounting Officer submitted as follows:

**(i) Delay in completion of a Biosafety level 3 laboratory**

3985) It was true that the construction of biosafety had not been completed at the time of the audit. The main works were completed and the contractor handed over the building on 24th June, 2020. However, key components on mechanical ventilations, air conditioning, plumbing, drainages and cold rooms installations remain uncompleted. The delay of

completion was attributed to the initial award of the project works to six specialized contractors whose works depended on success for completion of the main contractor builders works.

3986) The independent awards arrangement hindered the pace of the project implementation and supervision. I also wish to state that three of these contracts have been completed, whereas the remaining contracts were terminated and have been re-advertised.

S/NO	FIRM	CONTRACT AWARDED	STATUS
1	M/S Pearltek LTD MOAL&F/SDL/DVS/029/2015-2016	Main Builders Works Basement, Ground Floor and First Floor	Completed
2	M/S Jerrison Electrical Agencies Tender No. MLD/DVS/404/2012-2013	CCTV and Access Control installation works	Completed
3	M/S Jerrison Electrical Agencies Tender No. MLD/DVS/402/2012-2013	EPABX structured cabling installation works	Completed
4	M/S Jumba Engineering Services. Tender No. MLD/DVS/401/2012-2013	Electrical installation works	Completed
5	M/S Volcanic Works Limited Tender No. MLD/DVS/401/2012-2013	Plumbing, drainage and water works	Tenders have been re-advertised
6	M/S Axis Engineering Services Tender No. MLD/DVS/630/2011-2012	Air conditioning and mechanical ventilation	Tenders have been re-advertised
7	M/S Axis Engineering Services Tender No. MLD/DVS/631/2011-2012	Cold room installation works	Tenders have been re-advertised

3987) The uncompleted works have been re-advertised as a result of failure by contracted firms awarded to honor contractual obligations which were largely attributed to delay works by the main contractors. The completion certificate and re-advertisements are now available for audit review.

3988) A contract Implementation Team was appointed on 6<sup>th</sup> February, 2020 to fast-track all issues relating to the completion of Bio Safety Level 3, and are now available for audit review.

**(ii) Delay in Completion of Kitchen and Dining Block at AHITI–Nyahururu**

3989) It was true that during audit inspection, the progress report indicated that the kitchen project was 61.5% complete. The delay was caused by reduced and phased funding.



However, I wish to state that the dining hall and the kitchen have been completed and are now in use. A certificate of practical completion duly signed is available for audit review.

**(iii) Construction of classrooms and laboratories. AHITI Nyahururu.**

**Tender sum Kshs.52,123,198**

3990) The award of the tender was adjudicated by the Nyandarua West Sub county tender committee on 14/5/2021. At the time of award, the committee considered the registration certificate number 27636 issued on 19/3/2020 by National Construction Authority (NCA) and awarded the winning bidder on the basis of being the lowest evaluated bidder and validity of registration certificate. The concern on validity of practicing certificate and registration certificate was pursued and compliance obtained. The project is now 100% complete according to attached progress report signed by the engineer.

**(iv) Perimeter Fence**

3991) The Director of Veterinary Services (DVS) has set aside thirty-five (35) acres at Ngong Vet Farm for construction of the institute of leather science. To secure the institute's land, a perimeter fence made of chain-link, concrete poles, a gate house, gates and toilets valued at Kshs 896,021 was constructed in 2016. However, in 2017, the perimeter fence and all the facilities therein were destroyed by the members of the public working for pasture of their animals and the matter was reported to Ngong police station by the farm manager. Ngong Vet Farm vide OB no OB 25/10/7/2017. A report on the same from OCS Ngong is hereby attached as the evidence of action taken by the DVS.

**(v) Equipment Worth Kshs. 50,398,459**

3992) The leather manufacture equipment was requested and supplied to AHITI Kabete institute to provide students with practical skills on courses related to footwear and leather goods. Two existing workshops that were earmarked to house the equipment required expansion. However, construction of new workshops was found necessary to house the additional equipment while maintaining the old workshops. During the visit by the Auditor, the workshops had not been completed and equipment were not in use. However, I wish to state that the workshops were completed, equipment installed and currently in use.

**3993) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Assets and Projects Management was Satisfactory; and
- (ii) The Committee marked the matter as resolved.**

**1269. Bulk Milk Coolers Completion Status**

3994) In the previous financial year, the State Department procured 350 bulk milk coolers, each with a capacity of 3000 litres at a total cost of Kshs.2,343,250,000. As at 30 June,

2019, 190 coolers had been delivered and 120 of them had been installed. As at 30 June, 2020, no status report was provided to indicate where or whether the remaining 70 coolers had been installed.

3995) A field visit to fourteen (14) bulk milk coolers cooperatives in Kisumu, Nakuru, Narok, Kitui, Embu and Nyeri Counties revealed that the coolers were either not functional or being underutilized. In some cases, the coolers had been vandalized and had missing parts as there was no security, others had not been fully installed, while others were simply idle. It was not clear whether key stakeholders including the County Governments, the Kenya Dairy Board, Cooperatives, among others had been fully involved and sensitized in the conception of the Project.

3996) In addition, in absence of a status report, it is not possible to confirm whether the remaining 160 bulk milk coolers with a value of Kshs.1,071,200,000 were ever delivered and installed.

#### **Submission by the Accounting Officer**

3997) The Accounting Officer submitted that during the time of audit, a total of 190 bulk milk coolers had been delivered and a total of 120 bulk milk coolers installed. 70 coolers were subsequently distributed and installed and copies of installation certificates available. A comprehensive status report of the project is also available.

#### **3998) Committee observations and Findings**

- (i) The Committee observed and found that the explanation and documents given by the Accounting Officer with regard to the Bulk Milk Coolers Completion Status was satisfactory; and
- (ii) **The Committee marked the matter as resolved.**

#### **1270. Irregular Management and Control of Imprests**

3999) A review of the manual imprests register revealed that some officers in the State Department had consistently been issued with multiple imprests amounting to Kshs.40,961,270 during the year, contrary to Regulation 93 (4) (b) of the Public Finance Management (National Government) Regulations, 2015. The Regulation requires that before issuing temporary imprest to an officer, the Accounting Officer should ensure that the applicant has no outstanding imprests.

#### **Submission by the Accounting Officer**

4000) The Accounting Officer submitted that it was true that the manual register revealed that some officers were issued with more than one imprest. This was occasioned by the fact that surrenders of previous imprests which were in progress and in the last stage of

surrender had not been cleared in the IFMIS due to system year end and closure procedures. I wish to state currently internal control measures have been instituted to strictly adhere to regulations on the management of temporary imprests as per the Public Finance Management Act 2015.

**4001) Committee observations and Findings**

- (i) The Committee observed and found that the explanation and documents given by the Accounting Officer with regard to the Irregular Management and Control of Imprests was satisfactory; and
- (ii) **The Committee marked the matter as resolved.**

**1271. Inaccuracy of the Summary of Fixed Assets Register and Lack of a Fixed Assets Register**

- 4002) Disclosed at Annex 2 to the financial statements is a summary of fixed assets register reflecting a cumulative historical cost of Kshs.3,865,628,882 as at 30 June, 2020. However, a computation of acquisition of assets by the State Department for Livestock from the financial year 2015/2016 to 2019/2020 indicated that the total cumulative value for all the classes of assets should be Kshs.5,049,890,732 and thus, resulting in an unexplained difference of Kshs.1,184,261,850.
- 4003) Further, the value of Kabete Veterinary Farm L.R No.189R (1634 acres) and L.R No.2952 (1278 acres) has not been included in the fixed assets balance of Kshs.3,865,628,882 disclosed under Annex 2 to the financial statements - summary of fixed assets register. The balance also excludes undetermined parcels of land and buildings spread all over the country whose details in regard to size, location, value and ownership could not be determined.
- 4004) In addition, during the year under review, the State Department for Livestock did not avail for audit review a fixed assets register indicating necessary information such as type of asset, date of acquisition, supplier, cost, location, custodian, code and condition of the assets it owns as required under Regulation 143 of Public Finance Management (National Government) Regulations, 2015. The Regulations provides that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws. In addition, the State Department did not produce logbooks or any other document to prove ownership of some of the vehicles and equipment and no assets count and verification was done as at 30 June, 2020.
- 4005) Consequently, the State Department was in breach of law and it could not be confirmed that its assets had been properly safeguarded.

**Submission by the Accounting Officer**

4006) The Accounting Officer submitted that as at the time of audit the State Department was in the process of compiling a comprehensive asset register. The State Department has continued in updating its inventories and standardized asset registers.

**4007) Committee Observations and Findings**

- (i) The Committee observed that the Asset register compilation is ongoing;
- (ii) The matter remained unresolved.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**Basis for Conclusion**

**1272. Lack of an Enterprise-Wide Risk Management (ERM) Policy and Process**

4008) During the year under review, the State Department for Livestock did not have a well-documented Enterprise Wide-Risk Management Policy and process in place to effectively guide the State Department's risk management processes at large.

**Submission by the Accounting Officer**

4009) The Accounting Officer submitted that the Department is in the process of establishing a comprehensive risk register to mitigate risks emanating from operations. The Internal Audit function of the State Department continues to guide in dealing with the financial risks. However, the management intends to cover other aspects of risk, which may hinder the State Department from carrying out its core mandate efficiently.

**4010) Committee Observations and Findings**

- (i) The Committee observed that the development of Risk Management Policy is ongoing;
- (ii) The matter remained unresolved.

**1273. Non-Functional Audit Committee**

4011) Although the State Department for Livestock constituted an Audit Committee, the committee did not convene or hold regular meetings during the year. No minutes of the Audit Committee were provided for audit review to confirm that the internal audit unit's annual work plan and reports were tabled and discussed by the Audit Committee.

**Submission by the Accounting Officer**

4012) The Accounting Officer submitted that it was true that audit committee did not meet as required by financial regulations. However, I wish to state that this was caused by delay in appointment/renewal of the ministerial audit committee members to undertake the audit business. The appointments have since been effected and the committee in place.

**4013) Committee observations and Findings**

- (i) The Committee observed and found that the explanation and documents given by the Accounting Officer with regard to the Non-Functional Audit Committee was satisfactory;
- (ii) The Committee further observed that the Audit Committee was now established and functional and
- (iii) **The Committee marked the matter as resolved.**

**DONOR FUNDED PROJECTS**

**SMALLHOLDER DAIRY COMMERCIALIZATION PROGRAMME (IFAD LOAN NO. 678-KE AND GRANT NO. 815-KE)**

**REPORT ON THE FINANCIAL STATEMENTS**

**4014) Unqualified Opinion**

**1274.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1275. Budgetary Control and Performance**

4015) The statement of comparative budget and actual amounts reflects total receipts of Kshs.373,375,111 against the approved budget of Kshs.419,973,100 resulting in a revenue shortfall of Kshs.46,597,989 or 11 % of the Budget. The Management has attributed the revenue shortfall to delays in exchequer and loan disbursements. This has negatively impacted on the achievement of programme activities as it resulted in underfunding of the annual budget by Kshs.37,103,260 representing 8.8% of the approved budget.

**Submission by the Accounting Officer**

4016) The Accounting Officer submitted that the underfunding as noted by the Auditor was attributed to delays in exchequer and loan disbursements as at closure of Financial Year 2019/20. The Project initiated phased out on donor funding towards meeting closure timelines of donor funded requirements by 31st March, 2020. To address the funding gap, GoK funding for Financial Year 2020/21 was factored in to ensure that no programme activities remained unattended as the project had both donor funding and GoK counterpart funding.

**4017) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Budget Control and Performance was Satisfactory; and
- (ii) The Committee marked the matter as resolved.

# REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

## Basis for Conclusion

### 1276. Unsurrendered Bank Balance

4018) As disclosed under Note 8.13A to the financial statements, the statement of financial assets and liabilities reflects bank balances of Kshs.809,406;(2018-Kshs.10,325,800). The balance relates to loan and grant amounts that had not been expended at the date of the Project closure but were yet to be transferred into the consolidated fund in accordance with Section 74(6) (d) of the Public Finance Management (National Government) Regulations, 2015.

4019) To this extent, the Programme is in breach of the law.

### Submission by the Accounting Officer

4020) The Accounting Officer submitted that after the revelation by the auditor the department sought for the authority to close the projects accounts for the Project stations and Project Coordination Unit from the National Treasury which were subsequently granted. The State Department has since carried out the laid procedure of verifying project assets and outstanding claims before closure of the accounts. The Project Coordination Unit account that had balances of KShs.809,406 as at the time of audit was closed and amount of Kshs.785,560,065 transferred being the amount net off bank charges.

### 4021) Committee Observations and Findings

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Unsurrendered Bank Balance was Satisfactory; and
- (ii) The Committee marked the matter as resolved.

### 1277. Pending Bills

4022) Annex 2 - Analysis of pending bills to the financial statements discloses a balance of Kshs.16,807,828 that was unpaid as at the programme closure date of 31 March, 2020. This is contrary to Section 3.07 of the Financing Agreement that requires the Programme parties to complete the Project activities on or before its completion date. Consequently, the pending bills balance of Kshs.16,807,828 will not be paid from the programme funding.

### Submission by the Accounting Officer

4023) The Accounting Officer submitted that the amount was retention money payable M/s. Finken Ltd for installation and commissioning of bulk milk coolers. The defect liability period was supposed to be six months which was beyond the project period therefore the donor could not pay the amount. The project had both donor funding and GoK counterpart

funding and the pending bill was settled using the GoK funding factored in Financial Year 2020/21.

**4024) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Pending Bills was Satisfactory; and
- (ii) The Committee marked the matter as resolved.

4025)

**1278.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**REGIONAL PASTORAL LIVELIHOODS RESILIENCE PROJECT (IDACREDIT NO. KE 53880-KE)**

**REPORT ON THE FINANCIAL STATEMENTS**

**4026) Unqualified Opinion**

**1279.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1280. Unpaid Insurance Claim**

4027) During the year under review Management incurred insurance costs of Kshs.18,549,675 paid to an insurance firm as premium for the insurance cover of the Project vehicles. Review of motor vehicle records maintained at West Pokot County offices revealed that on 25 March, 2019, two (2) vehicles, GKB 038R and GKB 412R got burnt by fire suspected to have originated from one of the food kiosks adjacent to the offices. The vehicles were insured and a claim for compensation lodged was certified payable on 30 July, 2019. However, the claims have not been settled as at the time of audit inspection in November, 2020.

4028) No reason has been given for the failure by the insurance company to settle the claim.

**Submission by the Accounting Officer**

4029) The Accounting Officer submitted that the claim was determined by the insurance company dated 30 July 2019 confirming the value to be paid of Kshs.3,474,000 for GK B038R and Kshs.7,650,000 for GK B412R. The claims have not been made because by the



insurance company and department has pursued the issue with the State Counsel vide letter RPLRP/HRM/17/VOL.1/150.

#### 4030) **Committee Observations and Findings**

- (i) The Committee observed that the claims have not been made by the insurance company to date; And
- (ii) The matter remained unresolved.

### REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

#### **Basis for Conclusion**

#### **1281. Unsupported Expenditure**

4031) The statement of receipts and payment reflects purchase of goods and services of Kshs.923,507,376 as disclosed under Note 8.6 to the financial statements. The amount includes Kshs.7,978,250 under communication, supplies and services paid to a firm contracted to carry out works for local area network installation at ground upper floor and sixth floor in Kilimo House. However, Management did not provide documentary evidence why the installation was done at Kilimo House whereas the Project is located at Hill Plaza.

4032) Further, an earlier request by the Ministry to the Project for local area network was not authorized by ICT Ministry contrary to Circular Ref. No. OP/CAB.39/1A of March 1, 2018 which directed that all ICT equipment be centralized under the Ministry of ICT to ensure economies of scale in procurement and optimization of the use of shared services strategy.

4033) The Management is therefore in breach of the Law.

#### **Submission by the Accounting Officer**

4034) The Accounting Officer admitted that the project is located at Hill Plaza while the activity was undertaken at Kilimo house. However, all payment processes in the Integrated Financial Management Information System (IFMIS) and Internet Banking (IB) are carried out from Kilimo house. The project has been experiencing challenges of downtime during the past periods because of connectivity problems. This is an activity that was initiated from the project to facilitate the smooth payment processes for the project activities. With the network installation, the project has actually experienced prompt and faster processing of the payment documents with minimal downtime, hence increased the rate at which disbursement and absorption of funds are realised.

4035) The networking activity was included in the Project Work Plan and budget that were presented and approved by the Project National Steering Committee as part of the donor funding component. Authority from the ICT Ministry implies that budgeting and funding of the activity was to specifically come from the GoK funding, whereas it came it was approved within the donor work plan component.

**4036) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to unsupported expenditure was Satisfactory; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**4037) Conclusion**

- 1282.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**VETERINARY SERVICES DEVELOPMENT FUND**

**REPORT ON THE FINANCIAL STATEMENTS**

**Basis for Adverse Opinion**

**1283. Inventories**

- 4038) As disclosed in Note 13 to the financial statements, the statement of financial performance reflects an opening balance for inventories of Kshs. 4,287,785 and a negative closing balance of inventories of Kshs. 9,844,000. The balances have not been supported or analysed. Further, no explanation was provided for the inclusion of the inventory balances in the statement of financial performance.

- 4039) Under the circumstances, the accuracy of the statement of financial performance could not be confirmed.

**Submission by the Accounting Officer**

- 4040) The Accounting Officer submitted that as outlined, in Note 13 to the financial statements, the statement of financial performance reflects an opening balance for inventories of Kshs.4,287,785 and a negative closing balance of inventories of Kshs. 9,844,000. The balances had not been supported or analysed at the time of audit. The analysis has been made and the related error rectified in the financial statements. Copies of the analysis and rectified errors are available for verification.

**4041) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to inventories was Satisfactory; and
- (ii) The Committee marked the matter as resolved.**

**1284. Property, Plant and Equipment**

4042) The statement of financial position reflects property, plant and equipment balance of Kshs.26,215,457 which, as disclosed in Note 16 to the financial statements, is net of depreciation expenses of Kshs.5,423,996. However, the depreciation expenses were not supported with relevant schedules or ledgers for the various classes of assets. Further, a comprehensive and updated fixed assets register indicating the nature of the asset, date of acquisition, cost, depreciation rate, disposals, serial numbers, location and custodianship was not provided for audit verification.

4043) Consequently, the completeness and accuracy of the property, plant and equipment balance of Kshs.26,215,457 as at 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

4044) The Accounting Officer admitted that the statement of financial position reflects property, plant and equipment balance of Kshs.26,215,457 which, as disclosed in Note 16 to the financial statements, is net of depreciation expenses of Kshs.5,423,996. The Fund management has compiled comprehensive and updated asset registers.

#### **4045) Committee Observations and Findings**

(iii)The Committee observed that the explanation given by the Accounting Officer with regards to Property, Plant and Equipment was Satisfactory; and

**(iv)The Committee marked the matter as resolved.**

#### **Other Matters**

##### **1285. Budgetary Control and Performance**

4046) The statement of comparison of budget and actual amounts reflects actual receipts of Kshs.90,838,187 against a budget of Kshs.70,000,000 resulting into a receipts over collection of Kshs.20,838,187 or 30% of the budgeted receipts. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.70,000,000 and Kshs.52,240,243 respectively resulting to an under-expenditure of Kshs.17,759,757 or 25% of the budget. Although Management explained that the under-expenditure was caused by restriction of movement of staff due to the outbreak of Covid 19, the under expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

#### **Submission by the Accounting Officer**

4047) The Accounting Officer submitted as follows:

##### **Budget Over Collection**

4048) This amount is the surplus for the year under review. There was enhanced revenue collection through use of online platforms (KENTRADE) whereby manual verifications and certifications were stopped. The VSDF management strengthened surveillance, staff sensitization, equipping and technical backstopping at the point of collection.

4049) **Committee observations and Findings**

- (i) The Committee observed and found that the explanation and documents given by the Accounting Officer with regard to the Budgetary Control and Performance was satisfactory; and
- (ii) **The Committee marked the matter as resolved.**

**1286. Unresolved Prior Year Matters**

4050) Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues.

**Submission by the Accounting Officer**

4051) The Accounting Officer submitted that it was true that as at 30 June, 2020 various prior year issues remained unresolved. However, I wish to state that most of the issues raised by the auditors during previous year audits were resolved and deliberated on during the last appearance in the Public Accounts Committee by the accounting officer. The few issues which remained unresolved are included and fully addressed in the below paragraphs.

4052) **Committee observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2018/19 and a recommendation was issued therein.

**1287. Field Inspections at Border Points - Malaba, Busia, Lunga Lunga and Taita Taveta**

4053) As previously reported, field inspections at border points revealed several shortcomings and operational challenges as outlined below:

**i) Limited Systems Access**

4054) The veterinary officers stationed at the border post to inspect animals, animal feeds, animal products and feed mills exported or imported into the country indicated that they had no right of access to the Kenya Electronic Single Window System at the border posts, which affected effective execution of their duties. The inspection of documents through the system was being processed at the Headquarters rather than at the border posts and was mostly focused on documentation. As a result, some imports or exports may have passed through the borders without the necessary validations, inspections or verifications.

**Submission by the Accounting Officer**

4055) The Accounting Officer admitted that the officers at the border post do not have access to the Kenya Single Window System as it is only available to officers at the headquarter who approves the import/export applications. However, Kenya Trade Network Agency has rolled off cargo release module for use at the border post starting with Jomo Kenyatta International Airport (JKIA) and Moi International Airport (Mombasa) Points of Entry.

When this module is availed in all ports of entry, the activities at the headquarters and border post will be linked and therefore the officer will have access to the system.

**ii) Power Outages and Lack of Back-Ups and Internet Access**

4056) The border point offices did not have back up power equipment leading to disruption of operations during power outages as the staff were unable to access internet and emails from Headquarters to facilitate verification and confirmation of the correctness, approval status and authenticity of import documents.

**Submission by the Accounting Officer**

4057) As outlined the border posts offices did not have back up power equipment leading to disruption of operations during power outages as the staff were unable to access internet and emails from Headquarters to facilitate verification and confirmation of the correctness, approval status and authenticity of import documents. To curb this problem, the fund has considered the border posts through issuance of AIE's to support the stations through procurement of office stationery and computer accessories.

**iii) Lack of Inspection Tools, Equipment and Structures.**

4058) The stations lacked the requisite tools and equipment such as test kits, screening kits and sampling equipment among others to inspect animals, animal feeds, animal products and feed mills to ensure that the same are free from harmful elements like aflatoxin and other foreign matters. The Kenyan side border posts at Malaba and Busia did not have cargo scanners compared to their counterparts in the Ugandan side and therefore they had no capacity to screen cargo effectively and accurately.

**Submission by the Accounting Officer**

4059) The Accounting Officer admitted that the stations lacked the requisite tools and equipment like test kits, screening kits, and sampling equipment among others to inspect the animals, animal feed, animal products and feed mills. The department has developed a mechanism of supporting the border posts with requisite tools such as motor cycles. In addition, the stations are provided with AIE's that support required office tools and equipment.

**iv) No Cattle Docking Structures for Inspections**

4060) The Lunga Lunga Station did not have all the essential and key facilities like the animals holding ground and offloading ramp as the existing structure had been condemned. There were no alternative designated holding grounds for the cattle to enable inspections. It was also noted that most of the livestock from Tanzania easily cross the porous Kenyan border without inspection.

**Submission by the Accounting Officer**

4061) It is true that there are no essential and key facilities such as animal holding grounds and offloading ramps at Lunga Lunga Border Inspection Station. The Director of Veterinary Services has embarked on the improvement of livestock holding facilities at the border inspection station starting with ongoing establishment of quarantine station at Namanga. Other border inspection stations are set to be provided with these facilities in subsequent budgetary cycle.

**v) Insufficient Staff**

4062) Malaba and Busia stations were manned by two officers who were not gazetted as inspectors, one on the Kenyan side and the other on the Ugandan side. In Taita Taveta and Lunga Lunga border post stations there was one qualified officer and an assistant who was not gazetted as an inspector. Further, all these officers had not taken their mandatory annual leave for two years due to under capacity. The officers were not compensated for the extra hours worked, in contravention of Section 28 (1)(a) of the Employment Act, 2007 which provides that an employee shall be entitled, after every twelve consecutive months of service with his employer to not less than twenty-one working days of leave with full pay.

**Submission by the Accounting Officer**

4063) The Accounting Officer submitted that it was true that the stations offices had staffing issues. This has been addressed through recruitment of Veterinary Officers by the Directorate of Veterinary Services through the office of Principal Secretary- State Department of Livestock; these officers have been posted to various border posts on priority basis.

**4064) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Field Inspections at Border Points was Satisfactory; and
- (ii) **The Committee marked the matter as resolved.**

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**Conclusion**

**Basis for Conclusion**

**1288. Lack of Elaborate Enterprise Wide Risk Management (ERM)**

4065) Regulation 165 (1) of the Public Finance Management (National Government) Regulations, 2015 provides that the Accounting Officer shall ensure that a national government entity develops risk management strategies, which include fraud prevention mechanism and a system of risk management and internal controls that builds robust business operations. However, as previously reported, the Fund did not have a well-

documented enterprise wide risk management strategy and policies in place to effectively guide the enterprises risk management processes at large.

**Submission by the Accounting Officer**

4066) The Accounting Officer admitted that during the time of the audit there wasn't a well-documented Enterprise wide risk management process and policies in place to effectively guide the enterprises risk management processes at large. The management has been relying on the Internal Audit function of the State Department of Livestock in dealing with the financial risk. However, it has realized the need to cover other aspects of risk, which may hinder the fund from carrying out its core mandate effectively and efficiently. This has called for the fund management to initiate the process of formulating an ERM which once complete will effectively guide on the enterprises risk management processes at large.

**4067) Committee Observations and Findings**

- (i) The Committee observed that the formulation of ERM is ongoing; and
- (ii) The matter remained unresolved.

**1289. Internal Audit Function**

4068) As previously reported, the Fund did not have an Internal Audit Function or an Audit Committee to review and appraise its existing internal controls, with a view to enhancing the Fund's operational efficiency, governance and compliance as provided under Section 73 (4) and (5) of Public Finance Management Act, 2012.

**Submission by the Accounting Officer**

4069) The Accounting Officer admitted that the Fund has no internal audit function and audit committee to Review/appraise its existing internal controls, with a view to enhance the Fund's operational efficiency, governance and compliance. However, it should be noted that the fund utilizes the services of internal audit office at the State Department for Livestock in the Ministry of Agriculture, Livestock and Fisheries headquarters.

**4070) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to internal Audit Function was Satisfactory; and
- (ii) The Committee marked the matter as resolved.



### 33. STATE DEPARTMENT FOR CROP DEVELOPMENT

#### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1165

**Prof. Hamadi I. Boga, the Principal Secretary and Accounting Officer for the State Department of Crop Development (Vote 1165) appeared before the Committee on 15<sup>th</sup> November, 2021 and 9<sup>th</sup> December, 2021 to adduce evidence on the Audited Financial Statements for the State Department of Crop Development (Vote 1165) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                              |   |   |
|------------------------------|---|---|
| 1. Mr. Tobias Osano          | – | Chief Finance Officer                   |
| 2. Ms. Charity Muriuki       | – | Deputy Accountant General - HAU         |
| 3. Mr. John Kimani           | – | National Programme Coordinator – NARIGP |
| 4. Mr. Adoyo Onyanngo        | – | Accountant – SDCDAR                     |
| 5. Mr. Elijah Obebo          | - | Supply Chain Manager                    |
| 6. Mr. Patrick Kiege Mwangi  | - | Director Accounting.                    |
| 7. Mr. Charles N. Mujire     | – | Crops Development & AR                  |
| 8. Mr. Albert N. Bengi       | – | Crops Development & AR                  |
| 9. Mr. Wesly Kiplimo         | - | Crops Development & AR                  |
| 10. Mr. Hillary K. Ngeno     | - | Crops Development & AR                  |
| 11. Mr. David Ndorongo       | - | Accountant                              |
| 12. Mr. Gerald Kurerua       | - | Crops Development & AR. SIU AD          |
| 13. Eng. Kennedy W. Makidiuh | – | National Programme Coordinator          |
| 14. Ms. Josephine Mbeo       | – | AIRC                                    |
| 15. Ms. Florence Mulati      | – | SDS                                     |

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **1290. Unreconciled Proceeds from Foreign Borrowings**

4071) The statement of receipts and payments reflects proceeds from foreign borrowings amounting to Kshs.1,966,994,306 for the year ended 30 June, 2020. The amount relates to direct payments that were made to five Donor Funded Projects. However, variances were noted between the reported amounts and the amounts reflected in the financial statements of three (3) Donor Funded Projects as follows:

<b>Project</b>	<b>Reported Amount (Kshs.)</b>	<b>Amount n Projects Financial Statements (Kshs.)</b>	<b>Variance (Kshs)</b>
Drought Resilience and Sustainable Livelihood Programme	813,352,904	812,853,404	499,500
Small Scale Irrigation and Value Addition Project	277,816,515	316,418,882	38,602,367
Kenya Climate Smart Agriculture Project	359,468,748	299,468,748	60,000,000

4072) The variances have not been reconciled or explained.

#### **Submission by the Accounting Officer**

4073) The Accounting Officer submitted that the variances noted between the Proceeds from Foreign Borrowings reported by the Projects and state departments are explained as follows:

#### **Drought Resilience and Sustainable Livelihood Programme- Kshs 499,500**

4074) The initial amount in respect of Proceeds from Foreign Borrowings reported by the State Department and the Drought Resilience and Sustainable Livelihood Programme (DRSLP) had a variance Kshs.499,500. The correct amount is Kshs.813,352,904 reported by the State Department. This has been restated in the Projects 2020/21 Financial Statements.

#### **Small Scale Irrigation and Value Addition Project-Kshs.38,602,367**

4075) There are different classifications of receipts in the standard reporting template as per International Public Sector Accounting Standards (IPSAS). SIVAP had two forms of receipts in the financial year 2019/20; Proceeds from Domestic and Foreign Grants of Kshs.38,602,367 and Proceeds from Domestic Borrowings of Kshs.277,816,515.

4076) The variance was brought up by the Project summing the two receipts to get Kshs.316,418,882 while the MDA treated them separately as Kshs.38,602,367 and Kshs.277,816,515 as per the template.

#### **Kenya Climate Smart Agriculture Project-Kshs.60,000,000**

4077) Kshs.60,000,000 were direct payments belonging to KCSAP which were not approved by the External Resources Department –National Treasury as anticipated which was later canceled from the IFMIS system after the submission of financial statements. This has been restated in the 2020/21 Financial Statements.

#### **4078) Committee Observations and Findings**

(vi) The Committee observed that the explanation given by the Accounting Officer with regard to the Unreconciled Proceeds from Foreign Borrowings was satisfactory; and

(vii) The Committee marked the matter as resolved.

## **1291. Un-explained Expenditure on Compensation of Employees**

4079) The statement of receipts and payments reflects compensation of employees expenditure of Kshs.976,741,355 which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.309,946,181 in respect to personal allowances paid as part of salary. However, the balance differed with the amount of Kshs.308,799,181 in respect to personal allowances paid as part of salary reflected in the ledger resulting into an unexplained variance of Kshs.1,147,000.

4080) Further, included in the expenditure are allowances totaling Kshs.13,770,000 paid under Small Scale Irrigation and Value Addition Project and Drought Resilience and Sustainable Livelihood Programme. However, the State Department's ledger reflected an amount of Kshs.25,961,500, resulting into an unexplained variance of Kshs.12,191,500. In addition, a list of the beneficiaries of the allowances was not provided.

4081) Consequently, the accuracy and validity of the expenditure of Kshs.323,716,181 incurred under compensation of employees could not be confirmed.

### **Submission by the Accounting Officer**

4082) The Accounting Officer submitted that the initial amount in respect of personal allowances paid as part of salary had a variance of Kshs.1,147,000. However, the financial statements were revised and now reflect the correct position as reflected in the ledger. Further, Kshs.12,191,500 was payroll expenditure and staff salary payment for the 2019/20 financial year for the state department.

### **4083) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to the Un-explained Expenditure on Compensation of Employees was satisfactory; and
- (ii) The Committee marked the matter as resolved.

## **1292. Use of Goods and Services**

### **1292.1 Avoidable Expenditure on Rentals of Produced Assets**

4084) The statement of receipts and payments reflects an expenditure of Kshs.5,777,352,014 under use of goods and services which, as disclosed in Note 6 to the financial statements, includes Kshs.370,217,814 relating to rentals of produced assets. The amount of Kshs.370,217,814 includes an expenditure of Kshs.66,836,615 comprising of Kshs.39,763,210 for storage and handling charges and Kshs.27,073,405 for customs duty, incurred on a donation of chemicals and equipment from the Government of the People's Republic of China towards control of desert locusts in Kenya. However, the expenditure was not budgeted for and was avoidable since it was occasioned by delays in collection of the donations from the Port.

### **Submission by the Accounting Officer**

4085) The Accounting Officer submitted that the Chinese government gave a donation of chemicals and equipment to GOK towards control of desert locusts up to the point of entry. The donation was central to the control of locusts and gave the department enough equipment and chemicals that lasted for the period of the invasion.

4086) The State Department together with the Chinese Government appealed to the National Treasury for exemption but there were delays in getting approvals. Eventually we paid for the demurrages for 32 days and clearing charges to avoid accruing more charges as we waited for the exemption certificate from National Treasury. We received a letter from National Treasury giving us an exemption from paying custom charges and advised us to seek a refund from Kenya Revenue Authority. We have since written to KRA seeking a refund of the duty paid. The Kenya Revenue Authority (KRA) replied to our letter later declining the request.

4087) **Committee Observations and Findings**

- (i) The Committee observed that with proper coordination from the State Department, an expenditure amounting Kshs.66,836,615 could have been avoided;
- (ii) The National Treasury inefficiency led to unavoidable expenditure of Kshs. 662,836,615 and
- (iii)The matter remained unresolved.

4088) **Committee Recommendations**

- 1) **The Committee expresses displeasure with the Accounting Officer and Principal Secretary, National Treasury for the delay in the Approval process leading to unavoidable expenditure of KShs.66,836,615.**
- 2) **Within three months of adoption of this report, the Cabinet Secretary, National Treasury should report to the National Assembly on measures taken to address inefficiencies in approval of exemption to official aid to address emergencies to avoid delays and unavoidable expenditure.**

**1292.2 Unsupported and Misclassified Insurance Costs**

4089) Included in the use of goods and services expenditure of Kshs.5,777,352,014 are insurance costs of Kshs.268,558,927. However, the supporting ledger reflected an amount of Kshs.266,273,084, resulting in an unexplained variance of Kshs.2,285,843. In addition, the insurance costs include a journal entry of Kshs.76,000,000 that was not supported and payments amounting to Kshs.190,273,084 relating to surrender of imprest and not insurance costs.

4090) Consequently, the validity and accuracy of insurance costs of Kshs.268,558,927 could not be confirmed.

**Submission by the Accounting Officer**

4091) The Accounting Officer submitted that the initial amount in respect of insurance costs paid had a variance of Kshs.2,285,843. The Financial statements were revised and now reflect the correct position as reflected in the ledger. At the time of preparation of the financial statements some of the expenditure was not captured correctly. Some expenditure was below the line and thus the full expenditure was not realized. The journal entry of Kshs.76,000,000 was among correctional journals made in the IFMIS system to ensure all the expenditure was correctly captured.

4092) The crop insurance unit has three sections; Unit area of insurance demarcation, Farmers awareness and Loss assessment through crop cutting exercise. The officers from the state department travel in 33 different counties implementing national crop insurance programme. The Kshs.190,273,084 under the insurance costs included:

- DSA allowances to the State department officers and County officers involved in the exercises.
- Costs of loss assessment through crop cutting.
- Capacity building of county staff and other relevant stakeholders.
- Unit areas of insurance demarcation.
- Farmers' awareness and sensitization.

4093) The insurance cost is a one budget line item to make it easy for ascertaining the expenditure spent in the insurance cost at large for yearly budgeting through the trends observed so as to boost the farmers yield.

4094) **Committee Observations and Findings**

- (i) The Committee observed the Accounting Officer failed to provide accurate records and other supporting documents at the time of audit contrary to Section 9 (1) (e) of the Public Audit Act, 2015;
- (ii) However, the financial Statement has since been revised to reflect the correct position; and
- (iii) The Committee marked the matter as resolved.

4095) **Committee Recommendation**

**The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

**1293. Unreconciled Transfers to Other Government Entities**

4096) The statement of receipts and payments reflects an expenditure of Kshs.12,497,651,915 on transfers to other government units during the year which, as disclosed in Note 8 to the financial statements, includes grants amounting to Kshs.901,335,407 that were transferred to Agricultural Sector Development Support Programme. However, the financial statements of the Programme reflected receipts of Kshs.1,185,599,523 from the State

Department resulting into a variance of Kshs.284,264,116 that has not been supported or explained.

4097) Consequently, the completeness and accuracy of the amount disbursed to Agricultural Sector Development Support Project II could not be confirmed.

**Submission by the Accounting Officer**

4098) The Accounting Officer submitted that the total disbursements were Kshs.1,413,650,673 comprising Donor component of Kshs.1,185,599,523 and GOK component of Kshs.228,051,150 disbursed to ASDSP 11 from the State Department which included grants, use of goods and acquisition of assets. Out of Kshs.1,185,599,523 Donor component; ASDSP II disbursed Kshs.783,835,407 to different counties as grants and the balance of Ksh.401,764,116 was spent at the National Programme Secretariat. Out of Kshs.228,051,150 as GOK counterpart component; ASDSP II disbursed Kshs.117,500,000 to different counties as grants and Kshs.110,551,150 was spent at the National Programme Secretariat.

4099) The Kshs.901,335,407 was the total amount of both Donor and GOK components transferred to the counties through ASDSP II as grants. Therefore, there was no variance in the amounts reported by the State Department and ASDSP 11 as grants. See the table below:

<b>Funds Transferred To ASDSP 11 Year 2019/20</b>			
	<b>Disbursements To ASDSP II</b>	<b>Disbursed To Counties As Grants</b>	<b>Expenditure At Headquarters</b>
DONOR	225,202,854.00		
	369,177,060.00		
	591,219,609.00		
<b>Total</b>	<b><u>1,185,599,523.00</u></b>	<b>783,835,407.00</b>	<b>401,764,116.00</b>
GOK	137,775,575.00	117,500,000.00	20,275,575.00
	90,275,575.00	-	90,275,575.00
<b>Total</b>	<b><u>228,051,150.00</u></b>	<b>117,500,000.00</b>	<b>110,551,150.00</b>
<b>Total Disbursed ( Donor &amp; Gok)</b>	<b>1,413,650,673.00</b>	<b>901,335,407.00</b>	<b>512,315,266.00</b>

**4100) Committee Observations and Findings**



- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Unreconciled Transfers to Other Government Entities was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### 1294. Cash and Cash Equivalents

##### **1294.1 Unsupported Payments from Deposits Bank Account**

4101) The statement of assets and liabilities reflects bank balances of Kshs.11,718,462,676 which, as disclosed at Note 12A to the financial statements, includes a balance of Kshs.159,904,675 held in the deposits bank account. However, audit examination of the deposits cash book revealed that payments made from the deposits bank account during the year under review included an amount of Kshs.11,482,524 being salary deductions that were remitted to various Savings and Credit Cooperatives Societies (SACCOS) and Kshs.4,050,750 paid to staff in the form of imprests. However, no expenditure returns or status reports to support the payments were availed for audit review.

4102) In the circumstances, the validity of the payments totaling Kshs.15,533,274 made from the deposits bank account cannot be confirmed.

##### **Submission by the Accounting Officer**

4103) The Accounting Officer submitted that the amount of Kshs.11,482,523.80 was payment for salary deductions to various SACCOs on 15/06/2019 due to insufficient funds in the Recurrent bank account. This was later paid back to deposit bank account on 15/10/2019 as per the attached copy of bank statement.

4104) The State Department has programmes which are funded by different donors and channelled through the deposit bank account. The Kshs.4,050,750 was paid to staff in the form of imprests to facilitate the activities which were in the approved work plan for Regional Integration Implementation Programme (RIIP).

##### **4105) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Unsupported Payments from Deposits Bank Account was satisfactory; and
- (ii) The Committee marked the matter as resolved.

##### **1294.2 Unexplained Variances in Bank Balances**

4106) The bank balance of Kshs.11,718,462,676 also includes bank balances of Donor Funded Projects. However, the bank balances under Kenya Cereal Enhancement Programme totaling Kshs.3,981,968 differ with the bank balances reported in the Programme's financial statements of Kshs.4,121,022 by Kshs.139,054. Further, the balance of Kshs.7,555 that was reported under Multinational Rural Livelihood Adaptation to Climate (RLAC) was not supported.



4107) Consequently, the accuracy and completeness of the bank balance of Kshs.11,718,462,676 could not be confirmed.

**Submission by the Accounting Officer**

4108) The Accounting Officer submitted that the Donor Funded Project (KCEP) bank balances differed with the state department bank balances because when preparing the Financial statements KCEP used the bank balances as at 30th June 2020 while the state department used the cash book balance which is the correct amount since it reflects all the expenditure relating 2019/2020 Financial year. Some of the payments were cleared by the banks in early July 2020 but related to 2019/2020 budget. KCEP project have since restated their statements to reflect the book balances as per the State Department's.

**4109) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Unexplained Variances in Bank Balances was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1295. Unsupported Accounts Payables**

4110) The statement of assets and liabilities reflects a balance of Kshs.10,002,601,888 under accounts payables which, as disclosed in Note 14 to the financial statements, includes an amount of Kshs.159,904,675 in respect of general deposits which differs with the ledger balance of Kshs.207,287,235 by Kshs.47,382,560. In addition, the general deposits balance includes Kshs.2,058,916, Kshs.11,690,410 and Kshs.23,622,281 under International Food Fund, Regional Integration Implementation Programme and retentions respectively, that have not been supported by any verifiable records or documents. Further, the changes in the deposits and retentions analyzed in Note 17 to the financial statements includes deposits and retentions held during the year amounting to Kshs.32,827,927 that were not supported.

4111) Consequently, the completeness and accuracy of the general deposits balance of Kshs.159,904,6745 could not be ascertained.

**Submission by the Accounting Officer**

4112) The Accounting Officer submitted that the amount of Kshs.23,622,281 in the general deposit account is the retention monies deducted from the suppliers. The respective owners of the above amounts have been provided. Further, the expenditure of Kshs.2,058,916 under the International Food Fund is attached. Regional integration Implementation Programme includes Kshs.11,690,410 whose breakdown was availed for perusal by the Committee. The breakdown of Kshs.159,904,675 was also availed.

**4113) Committee Observations and Findings**

- (i) The Committee observed the Accounting Officer failed to provide accurate records and other supporting documents in breach of Section 9 (1) (e) of the Public Audit Act, 2015;
- (ii) However, the general deposit balance of Ksh.159,904,675 has since been supported; and

(iii) The Committee marked the matter as resolved.

#### 4114) **Committee Recommendation**

**The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

#### **Other Matter**

##### **1296. Pending Bills**

4115) As disclosed in Note 19.1 to the financial statements, the State Department had pending bills amounting to Kshs.14,506,431,671 as at 30 June, 2020. The bills include Kshs.488,492,219 relating to the 2019/2020 financial year and historical pending bills totaling Kshs.14,017,939,452 relating to fertilizer subsidy programme, maize subsidy programme and other prior years' balances of Kshs.1,393,029,106, Kshs.12,546,124,344 and Kshs.78,786,002, respectively. Failure to settle the pending bills in the year to which they relate adversely affects the following years' provisions to which they have to be charged. Further, the pending bills for the fertilizer and maize subsidy programmes have exposed the State Department to litigations by the suppliers of goods and services.

##### **Submission by the Accounting Officer**

4116) The Accounting Officer submitted that all the pending bills accrued due to budgetary constraints and lack of funding from the National Treasury (Exchequer). The State department has historical pending bills from 2015 for fertilizer subsidy and 2017 for maize subsidy. Efforts have been made to clear the pending bills by engaging National Treasury and The Cabinet.

4117) However, for maize subsidy programme Kshs.12,529,348,510.63 has been paid, Kshs.501,894,405.43 has also been paid in relation to pending bills for 2018/19 and 2019/20.

##### **4118) Committee Observations and Findings**

- (i) The Committee observed that the pending bills amounting to 12,529,348,510.63 and Kshs.501,894,405.43 have since been settled and the balance is anticipated to be settled in the subsequent financial year; and
- (ii) The matter remained unresolved.

##### **4119) Committee Recommendations**

**The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

##### **1297. Unresolved Prior Year Audit Matters**

4120) Various prior year's audit issues, as disclosed under the progress on follow up of auditor's recommendations section of the financial statements, remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year's audit issues.

**Submission by the Accounting Officer**

4121) The Accounting Officer submitted that the state Department has considered prior year matters seriously and has responded to all matters raised in the Audit Report through Audit responses to the auditor and Public Accounts Committee. He appeared before the PAC on 26th May 2021 and 5th July 2021 and quite a number of issues were discussed and resolved in Public Accounts Committee sitting (PAC).

4122) Treasury Memorandum for the financial year 2017/18 and prior years that provides actions taken on the implementation of Public Accounts Committee recommendations was prepared and submitted to the National Treasury and Auditor General.

**4123) Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial years 2017/18 & 2018/19 and recommendations were issued therein.

**1298. Budgetary Control and Performance**

4124) The summary statement of appropriation-recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.37,155,370,874 and Kshs.24,280,379,269 respectively resulting to an under-funding of Kshs.12,874,991,605 or 35% of the budget. Similarly, actual expenditure amounted to Kshs.22,863,798,554 against the approved budget of Kshs.37,155,370,874 resulting to an under-expenditure of Kshs.14,191,545,456 or 38% which occurred mainly under acquisition of assets. The shortfall in budgeted receipts and under-expenditure implies that the overall goals and objectives of the State Department were not achieved as planned, impacting negatively on service delivery to the public.

**Submission by the Accounting Officer**

4125) The Accounting Officer submitted that the State Department was granted approval of Kshs.10,043,549,374 under the Strategic Food Reserve Fund Board in FY2019/20 for operations and acquisition of Strategic Stocks. The approval was later rescinded by The National Treasury. The withdrawal of the approval was predominantly the reason for the low absorption in the final receipts budget and actual on comparable basis.

4126) Similarly, the under expenditure of 38% which occurred mainly under acquisition of assets was as a result of Kshs.10,043,549,374 under Strategic Food Reserve Fund Board whose approval was rescinded by The National Treasury.

**4127) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Budget Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

## REPORT ON THE LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **Basis for Conclusion**

#### **1299. Irregular Procurement of Helicopters**

4128) The State Department hired helicopters for provision of locust air surveillance services in Isiolo, Marsabit, Nakuru, Eldoret and Kerio Valley regions from two local companies at a total cost of Kshs.103,602,600. However, there was no tender evaluation report to support evaluation and recommendations for tender award. A review of the tender documents revealed that one the tenderers was not licensed to operate an aircraft but used the registration certificate of another firm while the other tenderer did not have a valid operator certificate authorizing it to undertake commercial air transport operations. This is contrary to the Civil Aviation (Licensing of Air Services) Regulations, 2018 which prohibits provision of air services by any person that is not licensed by the Kenya Civil Aviation Authority. The Regulations further provides that a license is not transferrable or assignable and also requires prior approval by the Kenya Civil Aviation Authority for any air carrier to use an aircraft from another carrier.

4129) Although the State Department has explained that when issuing the tender document, they did not put it as a mandatory requirement that the bidder must provide a certificate of registration from KCAA, this contravenes Section 94 (3)(c) of the Public Procurement and Disposal Act, 2015 which requires the prequalification document to include instructions on the preparation of applications to pre-qualify, including any standard forms to be submitted and the documentary evidence and information required from candidates.

#### **Submission by the Accounting Officer**

4130) The Accounting Officer submitted that the Desert Locust invasion was a new and challenging experience to us as a country. When they arrived, a lot of anxiety and pressure was mounted on government as to the best way of containing them.

4131) Preliminary approaches were used but with little success. For example, we requested various government institutions with choppers to assist. We got one from Kenya Wildlife Services and another from Kenya Defence Forces. The one of Kenya Forest Service was grounded and could not therefore be used and the same was the case with that of Kenya Pipeline Company. Since the two choppers that were available to us were not enough to cope with Desert Locust pressure, emergency consultations were made and agreed that two more choppers be hired to supplement the already available ones.

4132) It's at this time that the State Department hired Helicopters for provision of locust air surveillance services in the said areas during the Financial Year under review. It is

important to mention that this was an emergency requirement occasioned by the Desert Locust invasion. The procurement process thus commenced after consultation. The request was made to the Donor – World Bank after emergency consultation. The request was accepted by way of procurement through limited sourcing and with a “No objection” granted. The donor funds are only expended once a “No objection is granted as per World Bank guidelines and against the approved Procurement Plan.

4133) The quotations were sent out as appropriate and evaluation process carried out. These services have limited providers in the market. He further confirmed that the services were rendered satisfactorily and that all the processes from initiations to payment were posted in the World Bank’s Systematic Tracking Expenditure in Procurement (STEP) as required and followed the laid down procedures and regulations. Further, all the required documents are available for auditor’s verification.

#### 4134) **Committee Observations and Findings**

The Committee observed that one of the tenderers was not licensed to operate an aircraft but used the registration certificate of another firm while the other tenderer did not have a valid operator certificate authorizing it to undertake commercial air transport operations contrary to Civil Aviation (Licensing of Air Services) Regulations, 2018.

#### 4135) **Committee Recommendations**

- i) **The Committee reprimands the Accounting Officer for procuring services from a bidder who was not licensed to operate an aircraft but used the registration certificate of another firm and also contracting a bidder who did not have a valid operator certificate authorizing it to undertake commercial air transport operations contrary to Civil Aviation (Licensing of Air Services) Regulations, 2018.**
- ii) **The Accounting Officer should ensure compliance with Public Procurement and Asset Disposal Act, 2015 and its regulations in all procurement processes and any other applicable law.**

### REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

#### **Basis for Conclusion**

#### **1300. Lack of Audit Committee**

4136) The appointment of all the Audit Committee Members lapsed on 10 April, 2020 and the State Department has been operating without audit committee in place contrary to Section 73(5) of the Public Finance Management Act, 2012 which requires every national government public entity to establish an Audit Committee whose composition and functions shall be as prescribed by the Regulations. In addition, the outgoing Audit Committee did not hold any meetings during the 2019/2020 financial year contrary to

Regulation 179(1) of the Public Finance Management (National Government) Regulations, 2015 which requires the Audit Committee to meet at least once in every three months.

**Submission by the Accounting Officer**

4137) The Accounting Officer submitted that the term for the committee members expired on 10th April 2020 at the height of the Covid-19 pandemic during which no physical meeting were allowed. The Cabinet Secretary reappointed 3 of the five members to a new, three-year term effective 10th April 2020 and the National Treasury nominated a representative to the Audit Committee with effect from 15th June 2021. Copies of appointment letters were availed for perusal by the Committee.

4138) In the 1st Quarter of the financial year 2021/22, the audit committee held a Ministerial Audit Committee meeting on 9th September, 2021. Notices and a copy of the attendance register were availed for perusal by the Committee. Also availed was a copy of the approved work plan and the budget.

**4139) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Lack of Audit Committee was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1301. Lack of Risk Management Policy and Disaster Recovery Plan**

4140) The State Department did not have a Risk Management Policy and a Disaster Recovery Plan contrary to Regulation 165 of the Public Finance Management (National Government) Regulations, 2015 which requires the Accounting Officer to ensure that a national government entity develops risk management strategies, which include fraud prevention mechanism and a system of risk management and internal control that builds robust business operations. This compounds exposure of the State Department's operations to risks which could impact negatively on achievement of strategic objectives as well as service delivery and accountability of public resources.

**Submission by the Accounting Officer**

4141) The Accounting Officer submitted that the state department did not have a disaster recovery plan and risk management policy by the time of audit. The State department is in the process of establishing a Risk management policy and a disaster recovery plan. Towards that end, a committee has already been formed to spearhead the same.

**4142) Committee Observations and Findings**

- (i) The Committee observed that the risk management and policy and disaster recovery plan is yet to be in place; and
- (ii) The matter remained unresolved.

**4143) Committee Recommendations**



**Within sixty (60) days upon adoption of this report, the Accounting Officer should ensure a Risk Management Policy and a Disaster Recovery Plan is put in place in accordance with Regulation 165 of the Public Finance Management (National Government) Regulations, 2015.**

## **REVENUE STATEMENTS – STATE DEPARTMENT FOR CROP DEVELOPMENT**

### **Basis for Disclaimer of Opinion**

#### **1302. Accuracy of the Arrears of Revenue**

4144) The statement of arrears in revenue as at 30 June, 2020 reflects an amount of Kshs.475,147,096. This amount relates to revenues realized from sale of subsidized fertilizer by the National Cereals and Produce Board on behalf of the State Department for Crops Development through an agency agreement signed between the Ministry of Agriculture, Livestock and Fisheries, and the Board. However, the amount of Kshs.475,147,096 reported by the State Department differs with an amount of Kshs.752,363,484 reported as collected in the revenue statements of the National Cereals and Produce Board resulting into an unreconciled difference of Kshs.277,216,388. Further, no evidence has been provided to show how the amount of Kshs.475,147,096 was arrived at.

4145) Under the circumstances, the completeness and accuracy of the reported arrears of revenue amount of Kshs.475,147,096 could not be confirmed.

#### **Submission by the Receiver of Revenue**

4146) The Receiver of Revenue submitted that the Accounting Officer was appointed as a receiver of revenue for item 3520203-Sale of Non – Capital goods (fertilizer) for Kshs.475,147,095 vide letter AG.1/021 Vol.III/(29) dated 26th July, 2018 for the Financial Year 2018/19.

4147) However, the State Department did not receive any revenues in the financial year as National Cereals and Produce Board did not surrender anything. Subsequently Demand Notes were sent to NCPB but in response they indicated that they were unable to pay because the Bank Account for fertilizer proceed had been frozen by Kenya Commercial Bank(KCB) due to unpaid loan. (Annex 1302 b) In this regard the amount fell into arrears as captured in the 2019/20 revenue financial statement.

4148) We have no information about the amount of Kshs.752,363,484 as the year under review 2019/20 had no budgetary provision for fertilizer proceeds collection and the Principal Secretary was not even appointed as a receiver of revenue. The amount budgeted for the previous year 2018/19 was Kshs.475,147,096 and was properly included in the now Audited Revenue Statement. However, the Accounting Officer was not appointed as a receiver of revenue in the financial year 2019/2020.

#### **4149) Committee Observations and Findings**



- (i) The Committee observed that the non-remittance of the revenue was as a result of fertilizer account being frozen by KCB bank due to unpaid loan by NCPB; and
- (ii) The Committee observed the matter was discussed in the report of financial year 2018/19 and made the following recommendations:
  - 1) **The Committee reprimands the Receiver of Revenue for failing to avail the documents to the Committee.**
  - 2) **Within three (3) months after tabling and adoption of this report, the Receiver of Revenue to reconcile quantities received and distributed as required and provide reconciliation statements to the Auditor General for verification.**
  - 3) **The Receiver of Revenue must at all times ensure that he/she avails supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 82 of the PFM Act 2012.**
  - 4) **The Receiver of Revenue must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 82 of the PFM Act, 2012.**

### **1303. Failure to Remit Revenue Collected**

4150) The statement of comparison of budget and actual amounts reflects a nil budget against receipts of Kshs.475,147,096 for the year 2019/2020. However, as disclosed in Note (a) under the statement, the revenue was not realized because the National Cereals and Produce Board did not surrender the receipts collected to the State Department. However, no proper reason has been given for failure by the National Cereals and Produce Board to surrender the amount collected.

4151) Further, no evidence has been provided to show that the State Department for Crop Development informed the Cabinet Secretary in charge of Finance that it was experiencing difficulties in collecting revenues due to the National Government as required under Regulation 64(2) of the Public Finance Management (National Government) Regulations, 2015.

### **Submission by the Receiver of Revenue**

4152) The Receiver of Revenue submitted that the State Department did not receive the amount of Kshs.475,147,096 from NCPB. Demand Notices were made and in response, NCPB indicated that they were unable to pay as the fertilizer proceed account had been frozen by Kenya Commercial Bank (KCB) due to unpaid debts for fertilizer subsidy programme.

4153) The Cabinet Secretary was well apprised on the matter which was part of the 6th Cabinet meeting agenda as indicated in the NCPB/A/9/17 Vol 11/21 dated 28th January 2020.

### **4154) Committee Observations and Findings**

- (i) The Committee observed that the non- remittance of the revenue was as a result of fertilizer account being frozen by KCB bank due unpaid loan by NCPB; and
- (ii) The Committee observed the matter was discussed in the report of financial year 2018/19 and made the following recommendation;

**Within three (3) months after tabling and adoption of this report, the Receiver of Revenue should furnish Parliament with measures taken by the state department Accounting Officer to resolve the issue between KCB and NCPB**

## REPORT ON THE LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### 4155) **Conclusion**

**1304.** Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### 4156) **Conclusion**

**1305.** Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

## DONOR FUNDED PROJECTS

### **KENYA CEREAL ENHANCEMENT PROGRAMME - CLIMATE RESILIENT AGRICULTURAL LIVELIHOOD WINDOW (EU GRANT NO.200000623 EU, GRANT NO.2000001522, IFAD NO. LOAN 2000001121, AND ASAP GRANT NO.2000001122)**

## REPORT ON THE FINANCIAL STATEMENTS

### 4157) **Unqualified Opinion**

**1306.** There were no material issues noted during the audit of the financial statements of the Project.

## REPORT ON THE LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **Basis for Conclusion**

#### **1307. Unutilized Grants to Partner Institutions**

4158) During the year under review, and as disclosed in Note 8.12 to the financial statements, the Programme transferred Kshs.828,436,337 to its implementing partners which raised the cumulative remittances as at 30 June, 2020, to Kshs.2,347,418,594 against expenditures totaling Kshs.2,120,881,756. The unused cumulative transfers at the end of the year totaled Kshs.226,536,837.

4159) The balance included Kshs.19,201,752 and Kshs.13,759,895 remitted in 2018/19 to the Centre for Training and Integrated Research in Arid and Semi-Arid Development

(CETRAD) and the Kenya Meteorological Department (KMD). Similarly, a sum of Kshs.72,000,000 was transferred to the National Drought Management Authority (NDMA) but only Kshs.10,111,224 was utilized. No plausible explanations have been provided by the institutions for the failure to utilize all the Programme funds. In view of unsatisfactory absorption rate, the Programme's objectives may not be attained.

#### **Submission by the Accounting Officer**

4160) The Accounting Officer submitted that the funds transferred to CETRAD were mainly meant for procurement and equipping of 16 GIS/Remote sensing Units with complete GIS/Remote sensing equipment's (each Unit equipped with one desk top computer, 1 arc GIS software, 1 arc Info License, 3 GPS machines and 1 HP Printer).

4161) The funds transferred to KMD on the other hand were meant for procurement of metrological equipment and setting them up. This includes; 143 automatic and 71 manual rain gauges, 9 base stations, 9 specialized software sets, and 8 computers and software.

4162) The procurement process for the equipment above was initiated by both CETRAD and KMD but final delivery, installation, testing and payments were made in the following financial year. The funds have hence been spent and the other activities including collection of data and dissemination of climate information to the intended beneficiaries is ongoing. The Programme is fast tracking and closely monitoring the process to ensure that the funds are spent for the intended purposes in order for the Programme to achieve its objectives as set out in the financing agreement.

4163) With regard to NDMA, the funds were meant for investing in community assets that would help the communities to build resilient in the ASAL's. The delay in spending was due to the delay by most counties in legislating the County Climate Change Fund Act which was a prerequisite for the investments. Some of the counties have passed the legislation and the investments have commenced. This is expected to increase in the following financial years.

#### **4164) Committee Observations and Findings**

- (i) The Committee observed that explanation given by the accounting Officer with regard to delays on utilization of funds by KMDA & CETRAD and NDMA was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **4165) Conclusion**

**1308.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**DROUGHT RESILIENCE AND SUSTAINABLE LIVELIHOODS PROGRAMME  
(ADF LOAN NO. 2100150028345)**

**REPORT ON THE FINANCIAL STATEMENTS**

**Basis for Qualified Opinion**

**1309. Unaccounted for Opening Cash and Cash Equivalents**

4166) As disclosed in Note 9.13A to the financial statements, the statement of financial assets reflects a balance of Kshs.24,519,014 under cash and cash equivalents. However, as previously reported, the opening balance of cash-in-hand of Kshs.21,477,511 had not been fully supported in the previous year. As a result, it is still not possible to confirm the completeness and accuracy of the reported cash and cash equivalents balance of Kshs.24,519,014.

**Submission by the Accounting Officer**

4167) The Accounting Officer submitted that the opening balance of cash in hand of previous years of Kshs.21,477,511.25 had not been fully supported. We wish to state that the cash in hand was relating to AIES issued to DRSLP Counties to facilitate smooth monitoring of the ongoing civil works and various trainings which have since been accounted for in the current financial statement.

4168) Furthermore, the balance of Kshs.24,519,014 was the closing balance of cash book balance as supported by bank reconciliation for 30th June 2020. The annexes are bulky and were presented to the auditor for verification.

**Appendix 1: Expenditure Returns from the Counties**

NO.	COUNTY	AIE ISSUED	AMOUNT JUSTIFIED	BALANCE TO JUSTIFY	REMARKS
1	Turkana	3,569,471.00	3,569,471.00	NIL	Fully justified
2	Isiolo	4,457,660.00	4,457,660.00	NIL	Fully justified
3	Marsabit	1,744,969.00	1,744,969.00	NIL	Fully justified
4	West Pokot	3,501,361.00	3,501,361.00	NIL	Fully justified
5	Baringo	3,114,804.25	3,114,804.25	NIL	Fully justified
6	Samburu	4,930,374.00	4,930,374.00	NIL	Fully justified
	KALRO	149,872.00	149,872.00	NIL	Fully justified
	<b>TOTAL</b>	<b>21,477,511.25</b>	<b>21,477,511.25</b>		

**4169) Committee Observations and Findings**

- (i) The Committee observed that explanation given by the accounting Officer with regard to the Unaccounted for Opening Cash and Cash Equivalents was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **1310. Unreconciled Compensation of Employees Expenses**

4170) The statement of receipts and payments reflects a balance of Kshs.7,245,000 under compensation of employees. However, the amount differs with the figure of Kshs.15,085,000 reflected in the Integrated Financial Management Information System (IFMIS) ledger extract for the same expenditure, resulting into an unexplained variance of Kshs.7,840,000.

4171) Consequently, the completeness and accuracy of the compensation of employees' expenditure totaling Kshs.7,245,000 reflected in the statement of receipts and payments could not be confirmed.

#### **Submission by the Accounting Officer**

4172) The Accounting Officer submitted that the IFMIS extract reflects expenditure of Kshs.15,085,000 and receipts and expenditure reflects employee compensation of Kshs7,245,00.00 resulting into difference of Kshs.7,840,000. We wish to state that the difference was due to extraneous allowances which were not paid due to liquidity constrains. Though they were not paid they ought to be cancelled from the IFMIS system so as to reflect the correct expenditure under compensation of employees. The correct amounts have since been restated in the financial statements for the period ended 30th June 2021.

#### **4173) Committee Observations and Findings**

- (i) The Committee observed that explanation given by the accounting Officer with regard to the Unreconciled Compensation of Employees Expenses was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **1311. Non-Maintenance of Retention Register and Deposit of Retention Monies**

4174) The statement of receipts and payments reflects Kshs.812,853,404 under acquisition of non-financial assets. However, the Project did not maintain a retention register. Examination of payment vouchers indicated that retentions for each certificate were deducted but no funds were set aside to pay contractors upon expiry of the defects liability period. In the circumstances, it is not possible to confirm how the Project will settle retention amounts when they fall due. Further, lack of retention register distorts the trail of total retention monies deducted and payable to the contractors upon expiry of the defect liability period.

#### **Submission by the Accounting Officer**

4175) The Accounting Officer submitted that the as at the time of the audit, the retention register had not been prepared but the same has since been prepared and availed for audit review and verification.

#### **4176) Committee Observations and Findings**

- (i) The Committee observed Retention Register and Deposit of Retention Monies was not maintained by the time of audit;
- (ii) The Committee observed that the Accounting Officer is now maintaining Retention Register and Deposit of Retention Monies; and
- (iii) The Committee marked the matter as resolved.

#### 4177) **Committee Recommendation**

**The Accounting Officer should ensure that the entity always keeps up-to-date records that comply with provisions of Section 68(2) of the PFM Act 2012.**

#### **1312. Incomplete Imprest Register**

4178) The statement of financial asset reflects a balance of Kshs.1,374,000 under accounts receivables - imprests and advances. The Management failed to maintain a complete imprest register detailing; payee, imprest warrant number, date of issue, due date and date of surrender, contrary to provisions of Regulations 52(1)(j) and 92(4)(c) of the Public Finance Management (National Government) Regulations, 2015.

4179) Further, a scrutiny of imprest records revealed that sixteen (16) issued imprests totalling Kshs.12,956,300 were missing from the imprest register but the same had been captured in the entity's IFMIS data. No explanation was provided for these discrepancies. The accuracy of the reported balance for accounts receivables – imprest and advances could therefore not be confirmed.

#### **Submission by the Accounting Officer**

4180) The Accounting Officer submitted that the as at the time of the audit, the imprest register had gaps which have since been updated accordingly as per the PFM Regulations, 2015.

#### 4181) **Committee Observations and Findings**

- (i) The Committee observed that explanation given by the accounting Officer with regard to the Incomplete Imprest Register was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **Other Matter**

##### **1313. Pending Bills**

4182) Notes 10.1 and 10.2 to the financial statements reflects pending bills totaling Kshs.119,295,000 which comprised Kshs.111,455,000 due to suppliers of goods and services and Kshs.7,840,000 due to staff. Management has not provided explanations for non-payment of the bills. The Project is at risk of incurring significant interest costs and penalties with the continued delay in payment. Further, failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.



### **Submission by the Accounting Officer**

4183) The Accounting Officer submitted that as at the time of the audit, there were pending bills of Kshs.111,455,000 for supply of goods and services which were not paid at the end of the 2019-2020 financial year due to inadequate funds. The same was paid in the 2020-2021 FY. The other Kshs.7,840,000 due to staff as extraneous allowances and was also paid by the GoK as part of the counterpart funding to the project in the 2020-2021 Financial year.

### **4184) Committee Observations and Findings**

- (i) The Committee observed that explanation given by the accounting Officer with regard to the Pending Bills was satisfactory; and
- (ii) The Committee marked the matter as resolved.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

#### **1314. Stalled and Delayed Completion of Projects**

##### **1314.1 Construction of Songa Irrigation Scheme in Marsabit County**

4185) The Management awarded Contract No. MOALF/DRSLP/T017/2016-2017 for the construction of Songa Irrigation Scheme in Marsabit County to a company at a contract sum of Kshs.84,158,901 (exclusive of VAT). The Project commenced on 11 July, 2017 for a contract period of 12 months envisaged to end on 11 July, 2018. However, the Project status report reflected 40.3% progress of works against a 30-month period as at the time the contract lapsed. The contractor had been paid a total of Kshs.23,581,842 which is 26% of the contract sum.

4186) The Management made an advance payment of Kshs.8,415,890 to the contractor as per payment voucher No.00152 out of which Kshs.1,895,744 had been recovered. Additionally, unconditional bank guarantee amounting to Kshs.8,415,890 held by the entity expired on 14 August, 2018 without further extension. According to the report of the technical team dated 18 March, 2020 (Ref: MOA/ENG/PG/35/1 VOL II/52), the contractor owes the employer Kshs.4,624,402 and the Management does not appear to have made any attempt at recovering this amount considering that the contract period had lapsed and unconditional bank guarantee had expired.

4187) In the circumstances, there is a possibility that the employer may not recover Kshs.4,624,402 from the contractor and stakeholders may not benefit from the irrigation project as earlier envisaged.

##### **1314.2 Construction of Kaptiyoni-Kiboi Footbridge Dam in Baringo County**

4188) The Project engaged services of a company through Tender No. MOALF/DRSLP/T044/2017-2018 for the construction of Kaptiyoni-Kiboi footbridge dam in Baringo County at a contract sum of Kshs.324,563,155 (exclusive of VAT). The Project commenced on 27 June, 2019 for a period of twelve months. However, information



available indicates that the contractor was issued with two notices of contract termination, the latest one on 22 April, 2020 (Ref: MOALF/DRSLP/T044/2017-2018/ (51)), due to slow progress of work, despite having been paid an advance of Kshs.32,456,315.

4189) The contractor filed an affidavit to restrain the Management from terminating his contract which was over ruled by the court on 25 June, 2020 (HCCC No. E046 of 2020). The contract has since been terminated and recommended for re-advertisement as per professional opinion No. MOALF&C/SDCD&AR/HQS/16/20-21.

4190) The Management had made an advance payment of Kshs.32,456,315 to the contractor against a performance guarantee which expired on 18 December, 2019 and was not renewed by the contractor in accordance with clause 4.14.1 and 4.15.1 of the General Conditions (GC) of the contract. According to the joint measurement report dated 27 August, 2020, the works done was valued at Kshs.4,337,664 against a contract sum of Kshs.324,563,155 translating to an equivalent of 1.3% completion level. The contractor therefore, owes the Management Kshs.28,118,651.

4191) In the circumstances, the Project may not recover Kshs.28,118,651 owed by the contractor due to non-performance. The slow progress of works also hampers service delivery to the intended beneficiaries of the Kiboi footbridge dam.

#### **1314.3 Nakwapua Commercial Pasture and Demonstration Plot in Turkana County**

4192) The Project was awarded to a construction company through Tender No.MOLF/DRSLP/T015/2016-2017 for a contract sum of Kshs.10,227,044 (exclusive of VAT). The contract commenced on 6 June, 2018 for a period of four months. However, the contractor made several requests for extension of the contract period which were approved and the final completion date extended to 30 November, 2019 after which the contract was to be nullified.

4193) As per Memo Ref No. MOALF/DRSLP/T015/2017-2018/ (17), the execution of works by the contractor has been slow and the contractor abandoned the site towards the end of 2019, besides failing to renew the expired performance bond. As at 30 June, 2020, the contract had been running for 23 months against a physical completion rate of about 42%.

4194) In the circumstances, the slow progress of works delays service delivery to the intended beneficiaries and failure to hold a valid performance bond by the contractor contravenes clause 4.15 of the General Conditions of the contract.

#### **1314.4 Konoo Irrigation Scheme in Turkana County**

4195) The Project Management awarded a contract Tender No. MOALF/DRSLP/T011/2017-2018 to a construction company at a contract sum of Kshs.221,507,805 (exclusive of VAT). The Project commenced on 8 June, 2018 for a contract period of 12 months.

4196) On 31 May, 2019, the Contractor applied for extension of time for six months, which was granted on 24 June, 2019 for a period of six (6) months up to 19 December, 2019. On 30 November, 2019, the contractor requested for an additional 6 months extension which was rejected and the contract was recommended for termination as per letter Ref No. MOALF/DRSLP/T011/6/2017-2018/ (101). The measured works was established to be Kshs.59,235,804 or about 27% of the contract sum while the contractor had already been paid a total of Kshs.55,427,734 (about 25% of the contract sum) as at 30 June, 2020 against a timeline of 25 months.

#### Submission by the Accounting Officer

4197) The Accounting Officer submitted that the current status of the cited projects is as tabulated below:

PROJECT NAME	PREVIOUS STATUS (As Captured by the OAG Team)	CURRENT STATUS
Construction of Songa Irrigation Scheme in Marsabit County	- Unrecovered Advance Payments to Contractor - stalled because of abandonment by contractor -Incomplete works	- <b>Contract terminated</b> and was re-advertised on <b>13<sup>th</sup> April 2021 for completion</b> - <b>Waiting for No objection to Re-award for completion</b> -Request to Attorney General's office done to file a counter claim of Kshs 4,624,401.72 from the contractor.
Construction of Kaptyoni-Kiboi Footbridge Dam	- Unrecovered Advance Payments to Contractor -stalled because of abandonment by contractor -Incomplete works	- <b>terminated</b> and was re-advertised on <b>13<sup>th</sup> April 2021 for completion</b> - <b>Waiting for No objection to Re-award for completion</b> -Request to Attorney General's office done to file a counter claim of Kshs 28,118,651.73 from the contractor.

Construction of Nakwapua Commercial Pasture and Demonstration Plot in Turkana County	-stalled because . of abandonment by contractor -Incomplete works	- <b>Contract terminated and to be re-advertised before 30<sup>th</sup> November 2021</b>
Konoo Irrigation Scheme in Turkana County	-stalled because of abandonment by contractor -Incomplete works	- <b>Contract terminated and to be re-advertised before 30<sup>th</sup> November 2021</b>

#### 4198) **Committee Observations and Findings**

- (i) The Committee observed that the above contracts have since been terminated and re-advertised; and
- (ii) Two contracts (Songa Irrigation Scheme in Marsabit County- Kshs. and Construction of Kaptyoni-Kiboi Footbridge Dam – Kshs.28,118,651.73) had outstanding 4,624,401.72 advance payments not recovered and guarantees had expired whose recoverability is doubtful.

#### 4199) **Committee Recommendation**

- 1) **Within three months of adoption of this report, the Accounting Officer should report to the National Assembly on the progress in recovery of Kshs.32,743,053.45 from the two contractors whose services were terminated.**
- 2) **The Accounting Officer must always ensure advance payment guarantee for amount not yet recovered is always renewed by beneficiaries to secure amount outstanding.**

#### 1314.5 **Lack of Authority to Incur Expenditure**

4200) The statement of Project Management and responsibilities states that the Principal Secretary and the Program Coordinator for the Programme are responsible for ensuring that the financial statements give a true and fair view of the state of affairs as at the year end and of the transactions during the year. It was, however, observed that the State Department, upon receipt of the Exchequer Release of GOK counterpart funding, was not transferring these funds to the Programme`s designated bank account.

4201) Further, the statement of comparative budget and actual amounts reflects a final budget of Kshs.1,081,080,916, which includes transfers from government entities amounting to

Kshs.60,034,000 which was not transferred to the Programme's bank account as required but was in the control of the State Department. In the annual approved estimates of the State Department for 2019/2020, the amount was presented as Capital Grants to Government Agencies and other Levels of Government, whereas it was supposed to be a transfer to the Programme. No explanations were provided for these anomalies.

**Submission by the Accounting Officer**

4202) The Accounting Officer submitted that the Kshs.60,034,000 was project GOK component that was spent at the State Department for activities of the project (DRSLP) which were fully approved and authorized by the Project Coordinator who is the AIE holder.

**4203) Committee Observations and Findings**

- (i) The Committee observed that explanation given by the accounting Officer with regard to the Lack of Authority to Incur Expenditure was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1315. Goods Procured not Put to Use**

4204) The statement of receipts and payments reflects an amount of Kshs.812,853,404 under acquisition of non-financial assets which, includes an expenditure of Kshs.498,032,100 incurred on purchase of fungicides and insecticides. During the financial year under review, the Programme procured chemicals to combat the locust invasion at a total cost of Kshs.609,486,100 from thirteen companies through the restricted tendering process. An amount of Kshs.498,031,100 was paid to the suppliers leaving a balance of Kshs.111,455,000 as pending bills.

4205) Audit inspections of the stores at Kabete on 28 and 29 October, 2020 revealed that the products were still held in the stores several months after delivery. No explanation was provided for non-utilization of the chemicals despite being emergency procurements.

4206) In the circumstances, the substantial expenditure of Kshs.609,486,100 on purchase of chemicals to fight the locust invasion across the country cannot be ascertained as a proper charge to public funds, the products may expire before use and stakeholders may not derive value for money from the procurement process.

**Submission by the Accounting Officer**

4207) The Accounting Officer submitted that the as at the time of the Audit, Goods procured had not been put to use. The goods have since been distributed to the Locust affected counties for use in the control of the desert Locust.

**4208) Committee Observations and Findings**

- (i) The Committee observed that the goods had since been put to use; and
- (ii) The Committee marked the matter as resolved.

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT SYSTEMS AND GOVERNANCE

### **Basis for Conclusion**

#### **1316. Segregation of Duties on Cash Management**

4209) During the financial year under review, it was noted that the duties of handling cash, maintaining cashbook, preparation and checking reconciliations were being handled by one person instead of segregating among other officers. No explanation was provided for failure to segregate duties. In the circumstances, key processes and internal controls of the Programme may be prone to risk of abuse, fraud or errors.

#### **Submission by the Accounting Officer**

4210) The Accounting Officer submitted that as at the time of audit, there was no segregation of duties in some sections. This has been rectified during the current financial year and there is segregation of duties.

#### **4211) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Segregation of Duties on Cash Management was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **1317. Lack of Internal Audit Function**

4212) The Internal Audit Unit of the State Department for Crop Development and Agricultural Research is expected to carry out internal control assessments on the Programme's activities. However, there is no evidence that such assessments were carried out. As a result, the Programme's internal control environment is weak and the situation has hampered efficient and effective execution of the Programme activities. These include:

- a) Non-alignment of operations to the strategy and objectives of the Programme Control Unit's,
- b) Non-efficiency and non-effectiveness of operational processes,
- c) Lack of standardization and accountability around the Programme's controls which consequently exposes it to an increased potential for budget overruns, waste and
- d) misuse of resources, and obscures the transparency required to assess the root cause of issues.

#### **Submission by the Accounting Officer**

4213) The Accounting Officer submitted that he concurs with the Audit team that at the time of the audit, the internal audit function had not been undertaken. I wish to report that the internal unit carried out an audit review of DRSLP vide report Ref; MOA/IAU/1/12/ (63) dated 23RD August 2021. The report contained findings on weaknesses in the internal control systems, potential risks and recommendations to address the weaknesses. The issues raised therein have been addressed accordingly.

**4214) Committee Observations and Findings**

- (i) The Committee observed that the weaknesses in the internal control systems and potential risks have since been addressed and reports presented; and
- (ii) The Committee marked the matter as resolved.

**1318. Inactive Audit Committee**

4215) The Programme's Audit Committee was constituted by the implementing State Department. However, the Committee did not convene or hold regular meetings during the year as required under Section 73(5) of the Public Finance Management Act, 2012. No internal audit report was tabled or discussed by the Audit Committee.

**Submission by the Accounting Officer**

4216) The Accounting Officer submitted that the term for the committee members expired on 10th April 2020 at the height of the Covid-19 pandemic during which no physical meeting were allowed. The Cabinet Secretary reappointed 3 of the five members to a new, three-year term effective 10th April 2020 and the National Treasury nominated a representative to the Audit Committee effective from 15th June 2021. Copies of appointment letters were availed for perusal; by the Committee.

4217) In the 1st Quarter of the financial year 2021/22, the audit committee has held a Ministerial Audit Committee meeting on 9th September, 2021. Notices and a copy of the attendance register were also availed. Further, also attached was a copy of the approved work plan and the budget.

**4218) Committee Observations and Findings**

- (i) The Committee observed that the audit committee has since been established; and
- (ii) The Committee marked the matter as resolved.

**SMALL-SCALE IRRIGATION AND VALUE ADDITION PROJECT (ADF LOAN NO.2000130014530 AND GRANT NO.5570155000751)**

**REPORT ON THE FINANCIAL STATEMENTS**

**4219) Unqualified Opinion**

**1319.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1320. Budgetary Control and Performance**

4220) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.514,964,039 and Kshs.454,216,166 respectively resulting to an under-funding of Kshs.60,747,873 or 12% of the budget. Similarly, the Project expended Kshs.458,241,556 against an approved budget of Kshs.514,964,039 resulting to an under-expenditure of Kshs.56,722,483 or 11% of the budget.

4221) The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

4222) The Accounting Officer submitted that the underfunding was due to budget cuts/reduction during the supplementary II. We have taken measures to ensure good utilization of the allocated budgets.

**4223) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Budget Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1321. Unresolved Prior Year Matters**

4224) In the audit report of the previous year, several paragraphs were raised based on various stalled and delays in completion of projects, among others. Although the Management has indicated that the issues have been responded to, the matters have remained unresolved as the Public Account Committee has not deliberated on these matters.

**Submission by the Accounting Officer**

4225) The Accounting Officer submitted that the state Department has considered prior year matters seriously and has responded to all matters raised in the Audit Report through Audit responses to the auditor and Public Accounts Committee. We appeared in the PAC on 26th May 2021 and 5th July 2021 and quite a number of issues were discussed and resolved in Public Accounts Committee (PAC).

4226) Treasury Memorandum for the financial year 2017/18 and prior years that provides actions taken on the implementation of Public Accounts Committee recommendations was prepared and submitted to the National Treasury and Auditor General.

**4227) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to unresolved prior year matters was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**Basis for Conclusion**

**1322. Failure to Disclose Special Accounts Movement Schedule**

4228) Included under Note 8.13 to the financial statements is a special accounts movement schedule which reflects nil opening balances, deposits and withdrawals during the year under review and nil ending balance as at 30 June, 2020. The special accounts movement schedule is at variance with the special accounts statements prepared by The National



Treasury which indicates that an amount of Kshs.69,635,554.08 was withdrawn from the special account and transferred to the Project Account for the same project.

4229) In addition, the Project's Management has not attached special accounts reconciliation statements prepared by The National Treasury as annexure to the financial statements contrary to the guidelines issued by the Public Sector Accounting Standards Board (PSASB).

4230) The Management is therefore in breach of the Law.

#### **Submission by the Accounting Officer**

4231) The Accounting Officer submitted that the Special Deposit Account (SDA) movement schedule had not been availed at the time of the audit. The same has been availed for audit review and verification. Further, the special account balances from National Treasury were disclosed in note 8.13 special deposit accounts movement schedule in the Amended financial statement of the period ended 30th June 2020.

#### **4232) Committee observations and findings**

- (i) The Committee observed that the explanation given by the Accounting Officer was not satisfactory; and
- (ii) The Committee further observed the Special Deposit Account (SDA) movement schedule had not been availed at the time of the audit contrary to Section 9 (1) (e) of the Public Audit Act, 2015 which constitutes dereliction of duty. The same has been availed for audit review and verification.
- (iii) The matter remained unresolved.

#### **4233) Committee Recommendation**

**The Accounting Officer should ensure the Special Deposit Account (SDA) movement schedule is availed at the time of the audit in accordance to Section 9 (1) (e) of the Public Audit Act, 2015. The submitted documents to Auditor General to be reviewed and reported on in the subsequent audit cycle.**

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **Basis for Conclusion**

#### **1323. Vote Control Procedure – Lack of Authority to Incur Expenditure**

4234) As reported in the previous year, the statement of project management and responsibilities states that the Principal Secretary and the Program Coordinator for the project shall ensure that the opinion of the program's financial statements give a true and fair view of the state of its transactions during the year. However, it was observed that the

State Department, upon receipt of the Exchequer release of GOK counter funding, was not transferring the funds received for the project to the designated bank account.

4235) According to the IFMIS report, during the year under review, the State Department of Crop and Agricultural Research had an approved budget of Kshs.34,302,200, however no funds were transferred to the project bank account. Further, all the GOK counter funding was being paid through IFMIS and not the designated projects bank accounts.

4236) According to the presentation of the annual approved estimates, the Project's funds were presented as Capital Grants to Government Agencies and other levels of Government while they were supposed to be a transfer to the project account. No explanations were provided for non-adherence to the budget and budgetary control measures.

#### **Submission by the Accounting Officer**

4237) The Accounting Officer submitted that the No GOK component funding was transferred to project in the year under review because all the payments were being done through the Main GOK development account for the State department of Crop Development. However, all approvals for the GOK expenditure for the project were authorized and approved by the project coordinator who is the AIE holder for the project.

#### **4238) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Lack of Authority to Incur Expenditure was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **1324. Incomplete Imprests Register**

4239) The statement of financial asset reflects nil balance for accounts receivables - imprests and advances. However, it was observed that the Management failed to maintain a complete imprests register showing; imprest warrant number, payee, date of issue of imprest, due date and actual date surrendered, contrary to provisions of Regulation 52(1) and 92(4) (c) of the Public Finance Management (National Government) Regulations, 2015.

4240) In addition, examination of the imprest register revealed that imprests had been issued to project officers without being recorded after imprest warrants approvals. The dates and warrant numbers were also not recorded in a chronological order in the imprests register. Further, imprests amounting to Kshs.41,947,130 captured in the cashbook were not recorded in the imprests register.

#### **Submission by the Accounting Officer**

4241) The Accounting Officer submitted that as at the time of the audit, the imprest register had gaps which have since been updated accordingly as per the PFM Regulations, 2015.

#### **4242) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Incomplete Imprests Register was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **1325. None Maintenance of Retention Monies Register**

4243) The statement of receipts and payments reflects an expenditure of Kshs.316,418,882 under acquisition of non-financial assets. However, as reported also in previous years, the project does not maintain a retention register. Examination of payment vouchers revealed deductions of retention for each certificate but no funds were set aside to pay the contractors upon the completion of the defects liability period.

4244) In the circumstances, it was not possible to confirm how the project will pay the retention money when the defects liability period is over. Further, lack of retention register distorts the trail of total retention monies deducted and payable upon the completion of the defects liability period.

#### **Submission by the Accounting Officer**

4245) The Accounting Officer submitted that the as that at the time of the audit, the retention register had not been prepared but the same has since been prepared and availed for audit review and verification.

#### **4246) Committee Observations and Findings**

- (i) The Committee observed Retention Register and Deposit of Retention Monies was not maintained by the time of audit.
- (ii) The Committee, however, observed that the Accounting Officer is now maintaining Retention Register and Deposit of Retention Monies; and
- (iii) The Committee marked the matter as resolved.

#### **4247) Committee Recommendation**

**The Accounting Officer should ensure that the entity always keeps up-to-date records that comply with provisions of Section 68(2) of the PFM Act 2012.**

### **1326. Internal Audit Function, Audit Committee and Overall Governance**

#### **1326.1 Lack of Internal Audit Review**

4248) The Programme is implemented by the State Department for Crop Development and Agricultural Research. Therefore, the Internal Audit Unit of the State Department is expected to carry out internal control assessments of the Programme's activities. However, there is no evidence that such assessments have been carried out as yet. As a result, the Programme's internal control environment may be weak and the situation may have hampered the efficient and effective execution of the Programme activities.

#### **Submission by the Accounting Officer**

4249) The Accounting Officer submitted that the internal unit carried out an audit review of SIVAP vide report Ref;MOA/IAU/RESP/VOLIII/(45) dated 17th July 2020. The report contained findings on weaknesses in the internal control systems ,potential risks and our recommendations to address the weaknesses. The issues raised therein have been acted upon.

**4250) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Lack of Internal Audit Review was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1326.2 Inactive Audit Committee**

4251) The Audit Committee constituted by the parent State Department did not convene or hold regular meetings during the year as required under section 155(5) of the Public Finance Management Act, 2012. No documentary evidence was provided to show that internal audit reports were tabled or discussed by the Audit Committee.

4252) Consequently, failure by the Audit Committee to perform its duties and convene regular meetings may lead to Internal Audit Function becoming ineffective and, the quality of internal audit reports and its independence may be compromised for lack of an effective Audit Committee.

**Submission by the Accounting Officer**

4253) The Accounting Officer submitted that the term for the committee members expired on 10th April 2020 at the height of the Covid-19 pandemic during which no physical meeting were allowed. The Cabinet Secretary reappointed 3 of the five members to a new, three-year term effective 10th April 2020 and the National Treasury nominated a representative to the Audit Committee effective from 15th June 2021. Copies of appointment letters were availed for perusal by the Committee.

4254) In the 1st Quarter of the financial year 2021/22, the audit committee has held a Ministerial Audit Committee meeting on 9th September, 2021. Notices and a copy of the attendance register were also availed to the Committee.

**4255) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Inactive Audit Committee was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**RICE - BASED MARKET - ORIENTED AGRICULTURAL PROMOTION PROJECT  
REPORT ON THE FINANCIAL STATEMENTS**

**4256) Unqualified Opinion**

**1327.** There were no material issues noted during the audit of the financial statements of the Project.

**Emphasis of Matter**

**1328. Project Closure**

4257) During the year under review the Project remained inactive and the only transactions were related to bank charges. The Project ceased operations in the year 2016/2017 but it had not been wound up as required in the financing agreement. The bank account was, however, closed after year end, on 3 October, 2020 and the remaining balance in the account of Kshs.344 was surrendered to the State Department for Crop Development and Agricultural Research.

4258) Further, in the previous financial year, it had been reported that an amount of Kshs.130,980,000 relating to direct payments made by JICA on behalf of the Project remained unsupported. The Principal Secretary consequently wrote to JICA on this matter, and in response, JICA indicated that the Project's expenditures were audited as part of the Public Expenditure in Japan but certified copies of the said expenditures remained a challenge due to the voluminous physical records. In addition, on 8 November, 2020, in a letter referenced TC-19-(SOV), JICA confirmed an amount of Kshs.164,631,389 as having been direct payments. It is not clear at what point the expenditure increased by Kshs.33,651,389.

**Submission by the Accounting Officer**

4259) The Accounting Officer submitted that the project accounts were closed in October 2020 and the project wound up. The difference in donor expenditures referred to of Kshs.33,651,389 arose from direct payments for external trainings which were done outside Kenya. The issues have since been resolved in 2019/2020 financial year audit.

4260) My opinion is however not modified based on the effects of the above matter.

**4261) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to project closure was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**4262) Conclusion**

**1329.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**4263) Conclusion**

**1330.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**CAPACITY DEVELOPMENT PROJECT FOR ENHANCEMENT OF RICE PRODUCTION IN IRRIGATION SCHEMES IN KENYA- (PROJECT GRANT/CREDIT NO: 1161001009)**

**4264) Unqualified Opinion**

**1331.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1332. Budgetary Control and Performance**

4265) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.79,737,100 and Kshs.26,065,803 respectively resulting to an under-funding of Kshs.53,671,297 or 67% of the budget. Similarly, the Project expended Kshs.25,797,003 against an approved budget of Kshs.79,737,100 resulting to an under-expenditure of Kshs.53,940,097 or 68% of the budget. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

4266) The Accounting Officer submitted that during the financial year, as indicated, there was an underfunding arising from a budget cut and the Covid Pandemic. All JICA staff were recalled. Project activities in Mwea site were scaled down, verification experiments in Ahero and West Kano schemes stalled and extension activities delayed.

**4267) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Budgetary Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**4268) Conclusion**

**1333.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**4269) Conclusion**

**1334.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**NATIONAL AGRICULTURAL AND RURAL INCLUSIVE GROWTH PROJECT (IDA CREDIT NO.5900-KE)**

**REPORT ON THE FINANCIAL STATEMENTS**



#### 4270) **Unqualified Opinion**

1335. There were no material issues noted during the audit of the financial statements of the Project.

#### **Other Matter**

#### 1336. **Pending Bills**

4271) Note 8.1 to the financial statements reflects pending bills of Kshs.25,573,348 as at 30 June, 2020. Management has not provided reasons for non-payment of the bills even though the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments. Further, failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

#### **Submission by the Accounting Officer**

4272) The Accounting Officer submitted that the project vehicles were procured through direct payment under Component 4 category 4. Under this Component IDA funds 88% of the total cost while the Counterpart funding covers the remaining 12%. During the time of the payment for the IDA (88%) share the National Government had not deposited its share of the counterpart funding to the project account. Arising from the above the project was unable to pay Kshs.25,573,348 (12%) counterpart contribution portion of the total cost resulting to the pending bill. The bill was cleared in financial year 2020/2021.

#### 4273) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to pending bills was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **Basis for Conclusion**

#### 1337. **GOK Counterpart Funds Contribution**

4274) Schedule 2, Section IV Part A (2) of the Financing Agreement specifies the categories of eligible expenditure that may be funded out of the proceeds of the Financing Agreement. It also prescribes the allocation of financing to each project category and the ratio of expenditure to be financed for eligible expenditure in each category. The GOK portion has been set as 9% of the cost of each year's activities.

4275) However, examination of records revealed that the Government did not deposit in the Project's bank account the required counterpart funds during the year under review. The Government's expected counterpart funds contribution translates to a cumulative total of Kshs.587,947,823 being Kshs.7,397,509.77 for 2017/2018, Kshs.99,974,175 for 2018/2019 and Kshs.480,576,139 for 2019/2020 financial years, respectively representing 9% of the total expenditure for the respective financial years.



### **Submission by the Accounting Officer**

4276) The Accounting Officer submitted that he concur with the findings that no counterpart funds were deposited by the National Government to the project operations account. The Financing Agreement requires that the GoK Counterpart funds be deposited in the project operations account to finance the project activities as per the agreed percentages. The project management has come to an agreement with the state department on the deposit of the counterpart contribution and during financial year 2020/2021 the project received Kshs.23 million.

### **4277) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to GOK Counterpart Funds Contribution was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **1338. Failure by Homa Bay County to Contribute to the Project**

4278) Schedule 2, Section I Part C (1) of the Financing Agreement requires the Project to enter into a participation agreement with each eligible County Government, detailing mutual responsibilities for the implementation of the program and other terms and conditions as may be approved by the Association. Further, Section V (6) of the Agreement states that the participating County Governments shall provide the remaining 10% funding for specified elements of the Project.

4279) However, audit of records in respect to transfers from other Government entities during the year under review revealed that Homa Bay County has not remitted the agreed annual sum amounting to Kshs.6,500,000. In the absence of the expected funding, the Project's objectives in the county are unlikely to be realized.

### **Submission by the Accounting Officer**

4280) The Accounting Officer submitted that the project management has made requests to the counties to honor their counterpart contribution vide letters references, MOALF/NARIGP/FIN/25/Vol. 1/ (147), NARIGP/FIN/01/Vol.1/ (23) dated 12th March 2018 and NARIGP/FIN/01/Vol.1/ (21) dated 28th February 2018. As at 30 June 2020, each county was required to have deposited counterpart contribution of Kshs.18,000,000. However, Homabay County deposited it's share of the counterpart contribution on 28th October 2020.

### **4281) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Failure by Homa Bay County to Contribute to the Project was satisfactory; and
- (ii) The Committee marked the matter as resolved.

## **REPORT ON EFFECTIVENESS INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

4282) **Conclusion**

**1339.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**KENYA CLIMATE SMART AGRICULTURE PROJECT (IDA CREDIT NO.5945 – KE)**

**REPORT ON THE FINANCIAL STATEMENTS**

4283) **Unqualified Opinion**

**1340.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1341. Transfers to Government Entities – Kenya Agricultural and Livestock Research Organization (KALRO)**

4284) The statement of receipts and payments, reflects transfers to Government entities – Kenya Agricultural and Livestock Research Organization (KALRO) totalling Kshs.696,566,833, as further disclosed in Note 10.6 to the financial statements. The balance includes Kshs.152,713,627 disclosed as an advance to KALRO in the previous year’s financial statements, but received and recorded by KALRO in the financial year under review. It also includes transfers totalling Kshs.323,870,014 received and recorded by KALRO in the year under review, and Kshs.219,983,192 received after 30 June, 2020.

**Submission by the Accounting Officer**

4285) The Accounting Officer submitted that the actual funds disbursed to KALRO was Kshs.543,853,206.00 out of which Kshs.323,870,014 was received in the course of the FY 2019/20 while Kshs.219,983,192 was in transit as at 30th June, 2020. The difference of Kshs.152,713,627 was the balance carried forward from the previous FY 2018/19. The cause of the difference between the books of KALRO and the project is the cash in transit of Ksh.219,983,192 which had already been captured in the projects cashbook as a transfer but had not yet been received by KALRO. The projects bank statement showing the transfer and KALRO bank statement receiving the funds were availed to the Committee.

4286) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Transfers to Government Entities – Kenya Agricultural and Livestock Research Organization (KALRO) was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1342. Budgetary Control and Performance**

4287) The statement of comparative budget and actual amounts reflects actual receipts totalling Kshs.6,206,511,034 against a budget of Kshs.8,221,965,274 resulting in underfunding of Kshs.2,015,454,511 or 25% of the budget. However, the Project spent Kshs.6,077,090,850 against the approved budget amounting to Kshs.8,221,965,274,

resulting in an under-expenditure of Kshs.2,144,874,424 or 26% of the budget. Management has attributed the under-utilization of funds and under-expenditure to delay in approval of the Supplementary Budget and late disbursement of funds.

**Submission by the Accounting Officer**

4288) The Accounting Officer submitted that the project had an under-expenditure of Kshs.2,144,874,424 or 26% of the budget. This was as a result of late disbursement and delayed approval of the supplementary budget.

4289) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Budgetary Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**Basis for Conclusion**

**1343. Loss of Discount and Supply of Faulty Computers**

4290) Expenditure records indicate that Kshs.304,132,042 was spent during the year under review on purchase of office furniture and general equipment through a tender awarded to a firm at Kshs.76,040,997.19. The records indicate the firm had offered a discount of Kshs.3,802,050 being 5% of its bid price.

4291) However, on supplying the items, the firm was paid the total contract sum of Kshs.76,040,997.19 without deduction of the discount relied upon in evaluation and award of the tender. Disregard of the discount offer by Management resulted in loss of public funds totaling Kshs.3,802,050. Upon supply, the laptops were found to have a faulty start-up system caused by manufacturing defects. Available information indicated that the manufacturer has since agreed to replace the laptops with new ones of higher specification. However, at the time of the audit, this had not been fulfilled.

4292) No plausible explanation has been provided by Management on actions taken to ensure the laptops are replaced by the vendor.

**Submission by the Accounting Officer**

4293) The Accounting Officer submitted that the payment to MS Computer Revolution Africa was based on the professional opinion and the signed contract which both gave a figure of Kshs.76,040,997.19. As regards the manufacturing defects, the supplier was able to reach out to the manufacturers and they acknowledged the laptops had a faulty start-up system. The laptops have since been replaced with new ones of a higher version with a manufacturer's warranty of 3 years. Aailed for perusal by the Committee was the professional opinion, Contract and serial numbers of the 157 laptops.

4294) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Loss of Discount and Supply of Faulty Computers was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **1344. Irregular Procurement of Helicopter Services**

4295) The expenditure records further indicate that Kshs.754,734,049 was spent on contingency emergency response on behalf of the State Department for Crop Development. Out of this sum, Kshs.149,680,800 was for hire of helicopter services from two firms appointed through direct procurement method.

4296) However, records for the tendering process were not availed for audit and there was no disclosure of the negotiations, if any, conducted with the winning bidders as required by legal provisions on the direct procurement method.

4297) In addition, no information was provided on how the Evaluation Committee was appointed. Further, the contracts, signed between the Accounting Officer, State Department for Crop Development and the two firms were not availed for audit. As a result, the existence of the contracts could not be confirmed.

4298) Further, no records on requisitions for the use of the helicopters or manifests were availed to indicate the persons ferried and flight routes taken. Although Management has explained that the World Bank authorized the use of the funds under component 5 – Contingency Emergency Response of the Project, the procurement was done by the State Department for Crop Development.

4299) In view of these anomalies, it is not possible to confirm that value for money was attained on the expenditure totaling Kshs.149,680,800 incurred on hire of the helicopter services from the two firms.

#### **Submission by the Accounting Officer**

4300) The Accounting Officer submitted that the desert Locust invasion was a new and challenging experience to us as a country. When they arrived, a lot of anxiety and pressure was mounted on government as to the best way of containing them. Preliminary approaches were used but with little success. For example, we requested various government institutions with choppers to assist. We got one from Kenya Wildlife Services and another from Kenya Defence Forces. The one of Kenya Forest Service was grounded and could not therefore be used and the same case was with that of Kenya Pipeline Company. Since the two that were available to us were not enough to cope with Desert Locust pressure, emergency consultations were made and agreed that two more choppers be hired to supplement the already available ones.

4301) It's at this time that the State Department hired Helicopters for provision of locust air surveillance services in the said areas during the Financial Year under review. It is

important to mention that this was an emergency requirement occasioned by the Desert Locust invasion. The procurement process thus commenced after consultation. The request was made to the Donor – World Bank after emergency consultation. The request was accepted by way of procurement through limited sourcing and with a “No objection” granted. The donor funds are only expended once a “No objection is granted as per World Bank guidelines and against the approved Procurement Plan.

4302) The quotations were sent out as appropriate and evaluation process carried out. These services have limited providers in the market. He confirmed that the services were rendered satisfactorily and that all the processes from initiations to payment were posted in the World Bank’s Systematic Tracking Expenditure in Procurement (STEP) as required and followed the laid down procedures and regulations. Further, all the required documents are available for auditor’s verification.

**4303) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Irregular Procurement of Helicopter Services was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1345. Procurement of Pesticides using Request for Quotations (RFQ) Method**

4304) Expenditure records indicate that Kshs.400,000,000 was incurred by the Project on behalf of the State Department for Crops Development to buy pesticides for use in combating locust invasions reported in various Counties in December 2019. The procurement of the pesticides was done in March 2020 and payment to the supplier made on 30 June, 2020.

4305) However, the following anomalies were noted in respect to the procurement:

- The firm is not listed in the register for suppliers of the Project or the State Department contrary to Section 105 of the Public Procurement and Asset Disposal Act, 2015.
- The estimated value of the goods was more than the prescribed maximum value for requests for quotations as prescribed in procurement regulations which sets a threshold of Kshs.1,000,000.

4306) The State Department used Request for Quotations method to procure large quantities of pesticides contrary to Section 6.7 of the World Bank Procurement Guidelines and the Public Procurement and Asset Disposal Act, 2015, which only allows use of Request for Quotations for procuring limited quantities of readily available off-the-shelf goods and commodities.

4307) Further, there was no evidence on record to confirm that, as required in Section 106(5)(b) of the Public Procurement and Asset Disposal Act, 2015, the supplier confirmed in writing the receipt of the purchase order issued by the Department.

### **Submission by the Accounting Officer**

4308) The Accounting Officer submitted that it was important to mention that around this time the COVID-19 outbreak had continued to ravage the globe. This affected stockists of merchandise, including those of pesticides. The stockists of pesticides e.g. M/s. Twiga Chemicals Ltd had run out of stocks with no foreseeable replenishments. The issue of shipping from around the globe had also become a serious headache for all stockists. We had various regrets of inability to ship -so any supplier, but registered, who could manage supplies was welcomed to the State Department.

4309) The request for procurement was thus made to the donor – The World Bank after emergency Consultation. Request was granted by way of procurement through Request for Quotations and a “No Objection” clearance obtained. The listed firm was not registered in our list of Supplier in the year under review, but the Bank guidelines appreciates known suppliers and those with proven capability and approvals or registration on pesticides as required.

4310) That the World Bank maximum thresholds are different from our Public Procurement and Asset Disposal Act (PPAD), Act 2015 especially on emergencies. That the Supplier confirmed acceptance of the order and indeed supplied to satisfaction. The same (procurement) was in the procurement plan of the Emergency Locust Response Programme that had been approved as Request for Quotation as method.

### **4311) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Procurement of Pesticides using Request for Quotations (RFQ) Method was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **1346. Fraud in Procurement of Project Land in Nyandarua County**

4312) In the audit report for 2018/2019, reference was made to failure by Management to avail the title deed for five acres of land procured for construction of a water pan at Leshau Pondo Sub-County in Nyandarua County. An audit inspection carried out in November, 2020 confirmed that the Project was defrauded after it procured the land at Kshs.2,273,320 in June, 2019 from a fictitious land owner. Management has explained that the Nyandarua County Executive remitted Kshs.3 million to the Project on 24 June, 2019 to compensate for the loss. However, the remittance was for counterpart funds due from the County for the year ended 30 June, 2019 and would, therefore, not count as a refund.

4313) Management has indicated that the matter has been reported to investigative authorities.

### **Submission by the Accounting Officer**



4314) The Accounting Officer submitted that the purchase of the above mentioned piece of land was fraudulent. The officers from the County Government of Nyandarua reported the case and investigations are still ongoing.

**4315) Committee Observations and Findings**

- (i) The Committee had discussed the matter in the report of financial year 2018/19 and recommended that the Accounting Officer to follow up the matter with the County Government of Nyandarua and report to the National Assembly in the subsequent audit cycle on the matter; and
- (ii) The Committee observed that the Accounting Officer reported that the matter with regard to Fraud in Procurement of Project Land in Nyandarua County was under investigation.

**4316) Committee recommendations**

**In addition to recommendations made in the Committee report for the financial year 2018/19, the Committee further recommends that within sixty (60) days of adoption of this report, the Accounting Officer to avail evidence that the matter is under investigation and information on progress of the investigation.**

**1347. Irregular Use of Special Purpose Account Funds by County Officers**

**1347.1 Procurement of Toners at Nyeri County**

4317) Expenditure records further indicate that Kshs.208,000 was spent by the Project in Nyeri County on purchase of ink tonners. However, the payments were made from Nyeri County special purpose account number 1000364793 maintained at the Central Bank of Kenya. The County Project Management had not approved the payment.

4318) Management explained that the County Project Coordinator had since demanded for a refund from the Chief Officer, Agriculture which, however, had not been made at the time of the audit.

**Submission by the Accounting Officer**

4319) The Accounting Officer submitted that the County Government of Nyeri erroneously paid an amount of Ksh.208,000 from the project account to buy toners. These funds have since been returned to the project account as evidenced by the attached bank statement.

**4320) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Procurement of Toners at Nyeri County was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1347.2 Failure to Open the County Operations Account – Laikipia County**

4321) Audit review of Project records in Laikipia County revealed that contrary to Paragraph 42 of the Project Financial Manual, which requires each County to open a County Project bank account, no Project operations account was in use in Laikipia County. As a result, all



the Project's transactions were made through a special purpose account. Failure to operate a separate account has hindered accountability for the Project's funds.

#### **Submission by the Accounting Officer**

4322) The Accounting Officer submitted that the as at the time of audit Laikipia County had not opened an operations account for the project. However, the account was later opened in family bank Nanyuki branch account No.064000074611 and is now active. A bank certificate as at 30th June 2021 is attached as confirmation.

#### **4323) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Failure to Open the County Operations Account – Laikipia County was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **1347.3 Irregular Procurement of Furniture- Laikipia County**

4324) Examination of the payment vouchers and procurement records held at the Laikipia County Project Coordination Unit (CPCU) revealed that the Project procured furniture from a firm at a cost of Kshs.1,523,600. However, the requisition and evaluation report were dated 21 June, 2019 and 19 August, 2019 respectively, while the LPO was dated 18 June, 2019. The records suggested that due process was not followed in the procurement as requisition for items came after the LPO.

#### **Submission by the Accounting Officer**

4325) The Accounting Officer submitted that the according to the documents presented to the auditors, inconsistencies were noted in the procurement of furniture worth Ksh.1,523,600 in Laikipia County. This came about due to the quotations being raised several times of which some were non-responsive and had to be repeated again leading to a mix up of dates as highlighted. In future we shall endeavor to avoid errors and ensure that procurements follow the sequence of steps as guided in the procurement and asset disposal Act 2015.

#### **4326) Committee Observations and Findings**

The Committee observed that the explanation given by the Accounting Officer with regards to Irregular Procurement of Furniture- Laikipia County was not satisfactory.

#### **4327) Committee Recommendations**

- 1) The Accounting Officer to reprimand the in writing the officer responsible for the procurement for the project at Laikipia County for failing for failing to follow due process in the procurement process of furniture.**
- 2) The Accounting Officer should ensure compliance with Public Procurement and Asset Disposal Act, 2015 and its regulations in all procurement processes.**

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

4328) **Conclusion**

**1348.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**ENABLE YOUTH KENYA PROGRAM – (ADF LOAN NO. 2100150038895)**  
**REPORT ON THE FINANCIAL STATEMENTS**

4329) **Unqualified Opinion**

**1349.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1350. Budgetary Control and Performance**

4330) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.55,000,000 and Kshs.8,301,820 respectively resulting to an under-funding of Kshs.46,698,180 or 85% of the budget. Similarly, the Project expended Kshs.20,526,750 against an approved budget of Kshs.55,000,000 resulting to an under-expenditure of Kshs.34,473,250 or 63% of the budget. The underfunding and under expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

4331) In addition, the Program's budget implementation report was not presented for audit review and therefore it is not possible to confirm the extent to which budgeted activities were implemented.

**Submission by the Accounting Officer**

4332) The Accounting Officer submitted that the underfunding of the GOK component was occasioned by the lack of exchequer that was to be disbursed to the project. The project received Kshs.8,301,820 as stated against a budgeted Kshs.30,000,000. This therefore meant that most of the planned activities were affected. Similarly, the under expenditure of Kshs.20,526,750 against a budget of Kshs.55,000,000 was occasioned by the procurement process, though most of the contracts had been awarded.

4333) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Budgetary Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

4334) **Conclusion**

**1351.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

4335) **Conclusion**

**1352.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**AGRICULTURAL SECTOR DEVELOPMENT SUPPORT PROGRAMME II (SIDA GRANT NO. 51110109)**

**REPORT ON THE FINANCIAL STATEMENTS**

4336) **Unqualified Opinion**

**1353.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1354. Budgetary Control and Performance**

4337) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,676,551,150 and Kshs.1,673,483,117 respectively resulting to an under-funding of Kshs.3,068,033 or 2% of the budget. Similarly, the programme expended Kshs.901,386,553 against the approved budget of Kshs.1,676,551,150 resulting to an under expenditure of Kshs.775,164,597 or 46% of the budget.

4338) The under-absorption affected the planned activities and could have impacted negatively on service delivery for the public.

**Submission by the Accounting Officer**

4339) The Accounting Officer submitted that he concurs with the Auditors observation and elaborate as follows:

- a) ASDSP II is a Conditional Grant Programme co-financed by the Government of Kenya (National and Counties) and the Government of Sweden. The two levels of Government (National and County Governments) must contribute counterparts' funds to trigger the disbursement of donor funds to them as per the financial agreement.
- b) During the year under review there was an improvement than in previous years The National Government contributed Ksh.228,051,150, instead of Ksh.160,000,000. The Counties Government Contributed Ksh.276,064,660, Instead of Ksh.258,500,000. The Donor Contributed Ksh.1,185,599,524. The Programme spent Kshs.901,386,553 from the amount received of Kshs.1, 673,483,117. The low absorption was as a result of the following reasons:
- c) Delay in the setting of structures, sensitizations of county leadership and carrying out baseline surveys. Delay in the revision of Strategic Integrated Value Chain Action Plans (SIVCAPs):
- d) Over 95 % of the Funds disbursed to the counties are meant for the development of extended capacity building and innovation concepts. The concepts also require to be approved by the County Agriculture Sector Steering Committees (CASSCOMs) and the Embassy (innovation concepts) for implementation.

- e) Delay in release of funds of which most funds were released in the final quarter. Hence most counties could not have absorbed the funds by close of the FY under review. The funds were carried over for the implementation of the activities in the FY 2020/2021.
- f) Delay in transfer of funds from the County Revenue Fund (CRF) to the Programme designated Account (SPA) and to the operational Commercial Bank account. Generally, there was an improvement on absorption than in the previous year.

4340) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Budgetary Control and Performance was satisfactory; and
- (iii) The Committee marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4341) **Conclusion**

**1355.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4342) **Conclusion**

**1356.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR CROP DEVELOPMENT**

**CENTRE OF EXCELLENCE IN SUSTAINABLE AGRICULTURAL AND AGRIBUSINESS MANAGEMENT CREDIT NO.5798-KE - EGERTON UNIVERSITY.**

REPORT ON THE FINANCIAL STATEMENTS

4343) **Unqualified Opinion**

**1357.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1358. Pending Bills**

4344) Note 9.1 to the financial statements reflects pending bills balances of Kshs.16,735,684 as at 30 June, 2020. Management has attributed the delays in settling the bills to the effects of Covid-19 due to the temporal closure of offices at the onset of the pandemic. However, the project is at risk of incurring significant interest costs and penalties with the continued delays.

4345) Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year.

### **Submission by the Accounting Officer**

4346) The Accounting Officer submitted that this project doesn't exist in State Department budget.

### **4347) Committee Observations and Findings**

- (i) The Committee observed that the project audit report was placed under wrong vote in the Auditor-General's report (Blue Book) as it was being implemented under State Department of University Education.
- (ii) The Committee marked the matter as resolved.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **4348) Conclusion**

**1359.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **4349) Conclusion**

**1360.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## **STRATEGIC FOOD RESERVE TRUST FUND**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Basis for Disclaimer of Opinion**

#### **1361. Unsupported Sales of Maize**

4350) The statement of financial performance reflects an amount of Kshs.7,498,573,576 from sale of maize, which was made to various maize millers, National Government institutions and County Governments by the National Cereals and Produce Board. However, there was no verifiable documentary evidence in support of the identification and approval of the quantity of maize allocated to various millers and institutions including the minutes for approval by the Board.

4351) Consequently, the completeness and accuracy of the proceeds from sale of maize amount of Kshs.7,498,573,576 could not be confirmed.

### **Submission by the Accounting Officer**

4352) The Accounting Officer submitted that the Maize buyers were identified and approved by Strategic Food Reserve Trust Board (SFRTB). The SFTFB through the then Acting Fund Manager, communicated the decision and recommendations of the Board to the Administrator of the Fund who then transmitted the same to National Cereals Produce Board (NCPB) for implementation.

4353) The identification of millers was done by the Board depending on their milling capacity and purchasing power. In case a miller could not afford to purchase the allocated amount, the same would be recalled back and issued afresh to affording millers on monthly basis. The board's minutes dated 27th April 2019 and 20th August 2019 authorizing sale of maize are attached.

**4354) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Unsupported Sales of Maize was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1362. Overstatement of the Fumigation and Storage Charges**

4355) The statement of financial performance reflects expenses totalling Kshs.80,132,222 under fumigation and storage charges which were computed at the rate of Kshs.4.80 per bag based on an average of the opening stock and closing stock. However, the average stock figure of 220,268 bags at the end of the year that was used in computation of the fumigation and storage charges was based on a wrong figure of opening stock of 267,039 bags instead of 178,094 bags. The difference of 88,945 bags between the two figures resulted in overstatement of the closing stock of bags, the average stock of bags and consequently the storage charges by Kshs.2,530,556. The cost of storage and fumigation charges was therefore overstated by Kshs.2,530,556.

**Submission by the Accounting Officer**

4356) The Accounting Officer submitted that the at the time of audit, the stock records had not been reconciled to reflected the correct position as there were no maize sales in the month of January as indicated in the records. Reconciliation was done and noted that the opening balance for the months of January and February was the same thus there was no overstatement.

**4357) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and the documents availed with regard to Overstatement of the Fumigation and Storage Charges was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1363. Handling Costs on Sales and 10% Commission on Sales**

4358) As disclosed in Note 11 to the financial statements, the statement of financial performance reflects an expenditure of Kshs.782,851,081.33 on handling costs on sales and commissions. The amount is normally a commission of 10% of the sales figure.

4359) However, no documentary evidence was provided on sales of maize or the handling charges. The validity of the expenditure therefore cannot be confirmed.



### Submission by the Accounting Officer

4360) The Accounting Officer submitted that during the year under review, Maize buyers were to meet/ incur the costs of handling maize. The sales commissions were to be met by SFRTF. The total maize sales made during the same FY were Kshs.7,498,573,576.00 as reported in the financial statements and the sales commission of 9% was charged which attracted 16% V.A.T. The table below shows how the figures of sales commission Kshs.782,851,081.33 were arrived at.

Details	Amount
Maize Sale for the year	7,498,573,576.00
9% sales commission (9%*7,498,573,576.00)	674,871,621.84
Add 16% V.A.T	107,979,459.49
Total	782,851,081.33

4361) Agency agreement between SFRTF and NCPB supporting 9% sales commission were availed for perusal by the Committee.

### 4362) Committee Observations and Findings

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Handling Costs on Sales and 10% Commission on Sales was satisfactory; and
- (ii) The Committee marked the matter as resolved.

## 1364. Board Expenses

### 1364.1 Irregular Payment of Allowances and Benefits to the Former Chairman

4363) The statement of financial performance reflects an expenditure of Kshs.8,463,240 under board expenses which includes an amount of Kshs.844,500 paid to the former Chairman of the Board after expiry of his term. The appointment of the Chairman lapsed on 20 October, 2019 but he continued to receive sitting allowances and honoraria from the Fund irregularly.

### Submission by the Accounting Officer

4364) The Accounting Officer submitted that the chairman had continued carrying his duties as no replacement had been done to ensure continuity of the board. It was expected that his term would be renewed but the decision later was to restructure SFRTF and its functions had to be transferred to NCPB.

### 4365) Committee Observations and Findings

- (i) The Committee observed that the former chairman was illegally paid allowances and benefits after the term of his contract had expired; and
- (ii) The payment was not proper and amounted to a direct loss to the taxpayers.



3641) **Committee Recommendation**

- 1) **The Committee reprimands the Accounting Officer for irregularly paying allowances and benefits to a former chairman after the term of his contract had expired; and,**
- 2) **Within sixty days upon adoption of this report, the Accounting Officer should recover the amount of Kshs. 844,500 paid irregularly failure to which the Accounting Officer during the period under review should be surcharged for the full amount.**

**1364.2 Unsupported Board Expenses**

4366) The board expenses of Kshs.8,463,240 also includes an amount of Kshs.1,622,500 that was not supported by the Board attendance register or minutes of all the Board meetings that were held during the year under review. In addition, an expenditure of Kshs.547,000 was not supported by payment vouchers.

4367) Consequently, the validity and accuracy of the reported Board expenses of Kshs.8,463,240 could not be ascertained.

**Submission by the Accounting Officer**

4368) The Accounting Officer submitted that the board minutes that support board expenses of Kshs.1,622,500 have since been provided to the auditors. The supporting payment vouchers no. 0001334 and 0001709 for Kshs.547,000.00 have since been provided to the auditors for audit review.

4369) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Unsupported Board Expenses was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1365. Gunny Bags Expenditure**

4370) The statement of financial performances reflects an amount of Kshs.175,000,000 under gunny bags' expenditure. The National Cereals and Produce Board (NCPB) utilized the funds to procure 800,000 jute bags and 1,175,000 polypropylene bags at a cost of Kshs.133,272,815 and Kshs.38,862,500 respectively, while an expenditure of Kshs.15,508,910 was incurred on re-bagging 1,264,912 bags to conventional stores. However, the cumulative cost of Kshs.187,644,225 varies with the reported figure of Kshs.175,000,000 by Kshs.12,644,225. No reconciliation was carried out by the two entities for the variance of Kshs.12,644,255 which is omitted from the records of the Fund.

4371) Consequently, the expenditure of Kshs.175,000,000 on gunny bags may not be fairly stated.

**Submission by the Accounting Officer**

4372) The Accounting Officer submitted that the it was true NCPB didn't levy SFRTF on the extra amount of Kshs.12,644,255 incurred on procurement of gunny bags as not all the

expenditure incurred by NCPB belongs to SFRTF. The amount was an expense to NCPB but not SFRTF. We have concurrence with NCPB that they should report and capture the same in their books of account. The actual amount of Kshs.175 million for purchase of gunny bags was fairly reported in our financial statement for the year ended 30th June 2020.

**4373) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Gunny Bags Expenditure was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1366. Property, Plant and Equipment**

4374) The statement of financial position reflects a balance of Kshs.14,500,000 for property, plant and equipment. The amount of Kshs.14,500,000 is in respect of a motor vehicle purchased in May, 2019 and assigned to the Fund Chairman. However, the Chairman did not surrender the motor vehicle back to the Fund when his term expired. Although the Fund had written to the Chairman requesting him to surrender the vehicle, the vehicle was not presented for audit inspection and its existence and status could therefore not be confirmed.

**Submission by the Accounting Officer**

4375) The Accounting Officer submitted that the vehicle GKB 379V assigned to the former Fund chairman has been collected and is in serviceable status and already allocated to the Principal Secretary, State Department for Crop Development and Agricultural Research.

**4376) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Property, Plant and Equipment was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1367. Inventories**

4377) The statement of financial position reflects a balance of Kshs.734,802,500 in respect of inventories as at 30 June, 2020. Records provided by the Fund reflected an opening stock balance of Kshs.10,866,433,930 for maize. This was arrived at using both 90kg and 50kgs units of measurement meaning that there was no standard unit of measurement for maize that was used for purposes of valuing stocks. However, the stock analysis provided by the National Cereals and Produce Board reflected maize stock opening balance of Kshs.12,647,036,900 which was arrived at using standard measurement unit of 90kg bag. Although Management explained that the Fund computed its opening stock using purchase price while the Board valued its stock using the standard price, the difference of Kshs.1,780,602,970 in the value of the opening stock reflected by the two entities was not reconciled.

4378) Further, the inventories include powdered milk worth Kshs.700,000,000 as disclosed under Note 14 to the financial statements. According to the Memorandum of Understanding

signed in 2016 between the Fund and the New Kenya Co-operative Creameries (KCC) and minutes of meetings of the oversight board, the Fund resolved to transfer Kshs.700,000,000 to New KCC for purchase of surplus milk from farmers for the establishment of a strategic reserve of milk powder. However, although New KCC acknowledged receipt of the funds and recognized the liability as disclosed in its financial statements, it was not holding any stocks of milk powder on behalf of the Fund as at 30 June, 2020.

4379) Under the circumstances, the accuracy and validity of the stock balances could not be confirmed.

#### **Submission by the Accounting Officer**

4380) The Accounting Officer submitted that the SFRTF computed its opening stock using purchase price while on the other hand NCPB valued its stock using standard price resulting in difference in the opening balance valuation. However, the two entities reported the same quantity of maize stock of 4,043,628 bags (90kgs). Therefore, there was no difference.

4381) Further, the powdered milk stock held at Kenya Creameries Cooperative (KCC) amounting to KSh.700,000,000.00 that has been outstanding in the records has been converted into a debt as reflected in the Financial Statement for the year ended 30th June 2021. A letter has been written to new KCC to refund Kshs.700million owed to SFRTF and in the Revised Financial Statement, the Fund has reflected the same as receivable from New KCC.

#### **4382) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regards to records of inventories of provided for maize was satisfactory; and
- (ii) Issue of inventories of powdered milk amounting to Kshs.700,000,000 held by New KCC was discussed in financial year 2018/19 and following recommendation made:-

**Within three (3) months after tabling and adoption of this report, the EACC to initiate an investigation into the purported inventories paid for and held by New KCC.**

#### **1368. Receivables from Exchange Transactions.**

4383) The statement of financial position reflects a balance of Kshs.8,018,869,437 under receivables from exchange transactions. As disclosed under Note 15 to the financial statements, the amount includes proceeds from sale of imported and local maize on behalf of the Fund by National Cereals and Produce Board (NCPB). However, records on sale of maize during the year were not provided. The validity of the amount of Kshs.1,153,648,823 owing from proceeds from sale of maize could, therefore, not be confirmed.

4384) In addition, the balance of Kshs.8,018,869,437 includes an amount of Kshs.6,865,220,613 relating to receivables from the State Department for Special

Programmes which has been outstanding for a long time and whose recoverability was, therefore, doubtful.

4385) Consequently, the accuracy and recoverability of the reported receivables from exchange transactions balance of Kshs.8,018,869,437 could not be confirmed.

**Submission by the Accounting Officer**

4386) The Accounting Officer submitted that a copy of the computation and analysis of Kshs.1,153,648,823 have been availed to the auditors for verification which comprise of unremitted amount of Kshs.718,652,452.00 relating to maize sale for FY 2019/2020 and Kshs.434,996,371.46 relating to sale of imported maize in the previous years.

4387) The amount of Kshs.6,865,220,613.00 arose from the distribution of relief maize to different affected counties. The internal audit report dated 30th march 2020 which I had initiated confirmed that the release of maize was duly authorized by SFRTF and distribution was above board. Noting that the state department for special program was not trading but just coordinating the relief program activities, and that they did not receive exchequer funding for the same, we are in process of writing to The National Treasury to grant authority to write off this debt as government to government set off.

**4388) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to inventories was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1369. Trade and Other Payables from Exchange Transactions**

4389) The statement of financial position reflects a balance of Kshs.12,380,355,021 under trade and other payables from exchange transactions and importers of maize creditors. As disclosed in Note 17 to the financial statements, the balance includes Kshs.10,490,379,467 brought forward from the previous financial year which was not supported by any verifiable records. The breakdown of the figure of Kshs.10,490,379,467 was not provided and differed with the previous year's audited financial statements balance of Kshs.12,942,778,768 by Kshs.2,452,399,301. Further, the reported balance is net of a prior year adjustment of Kshs.155,709,403 whose nature was not explained or supported.

4390) Consequently, the accuracy of the trade and other payables from exchange transactions balance of Kshs.12,380,355,021 could not be confirmed.

**Submission by the Accounting Officer**

4391) The Accounting Officer submitted that the a joint taskforce drawn from SDCD &AR, The National Treasury and Office of the president to validate the trade payable which arose from previous pending bills owed to merchants, farmers and transporter. Reconciliation was done and recommendations given that eligible debts be paid which the ministry

executed. These pending bills have since been paid and we have since adjusted the Financial Statements to reflect the current position.

#### 4392) **Committee Observations and Findings**

The Committee observed that matter of trade and other payables from exchange transactions was discussed in the Financial year 2018/19 and made the following recommendations

#### 4393) **Committee Recommendation**

**Within three (3) months after tabling and adoption of this report, the Auditor General to conduct a forensic audit into the validity of payables.**

### **1370. Presentation of the Financial Statements**

4394) The financial statements were not prepared in accordance with the requirements of the Public Sector Accounting Standards Board (PSASB). Details about the Management Team are omitted from the financial statements. Further, the summary of significant accounting policies does not include the policy and rate of depreciation used on the Fund's property, plant and equipment and no depreciation charge was made for the motor vehicle procured during the year. In addition, Management did not prepare a fixed assets movement schedule as prescribed by the Public Sector Accounting Standards Board in the reporting template.

4395) Further, the action taken by the Management on the prior year audit issues has not been disclosed under the progress on follow up of auditor's recommendation section of the financial statements as required by the Public Sector Accounting Standards Board as the section is omitted from the financial statements.

#### **Submission by the Accounting Officer**

4396) The Accounting Officer submitted that it was true that the Financial Statements were not prepared in accordance with the requirements of the Public Sector Accounting Standards Board (PSASB) but in the subsequent Financial Statements, the Fund complied with such requirements. The motor vehicle was not charged any depreciation since it was still new and had not last for more than two months at the time.

#### 4397) **Committee Observations and Findings**

- (i) The Committee observed that the Accounting Officer had submitted for audit Financial Statements that were not prepared in accordance with the requirements of the Public Sector Accounting Standards Board (PSASB) at the time of the audit; and,
- (ii) However, the Accounting Officer later submitted Financial Statements that were prepared in accordance with the requirements of the Public Sector Accounting Standards Board (PSASB).

#### 4398) **Committee Recommendation**

- 1) The Committee cautions the Accounting Officer for submitting Financial Statements that were not prepared in accordance with the requirements of the Public Sector Accounting Standards Board at the time of the audit; and,
- 2) The Accounting Officer must ensure at all times they submit Financial Statements that are prepared in accordance with the requirements of the Public Sector Accounting Standards Board.

### 1371. Inaccuracy of the Financial Statements

#### 1371.1 Comparative Year Balances

4399) The comparative year balances reflected in the financial statements differed with the balances reflected in the audited financial statements as shown below:

Financial Statements Component	2018/2019 Audited Balance (Kshs.)	Comparative Figure Reported (Kshs.)	Variance (Kshs.)
Receipt from Exchequer	0	6,150,818,866	(6,150,818,866)
Inventory	11,159,473,495	11,566,433,930	(406,960,435)
Trade and Other payables	8,770,157,208	6,317,757,907	2,452,399,301
Capital Reserves	52,737,981,617	36,593,162,751	16,144,818,866
Accumulated Deficit	42,140,933,166	23,311,754,564	18,829,178,602
<b>Total Net Assets</b>	<b>10,422,048,451</b>	<b>13,281,408,187</b>	<b>(2,859,359,736)</b>

4400) No disclosure was provided for the restatement of the prior year balance.

#### Submission by the Accounting Officer

4401) The Accounting Officer submitted that the Fund revised their final accounts and submitted the same to the Auditor General Office.

#### 4402) Committee Observations and Findings

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Comparative Year Balances was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### 1371.2 Statement of Financial Position

4403) The capital reserve balance reported in the statement of financial position reduced from Kshs.36,593,162,751 as at 30 June, 2019 to Kshs.25,927,987,529 as at 30 June, 2020. The variance of Kshs.10,665,175,222 between the two figures was not supported and the amount of Kshs.25,927,987,529 was not included in the statement of changes in net assets.



4404) Further, the accumulated deficit balance of Kshs.19,697,473,400 was also inaccurate since it was derived using the wrong opening balances. Due to the foregoing, the figure of total net assets and liabilities of Kshs.6,230,514,128 is inaccurate.

**Submission by the Accounting Officer**

4405) The Accounting Officer submitted that the Fund revised their final accounts and submitted the same to the Auditor General Office. The anomalies in the statement as reported were re-stated in the subsequent year to reflect the correct position.

**4406) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Statement of Financial Position was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1371.3 Discrepancies between Financial Statements and Trial balance**

4407) The trial balance for the year ended 30 June, 2020 reflects a total amount of Kshs.56,472,091,348 for both debit and credit balances, which includes an unsupported amount of Kshs.224,072,230 described as adjustment for previous errors. The amount was, however, contra to the general expenses balance of Kshs.34,572,230 and gunny bags expenditure of Kshs.175,000,000,00 reflected in the statement of financial performance and the property plant and equipment balance of Kshs.14,500,000 reflected in the statement of financial position but which were omitted from the trial balance.

4408) In addition, the accumulated funding account of Kshs.36,593,162,751 and accumulated loss of Kshs.30,362,648,623 as at 30 June, 2020 reflected in the trial balance differed with the amounts of Kshs.25,927,987,529 under capital reserves and Kshs.19,697,473,401 accumulated deficit respectively reflected in the statement of financial position.

4409) Consequently, the accuracy of the books of accounts and the financial statements of the Fund could not be confirmed.

**Submission by the Accounting Officer**

4410) The Accounting Officer submitted that it was true that general expenses balance of Kshs.34,572,230 and gunny bags expenditure of Kshs.175,000,000,00 reflected in the statement of financial performance and the property plant and equipment balance of Kshs.14,500,000 reflected in the statement of financial position which were omitted from the trial balance. These were re-stated in the trial balance for the financial statement of the year ended 30th June 2021.

**4411) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Discrepancies between Financial Statements and Trial balance was satisfactory; and



(ii) The Committee marked the matter as resolved.

### **1372. Expired Agency Agreement**

4412) As previously reported, the Government of Kenya entered into a contract with the National Cereals and Produce Board (NCPB) on behalf of the Strategic Grain Reserve Fund for procurement of maize, storage and management of stocks on 19 October, 2016 for a duration of two (2) years which has since lapsed. However, during the year under review, the National Cereals and Produce Board is indicated to have sold maize worth Kshs.7,498,573,576 while relying on an unenforceable agreement.

### **Submission by the Accounting Officer**

4413) The Accounting Officer submitted that the 5th Agency Agreement between the National Cereals Produce Board and Government of Kenya for the provision of managerial services was to run over the period 1/7/2015 to 30/6/2017 and at the time of the audit, there was no valid contract but there were instructions issued to the Agent (NCPB) by the principal (SFRTF) to sell maize on behalf of principal, as directed by Cabinet which the agent followed.

4414) The Strategic Food Reserve Trust Fund (then) and NCPB were negotiating on the terms and conditions of the new agency agreement as shown on the various correspondences, but the negotiations were not concluded before the SFRTF was disbanded on recommendations of the Cabinet.

### **4415) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Expired Agency Agreement was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **1373. Uncertainty about Sustainability of Services**

4416) In a letter Ref No CAB/GEN.3/1/1/VOL.XVI (51) dated 19 March, 2020 on the National Cereals and Produce Board and the Strategic Food Reserve Trust Fund reforms, the Cabinet Secretary for The National Treasury and Planning was directed by the Head of Public Service to wind up the Strategic Food Reserve Trust Fund in accordance with section 24(9) of the Public Financial Management Act, 2012 and Regulation 209 of the Public Financial Management (National Government) Regulations, 2015.

4417) This decision was contested in Court and the Court directed that the winding up process be suspended. However, the term of the Chairman lapsed on 20 October, 2019 while the Fund Manager was recalled by the Ministry of Devolution and ASALs leaving the Fund with no Secretariat. Further, all the cash held at the Fund's bank account has since been transferred to the Central Bank and the Fund is no longer being funded by The National Treasury.

4418) Consequently, the ability of the Fund to sustain services to the Public is doubtful and subject of the ongoing appeal in the High Court.

**Submission by the Accounting Officer**

4419) The Accounting Officer submitted that it was true the Cabinet directed the Cabinet Secretary for the National Treasury and Planning to undertake reforms to both the National Cereals and Produce Board (NCPB) and Strategic Food Reserve Trust Fund (SFRTF) with the aim of addressing food security challenges based on the duplication of the current existing institutional mandates.

4420) The reforms have ensured that there will be a National Food Reserve Division within the NCPB that will procure receipts through competitive commercial process using the warehouse Receipt System to avoid market distortions. With the establishment of this entity, the public will still get services that were previously being offered by the Strategic Food Reserve Fund (SFRTF).

**4421) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Uncertainty about Sustainability of Services was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1374. Budgetary Control and Performance**

4422) The statement of comparison of budget and actual amounts reflects final budget total income of Kshs.10,787,189,712 and total actual income on comparable basis of Kshs.944,492,499 thus resulting into a shortfall of Kshs.9,842,697,213 or 91%. The statement reflects a budgeted expenditure figure of Kshs.944,492,499 which, is equivalent to the balance of actual expenditure on a comparable basis but differed with the amount of Kshs.10,043,549,374 reflected in the revised budget estimates by Kshs.9,099,056,875.

4423) Consequently, it was not possible to verify the accuracy of the figures reflected in the statement of comparison of budget and actual amounts. In addition, the income deficit and under-expenditure affected the planned activities of the Fund and may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

4424) The Accounting Officer submitted that it was true that the actual expenditure of the Fund (SFRTF) was Ksh.944,492,499 which differed with Ksh.10,043,549,374 in the revised budget estimates by Kshs.9,099,056,875. This arose because the Fund was instructed not to spend the monies by the National Treasury.

**4425) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Budgetary Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### 4426) **Conclusion**

**1375.** Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### 4427) **Conclusion**

**1376.** Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

## **PARAGRAPHS 1377 TO 1386 ON COMMODITY FUND WAS EXAMINED BY THE SPECIAL FUNDS ACCOUNTS COMMITTEE.**

## **AGRICULTURAL INFORMATION RESOURCE CENTRE REVOLVING FUND REPORT ON THE FINANCIAL STATEMENTS**

### **Basis for Adverse Opinion**

#### **1389. Employee Costs**

4428) The statement of financial performance reflects an expenditure of Kshs.2,882,898 for employee costs which, as disclosed at Note 5 to the financial statements, comprised of Kshs.1,899,998 and Kshs.982,900 incurred on casual workers' wages and daily subsistence allowances respectively. However, the Fund did not maintain a master roll to record attendance and wage details for the casual employees. Further, the daily subsistence allowance payments included an amount of Kshs.550,000 that was not supported with schedules or any other verifiable documents.

4429) Consequently, it was not possible to confirm the accuracy and validity of the expenditure of Kshs.2,882,898 on employee costs.

### **Submission by the Accounting Officer**

4430) The Accounting Officer submitted that the Fund has now updated master roll to record attendance and wages details for the casual employees. Further, the supporting schedules of Kshs.550,000 have been availed.

**4431) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Employees Costs was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1390. Property, Plant and Equipment**

4432) The statement of financial position reflects a balance of Kshs.1,364,819 under property, plant and equipment which differs with the net book value balance of Kshs.5,539,640 reflected under Note 13 to the financial statements by Kshs.4,174,821. Further, it is not possible to ascertain how the balance of Kshs.5,539,640 was arrived at as depreciation, additions and disposal for the financial year 2019/20 are not reflected in Note 13 to the financial statements. In addition, the statement of financial performance reflects an expenditure of Kshs.1,539,640 for depreciation and amortization but the same is omitted from the fixed assets movement schedule in Note 13 to the financial statements.

4433) Under the circumstances, the accuracy and completeness of the property, plant and equipment balance of Kshs.1,364,819 could not be confirmed.

**Submission by the Accounting Officer**

4434) The Accounting Officer submitted that the above anomalies were noted. Appropriate adjustments have been carried out in the subsequent financial statement for 2020/21. However it should be appreciated that most of the equipment at AIRC are old and obsolete and not functional. Expert evaluation exercise will be carried out with a view to getting the correct valuation and obsolete equipment be removed from the books of accounts after the necessary authority and approval have been granted and has been restated in the financial statements for the Financial year 2020/21.

**4435) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Property, Plant and Equipment was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1391. Undisclosed Imprests**

4436) Information available indicated that the Fund had outstanding imprests amounting to Kshs.811,840 which remained unsurrendered as at 30 June, 2020. However, the outstanding imprests were not included in the receivables from exchange transactions balance of Kshs.7,053,619 disclosed in the statement of financial position. Further, the outstanding imprests balance of Kshs.811,840 included Kshs.436,640 owed by former employees who had retired or passed on casting doubt on their recoverability.

4437) Consequently, the completeness and accuracy of receivables from exchange transactions balance of Kshs.7,053,619 could not be ascertained.

### **Submission by the Accounting Officer**

4438) The Accounting Officer submitted that the outstanding imprests of Kshs.436,640 has now been surrendered fully as per the attached. The amounts have been restated in the 2020/21 financial statements.

### **4439) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Undisclosed Imprests was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **1392. Unexplained Differences Between the Financial Statements and the Trial Balance**

4440) The statement of financial performance reflects a depreciation charge of Kshs.1,539,640 while the trial balance provided for audit did not reflect the depreciation charge for the year. Further, the reserves and accumulated surplus balances totalling Kshs.8,193,313 reflected in the trial balance differed with the statement of changes in net assets and statement of financial performance balances of Kshs.3,047,795 and Kshs.8,295,785, respectively. In addition, included in the trial balance is an amount of Kshs.3,087,980 for opening stock as at 1 July, 2019 which differs with the statement of financial position's closing stock balance of Kshs.2,095,540 as at 30 June, 2019 by Kshs.992,440.

4441) The statement of financial performance also reflects an amount of Kshs.3,879,566 in respect of purchase of goods while the ledger/trial balance reflects an amount of Kshs.4,376,456. The difference of Kshs.496,890 between the two sets of records has not been explained or reconciled.

### **Submission by the Accounting Officer**

4442) The Accounting Officer submitted that the above anomalies were noted and has been restated in the financial statements for the financial year 2020/21.

### **4443) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Unexplained Differences Between the Financial Statements and the Trial Balance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **1393. Inaccuracy of Statement of Financial Position**

4444) The statement of financial position reflects an amount of Kshs.1,598,650 for inventories which differs with the stock-take valuation report figure of Kshs.1,232,000 by Kshs.366,650. The variance of Kshs.366,650 has not been reconciled. Further, the statement of financial position reflects a balance of Kshs.1,904,667 under current liabilities but there was no Note disclosing the amount and the balance was also not supported by a schedule or any other verifiable records.

4445) Consequently, the accuracy, completeness and validity of the balances reflected in the statement of financial position as at 30 June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

4446) The Accounting Officer submitted that the above anomalies were noted and has been restated in the financial statements for the 2020/21 year.

**4447) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Inaccuracy of Statement of Financial Position was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1394. The Statement of Changes in Net Assets**

4448) The statement of changes in net assets reflects capital reserves and accumulated surplus balances of Kshs.2,761,802 and Kshs.285,993 respectively. However, the closing balances as at 30 June, 2018 were omitted from the opening balances as at 1 July, 2018. Further, the changes in reserves and accumulated surplus for the 2018/2019 financial year were omitted from the statement of changes in net assets.

4449) Consequently, the completeness and accuracy of the balances of Kshs.2,761,802 and Kshs.285,993 reflected in the statement of changes in net assets under reserves and accumulated surplus respectively as at 30 June, 2020 could not be ascertained.

**Submission by the Accounting Officer**

4450) The Accounting Officer submitted that the above anomalies were noted and has been restated in the financial statements for financial year the 2020/21.

**4451) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to The Statement of Changes in Net Assets was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1395. Statement of Cash Flows**

4452) The statement of cash flows reflects a net cash flow from operating activities amount of Kshs.1,825,633 which differs with the amount of Kshs.9,753,618 in Note 14 to the financial statements by Kshs.7,927,985. The variance has not been reconciled. Further, the statement reflects net cash flows used in investing activities amounting to Kshs.1,668,388 which is computed based on incorrect comparative balances.



4453) Consequently, the accuracy of the balances reflected in the statement of cash flows for the year ended 30 June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

4454) The Accounting Officer submitted that the above anomalies were noted and has been restated in the financial statements for the financial year 2020/21.

**4455) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Statement of Cash Flows was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1396. Statement of Comparison of Budget and Actual Amounts**

4456) The statement of comparison of budget and actual amounts reflects final budgeted total income of Kshs.41,400,000 and total budgeted expenditure of Kshs.30,604,000. The IFMIS reports for the State Department for Crop Development indicated that the approved budget estimates for the Fund was Kshs.36,828,494 while the vote book reflected a total budget utilization of Kshs.31,473,095. The variances between the financial statements and the records at the parent Ministry were not explained.

4457) In addition, the statement of comparison of budget and actual amounts reflects actual total income on comparable basis of Kshs.27,672,728 and total expenditure of Kshs.22,548,410 which differed with the figures reflected in the statement of financial performance of Kshs.12,412,107 under total revenue and Kshs.12,126,114 under total expenses by Kshs.15,260,621 and Kshs.10,422,296 respectively.

4458) Under the circumstances, the accuracy of the statement of comparison of budget and actual amounts could not be confirmed.

**Submission by the Accounting Officer**

4459) The Accounting Officer submitted that the above anomalies were noted and has been restated in the financial statements for the financial year 2020/21.

**4460) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Statement of Comparison of Budget and Actual Amounts was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1397. Comparative Year Figures**

4461) The comparative year balances differed with the 2018/2019 audited financial statements for all the components of the financial statements. However, no schedules were



provided for audit to support the restated balances and there were no disclosures included in the financial statements to explain the restatement of the prior year balances.

**Submission by the Accounting Officer**

4462) The Accounting Officer submitted that the above anomalies were noted and has been restated in the financial statements for the financial year 2020/21.

**4463) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Comparative Year Figures was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**Other Matter**

**1398. Unresolved Prior Year Matters**

4464) Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues. Further, the unresolved prior year issues are not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

**Submission by the Accounting Officer**

4465) The Accounting Officer submitted that the state Department has considered prior year matters seriously and has responded to all matters raised in the Audit Report through Audit responses to the auditor and Public Accounts Committee. We appeared in the PAC on 26th May 2021 and 5th July 2021 and quite a number of issues were discussed and resolved in Public Accounts Committee (PAC).

4466) Treasury Memorandum for the financial year 2017/18 and prior years that provides actions taken on the implementation of Public Accounts Committee recommendations was prepared and submitted to the National Treasury and Auditor General.

**4467) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Unresolved Prior Year Matters was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**Basis for Conclusion**

**1399. Engagement of Casual Employees**

4468) The Fund engaged five (5) employees on temporary basis on a three months' renewable contract commencing on 1 October, 2019 and they served the entity for a continuous period of more than one year. However, the terms of employment were not converted, contrary to Section 37 of the Employment Act, 2007 which provides for conversion of the casual

employment to regular employment terms for employees who have worked in an entity continuously for more than two months.

**Submission by the Accounting Officer**

4469) The Accounting Officer submitted that there were no declared vacancies in the State Department. However, AIRC which is a Fund in the state department was in dire need of casual workers. They had given distinguished services and proved themselves reliable. If vacancies would be declared by the PSC they will be encouraged to apply.

4470) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and documents availed with regard to Unresolved Prior Year Matters was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

4471) **Conclusion**

**1400.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

## 34. STATE DEPARTMENT FOR FISHERIES AQUACULTURE AND THE BLUE ECONOMY

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1166

**Dr. Francis O. Owino, CBS, the Principal Secretary and Accounting Officer for the State Department of Fisheries Aquaculture and the Blue Economy (Vote 1166) appeared before the committee on 22<sup>nd</sup> February, 2022 to adduce evidence on the Audited Financial Statements for the State Department of Fisheries Aquaculture and the Blue Economy (Vote 1166) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                         |   |                              |
|-------------------------|---|------------------------------|
| 1. Mr. Kassim Farrah    | - | Senior Accountant            |
| 2. Mr. James W. Thuita  | - | Head of Accounting Unit      |
| 3. Mr. Martin K. Wamwea | - | Senior Chief Finance Officer |
| 4. Mr. Patrick Kiara    | - | Deputy Director Fisheries    |

And submitted as follows:

#### **Basis for Qualified Opinion**

#### REPORT ON THE FINANCIAL STATEMENTS

#### 4472) **Unqualified Opinion**

**1401.** There were no material issues noted during the audit of the financial statements of the project.

#### **Other Matters**

#### **1402. Non-Disclosure of Pending Bills**

4473) Note 16.1 to the financial statements reflects nil pending bills as at 30 June, 2020. However, a review of records revealed that the State Department had unpaid invoices amounting to Kshs.63,086,659 but the bills have not been disclosed in the financial statements for the year ended 30 June, 2020.

#### **Submission by the Accounting Officer**

4474) The Accounting Officer admitted that it was true that the financial statements reflect nil pending bills balance as at 30 June, 2020. This was as the basis of the internal audit report on pending bills which stated that these unpaid invoices did not meet the criteria of being called pending bills.

#### 4475) **Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents submitted by the Accounting Officer with regard to Non-Disclosure of Pending Bills was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **1403. Budgetary Control and Performance**

4476) The summary statement of appropriation-recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.4,775,480,754 and Kshs.4,043,010,382 respectively resulting to an under-funding of Kshs.732,470,372 or 15% of the budget. Similarly, actual expenditure amounted to Kshs.4,016,165,538 against the approved budget of Kshs.4,775,480,754 resulting to an under-expenditure of Kshs.759,315,216 or 16% which occurred mainly under transfers to other government units. The shortfall in budgeted receipts and under-expenditure implies that the overall goals and objectives of the State Department were not achieved as planned, impacting negatively on service delivery to the public.

#### **Submission by the Accounting Officer**

4477) The Accounting Officer admitted that it was true that there was an underfunding of Kshs.732,470,372 and an under expenditure of Kshs.759,315,216. Funding is always based on commitments and processed payment. Due to covid 19 restrictions, most activities did not take place hence reduction in expenditure and funding. The under expenditure was due to covid 19 restrictions which limited activities which were supposed to be carried out.

#### **4478) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents submitted by the Accounting Officer with regard to Budgetary Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **Basis for Conclusion**

#### **1404. Lack of Monthly Progress Reports on On-going Construction Contracts**

4479) The statement of receipts and payments reflects an expenditure of Kshs.4,016,165,538 for the year ended 30 June, 2020, out of which payments amounting to Kshs.1,850,676,485 related to contracts awarded to various firms for provision of goods and services to the State Department. However, evidence of preparation and submission to the Accounting Officer of monthly progress reports of all procurement contracts of the procuring entity as required under Section 152 of the Public Procurement and Asset Disposal Act, 2015 was not provided.

#### **Submission by the Accounting Officer**

4480) The Accounting Officer admitted that it was true that there was lack of monthly progress report on on going construction contracts contrary to section 152 of the Public Procurement and Asset Disposal Act 2015. This anomaly is explained by restrictions on

travel coupled by budget cuts on both local running and foreign travel due to Covid 19 pandemic. The construction projects were mainly in coast region and western region which required project management and implementation team to travel to the aforementioned regions to be able to provide the necessary data on the progress of these construction projects. Since the lifting on travel bans the monthly reports have been produced and updated in line with section 152 of the Act.

**4481) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents submitted by the Accounting Officer with regard to Lack of Monthly Progress Reports on On-going Construction Contracts was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1405. Proposed Constructions of Laboratory Works and Re-Construction of Perimeter Fence and Extension of Monitoring Control Surveillance Centre at Fish Quality Control Laboratory, Mombasa**

4482) The State Department entered into two contracts for the above constructions on 4 June, 2019. One firm was awarded a tender for construction of laboratory works and re-construction of perimeter fence at a contract sum of Kshs.13,068,100 while the other firm was awarded a contract for construction of the proposed extension of monitoring control surveillance centre at a contract sum of Kshs.42,750,432 for a period of twelve weeks. Audit verifications carried out on 12 November, 2020 revealed that the first contract for the proposed laboratory works and reconstruction of perimeter wall had been completed but the second one was still on-going.

4483) In the circumstances, the second contractor was in breach of the contract agreement signed with the State Department and no action had been taken to fully enforce the contract.

**Submission by the Accounting Officer**

4484) The Accounting Officer admitted that it was true that the second contractor had not completed extension of Monitoring Control Surveillance Centre at Fish quality control Laboratory works on time thus constituting breach of contract. The contractor had problems with cash flow following delayed payment of certificates caused by budget cuts. The supervision by the project manager was hampered by the restrictions on travel following the Covid-19 pandemic. The supervision has since resumed and project manager has taken up this issue which is being addressed as the client looks into restoring budget for the same from the National Treasury.

**4485) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents submitted by the Accounting Officer with regard to Proposed Constructions of Laboratory Works and Re-Construction

- of Perimeter Fence and Extension of Monitoring Control Surveillance Centre at Fish Quality Control Laboratory, Mombasa was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1406. Proposed Construction Works at Gazi Fish Landing Site, Kwale County-Tender Contract No. MOALF&I/SDF&BE/017/2018-2019**

- 4486) The State Department entered into a contract for the proposed construction works of fish landing site at Gazi, Kwale county on 30 May, 2019 for a contract period of 25 weeks and a contract sum of Kshs.39,618,320. The Bills of Quantities specified preparation and application of one coat touch up premier, one undercoat and two finishing coats of approved premium quality marine paint on metal surfaces by the contracted firm.
- 4487) An audit inspection on 13 November, 2020 revealed that the building had been roofed, steel doors installed, and a fresh coat of paint applied. However, the steel doors of the main entrance had started to rust, an indication that the paint used was of low-quality contrary to Element No. 9 (A) of the Bills of Quantities for the proposed construction works.
- 4488) Further, adjacent to the construction site was another building serving the same purpose and which had been commissioned on 13 October, 2020 by the County Government of Kwale. This site had been deserted with minimal activities going on. Although the State Department has clarified that the Department was constructing a seaweed store, drying rack and sheds at the site, this was contrary to the contract signed for construction of a fish landing site comprising a jetty, cold storage store, and abolition block, mechanical and electrical works.

**Submission by the Accounting Officer**

- 4489) The Accounting Officer admitted that it was true that the contract for the construction works at Gazi fish landing site Kwale County had stalled for some time with no activity going on for some time. This is explained by delayed payment of certificates due to the contractor leading to cash flow challenges for the contractor. This problem has since been sorted the contractor has been paid his dues and resumed work. The adjacent building built by the county Government has different functions from the building by the state Department for dry shades and sea weed drying racks together with the associated services which is timely and required to assist the sea weed farmers and value addition going in future.

**4490) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents submitted by the Accounting Officer with regard to Proposed Construction Works at Gazi Fish Landing Site, Kwale County-Tender Contract No. MOALF&I/SDF&BE/017/2018-2019 was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1407. Proposed Construction of Canteen, Ablution Block and Sentry at Shimoni, Kwale County Tender Contract No.MOALF&I/SDF&BE/023/2018-2019**

4491) The State Department signed a contract with a firm on 4 June, 2019 for construction of a canteen, ablution block and sentry at Shimoni, Kwale County at a contract sum of Kshs.41,515,445 for a contract period of 25 weeks.

4492) An audit inspection conducted on 13 November, 2020 revealed that the construction of the ablution block had been done up to roofing level, wall plastering, installation of two door frames for main entry to washrooms done; while the sentry was up to roofing and plastering level. Further, the canteen which was designed to be a one storey building had walling done up to the upper floor lintel area. However, there was no contractor on site and the site appeared to have been abandoned, an indication that the project had stalled. Information available indicated that the project might not continue as the area was earmarked for construction of a major port, an indication that proper feasibility study had not been done before commissioning the project. In addition, the contractor had been paid a total of Kshs.9,673,795 or about 23.3% of the contract sum before the project stalled.

4493) In the circumstances, stakeholders may not get value for money from the project and the expenditure incurred as earlier envisioned.

**Submission by the Accounting Officer**

4494) The Accounting Officer admitted that it was true that the proposed construction of Canteen, Ablution Block and Sentry at Shimoni Kwale, county had stalled, the stalling of works was occasioned by delayed payment following budget cuts and thus making the contractor experience cash flow problems to complete the works. Further Presidential directive to construct a modern fish port by Kenya Ports Authority (KPA) at the site has occasioned the two entities to work out modalities on how to transfer the existing works to the new KPA contractor.

**4495) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents submitted by the Accounting Officer with regard to Proposed Construction of Canteen, Ablution Block and Sentry at Shimoni, Kwale County Tender Contract No.MOALF&I/SDF&BE/023/2018-2019 was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1408. Proposed Renovations and Rehabilitation Works at the Kibuyuni Fish Landing Site, Kwale County Tender Contract No. MOALF&I/SDF&BE/018/2018-2019**

4496)

The State Department signed a contract with a firm on 30 May, 2019 for renovations and rehabilitation works at Kibuyuni Fish Landing Site, Kwale County at a contract sum of Kshs.48,924,444 for a period of 24 Months. An audit inspection conducted on 13



November, 2019 revealed construction works of a new building at the project site contrary to the signed contract for renovations and rehabilitation works for the existing building.

4497) Further, despite violation of the contract agreement, construction of the new building had stalled at lintel level and the contractor appears to have abandoned the site after being paid Kshs.9,363,424. No explanation was given why the works were not ongoing or the viability of this project. In the circumstances, the stakeholders may not get value for the resources already spent.

#### **Submission by the Accounting Officer**

4498) The Accounting Officer admitted that it was true that the construction works at the Kibuyuni fish landing site Kwale county had stalled and this was occasioned by the delayed payment of interim certificates due the contractor leading to cash flow problems. However, we have since paid the outstanding certificates.

#### **4499) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents submitted by the Accounting Officer with regard to Proposed Renovations and Rehabilitation Works at the Kibuyuni Fish Landing Site, Kwale County Tender Contract No. MOALF&I/SDF&BE/018/2018-2019 was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **4500) Conclusion**

**1409.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

### **REVENUE STATEMENTS OF THE STATE DEPARTMENT FOR FISHERIES, AQUACULTURE AND THE BLUE ECONOMY**

#### **REPORT ON THE REVENUE STATEMENTS**

#### **Basis for Qualified Opinion**

#### **1410. Unreconciled Revenue Variances**

4501) The statement of receipts and disbursements reflects an amount of Kshs.86,835,722 under other receipts. However, the balance differs with the amount of Kshs.117,045,464 reflected in records maintained by the State Department for Fisheries, Aquaculture and the Blue Economy for licenses issued and paid for in the financial year 2019/2020. No explanation or reconciliation has been provided for the difference of Kshs.30,209,742 between the two sets of records.

4502) As a result, the completeness and accuracy of the revenue statements for the year ended 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

4503) The Accounting Officer admitted that the amount reflected in the statement of receipts and disbursements of Kshs.86,835,722 is the amount credited to the State Department revenue account and swept to Exchequer Account. The variance of Kshs.30,209,742 was the revenue collected under KENTRADE platform.

#### **4504) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents submitted by the Accounting Officer with regard to Unreconciled Revenue Variances was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **1411. Failure to Submit Monthly Revenue Reports**

4505) Contrary to Section 76 (3) of the Public Finance Management Act, 2012, which requires a receiver of revenue for the National Government to provide monthly statements to The National Treasury and the Commission on Revenue Allocation, the State Department did not submit monthly statements as required.

#### **Submission by the Accounting Officer**

4506) The Accounting Officer admitted that the state department prepares and submits quarterly and monthly revenue reports. The reports are available for audit.

#### **4507) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents submitted by the Accounting Officer with regard to Failure to Submit Monthly Revenue Reports was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **4508) Conclusion**

**1412.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

### **DONOR FUNDED PROJECTS**

#### **KENYA MARINE FISHERIES AND SOCIO-ECONOMIC DEVELOPMENT PROJECT (IDA CREDIT NO. V1310-KE)**

## REPORT ON THE FINANCIAL STATEMENTS

### 4509) **Unqualified Opinion**

**1413.** There were no material issues noted during the audit of the financial statements of the Project.

### **Other Matters**

#### **1414. Budgetary Control and Performance**

4510)

The statement of comparative budget and actual amounts reflects actual receipts of Kshs.65,276,755 against a final budget of Kshs.110,000,000 resulting in underfunding of Kshs.44,723,245 or 41% of the budget. Similarly, Management spent Kshs.53,686,421 against the approved budget of Kshs.110,000,000 for the year then ended, resulting in an under expenditure of Kshs.56,313,579 or 51% of the budget. The Management has attributed the under expenditure and underutilization of funds to Covid-19 restrictions.

#### **Submission by the Accounting Officer**

4511) The Accounting Officer admitted that it was true that there was underfunding of Kshs.44,723,245. Since funding is always based on activities to be paid, and Covid 19 restrictions limited implementation of most activities, funding was affected negatively.

4512) It was also true that there was an under expenditure of Kshs.50,313,579. Covid 19 restrictions on activities requiring big numbers of participants impacted negatively on expenditure since the activities could not be undertaken.

#### **4513) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents submitted by the Accounting Officer with regard to Failure to Submit Monthly Revenue Reports was satisfactory; and
- (ii) The Committee marked the matter as resolved.

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### 4514) **Conclusion**

**1415.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### 4515) **Conclusion**

**1416.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**AQUACULTURE BUSINESS DEVELOPMENT PROGRAMME (IFAD LOAN NO.2000002052)**

**REPORT ON THE FINANCIAL STATEMENTS**

**4516) Unqualified Opinion**

**1417.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matters**

**1418. Budgetary Control and Performance**

4517) The statement of comparative budget and actual amounts reflects actual receipts of Kshs.318,921,886 against final receipts budget of Kshs.582,010,073, resulting in underfunding of Kshs.263,088,187 or 45% of the budget. Further, Management spent Kshs.329,718,993 against the final payments budget of Kshs.582,010,073 resulting in an under expenditure of Kshs.252,291,080 or 43% of the budget. The Management has attributed the under expenditure to delay in procurement of consultancy services and Covid-19 restrictions.

The underfunding and under expenditure affected the planned activities and may have impacted negatively on service delivery to the public

**Submission by the Accounting Officer**

4518) The Accounting Officer submitted that the reduction in the final receipts was as a result of budget cuts to support the government mitigate against the effects of COVID-19 pandemic.

4519) The final payments were at 43% due to the underfunding of the budget and non-contracting of consultancy services due to lengthy procurement procedure. This has however been resolved and the Programme has put in measures to ensure that the service delivery to the public is not compromised.

**4520) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents submitted by the Accounting Officer with regard to Budgetary Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1419. Pending Bills**

4521)

As disclosed under Note 9.1 to the financial statements and analyzed in Appendix 2A to the financial statements, the Programme had pending bills totalling Kshs.44,563,997 for supply of services as at 30 June, 2020. It has not been explained why the pending bills were not cleared by the end of the year yet the Programme had a cash and cash equivalents balance of Kshs.79,886,346 as at 30 June, 2020.

4522) Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

### **Submission by the Accounting Officer**

4523) The Accounting Officer submitted that the items indicated as pending bills were payments already made as at 30th June 2020 but they had not been cleared by the bank as at the statement date. IPSAS cash basis reporting does not allow any expenditure to be recognized if it has not been cleared by the bank. However, all these items were cleared in the subsequent month.

### **4524) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents submitted by the Accounting Officer with regard to Budgetary Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

#### **1420. Non-Compliance with the Public Procurement and Asset Disposal Act, 2015**

4525) The statement of receipts and payments reflects acquisition of non-financial assets of Kshs.41,873,958. Included in the balance is Kshs. 7,437,471 in installing an accounting software. The approved budget for the procurement of the software was Kshs.5,763,000. However, Management used restricted tendering and awarded the tender to the firm that quoted Kshs.7,437,471.60 instead of the lowest evaluated bidder of Kshs.4,240,960 as per tender opening committee.

4526) Management did not avail supporting documents for use of restricted tendering, why the bid price was more than the budget and evidence showing that the unsuccessful bidders was notified. This is contrary to Section 87(3) of the Public Procurement and Asset Disposal Act, 2015.

4527) Consequently, Management is in breach of the law.

### **Submission by the Accounting Officer**

4528) The Accounting Officer submitted that this programme through the advice of the donor needed a specific software known as Sunsystem. There are very few dealers for Sunsystem software. Our sister project had already carried out an open tender and produced a shortlist which was used to do the restricted tender. The donor allowed procurement of the Sun System due to its functionality and the wish to standardize the same among the IFAD funded programmes. The Bidder Izon Future Systems Ltd who quoted the Lowest price of Kes 4,240,960 was offering a different software known as ‘SAP Business One Software’. This software did not have the same functionality as the required Sunsystem software.

4529) The Donor gave a No objection to use restricted tendering Reference AB 5 TD 02-2019 dated 24th May 2019 to procure Sunsystem software.

### **4530) Committee Observations and Findings**

- (i) The Accounting officer did not provide documents to support the procurement method of restricted tendering for audit verification.
- (ii) The bid price of Kshs.7,437,471 for the procured application software was more than the budget provision of Kshs.5,763,000.
- (iii) The Accounting officer did not provide documentary evidence showing that, the unsuccessful bidders were notified in contravention of Section 87(3) of the Public Procurement and Asset Disposal Act, 2015.
- (iv) The matter remains unresolved.

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **4531) Conclusion**

**1421.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

### 35. STATE DEPARTMENT FOR IRRIGATION

#### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1167

**Mr. Joseph W. Irungu, the Principal Secretary and Accounting Officer for the State Department for Water Services (Vote 1167) appeared before the Committee on 2<sup>nd</sup> August, 2021 to adduce evidence on the Audited Financial Statements for the State Department for Water Services (Vote 1167) for the Financial Year 2018/2019. He was accompanied by the following officers:**

- |                            |   |   |
|----------------------------|---|---|
| 1. Eng. Samuel A. O. Alima | - | Water Secretary                           |
| 2. Ms. Agnes Waweru        | - | Assistant Accountant General              |
| 3. Eng. Simon G. Mwangi    | - | FM- KWSCRE                                |
| 4. Mr. Kihara Ndungu       | - | Personal Assistant to Principal Secretary |

#### 4532) **Unqualified Opinion**

**1422.** There were no material issues noted during the audit of the financial statements of the Project.

#### **Other Matter**

##### **1423. Unresolved Prior Year Matters**

4533) The audit report for the year ended 30 June, 2019 highlighted several unsatisfactory matters. Contrary to the reporting format prescribed by the Public Sector Accounting Standards Board, Management has not provided disclosure on progress made in resolving these issues. As a result, the matters are considered as unresolved.

#### 4534) **Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2018/19 and a recommendation was issued therein

#### REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

#### 4535) **Conclusion**

**1423.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

#### REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

#### 4536) **Conclusion**

**1425.** There were no material issues relating to effectiveness of internal controls, risk management and governance



## 36. STATE DEPARTMENT FOR CO-OPERATIVES

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1173

**Mr. Ali Noor Ismail, the Principal Secretary and Accounting Officer the State Department for Co-operatives (Vote 1173) appeared before the Committee 2<sup>nd</sup> August, 2021, to adduce evidence on the audited financial statement for the State Department for Co-operatives (Vote 1173) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                         |  |
|-------------------------|--|
| 1. Mr. David K Obonyo   | -Commissioner Co-operative Development |
| 2. Mr. Boniface K. Muli | -HSCMS                                 |
| 3. Mr. Joseph Kimwele   | -Senior Principal finance Officer      |
| 4. Ms. Gladys Waitheka  | -Principal Accountant                  |
| 5. Mr. G. N Njangombe   | -SDCSC-SDS                             |

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **1442. Bank Balances**

4537) As disclosed in Note 9A to the financial statements, the statement of financial position reflects a bank balance of Kshs.58,902,878 as at 30 June, 2020. Included in the bank balance is an amount of Kshs.4,292,758 under deposits account which differs with the deposits account cash book balance of Kshs.4,340,606 resulting to unreconciled difference of Kshs.47,848.

4538) In the circumstances, it has not been possible to confirm the accuracy and completeness of the bank balances of Kshs.58,902,878 as at 30 June, 2020.

#### **Submission by the Accounting Officer**

4539) The Accounting Officer submitted that it was true that Cash and Cash equivalent balance in Financial Statement differed with Cash book balances at the time of Audit. We wish to state that the anomaly will be rectified in subsequent years with Bank Reconciliation done monthly.

#### **4540) Committee Observations and Findings**

That a balance of Kshs.47,848 remains unreconciled and no proper explanation has been given by the Accounting Officer.

#### **4541) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
- 2) The Accounting Officer must at all times ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General within three months after close of the Financial Year as provided for in Article 229(4) (h), and**

**section 81(4) (a) of the Public Finance Management Act 2012 read together with Regulation 90 of the PFM (National Government) Regulations 2015.**

**1443. Unsupported Accounts Payables**

4542) The statement of financial position reflects a balance of Kshs.54,941,174 under accounts payables, which as disclosed in Note 11 to the financial statements, includes an amount of Kshs.4,292,758 for deposits whose supporting documents were not provided for audit verification. Further, no evidence has been provided to support the movement from the balance of Kshs.7,758,732 reported in the previous year to Kshs.4,292,758 as at 30 June, 2019.

4543) The accounts payables balance also includes an amount of Kshs.50,648,416 described as liquidation which further includes an amount of Kshs.8,994,650 described as EFT Collections and Co-operative Bank of Kenya Limited payments. Supporting documents for the latter balance of Kshs.8,994,650 were not availed for audit review.

4544) Consequently, the accuracy and completeness of the accounts payables balance of Kshs.54,941,174 as at 30 June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

4545) The Accounting Officer submitted that the bills were not paid during the year under review due to lack of exchequer and late submission of invoices by the contractors.

**4546) Committee Recommendation**

- 1) Within two weeks upon the adoption of this report, the Accounting Officer should provide to the Office of the Auditor General evidence of payment of the outstanding balances for Audit Verification.**
- 2) The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

**1444. Un-Supported Prior Year Adjustments**

4547) The statement of financial position reflects a balance of Kshs.11,965,084 under prior year adjustment which includes an amount of Kshs.11,757,520 described as deposit account. Management has not provided analysis and supporting documents for the latter balance.

**Submission by the Accounting Officer**

4548) The state department wishes to state that within the said period Co-operative Societies Liquidation account was under the Ministry of Co-operative Development & Marketing and its accounts were incorporated in the Financial Statement of the Ministry. The Ministry prepared financial statements and submitted to the Auditor General for audit during the years ended 30th June, 2004 to 30th June, 2012 as evidenced in the report of Auditor General 2009/2010.

**4549) Committee Observation and Findings**

- (i) The Financial Statements had been provided to the Office of the Auditor-General and reviewed; and
- (ii) The Committee therefore marked the matter as resolved.

#### **Other Matter**

##### **1445. Unaccounted Transfers to Other Government Units**

4550) As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.4,436,200,000 under transfers to other government entities which includes amounts of Kshs.235,905,479 and Kshs.2,764,094,521 transferred to Kenya Planters Co-operative Union Limited (under Liquidation) and the New Kenya Planters Co-operative Union Limited (NKPCU) respectively. However, the Corporations did not submit for audit the financial statements for the year 2019/2020 accounting for the grants and transfers totalling Kshs.3,000,000,000 from the State Department.

#### **Submission by the Accounting Officer**

4551) The Accounting Officer submitted that the Corporation has now prepared and submitted the financial statements for 2019/2020 financial year to the Auditor General for Audit.

#### **4552) Committee Observations and Findings**

- (vi) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
- (vii) However, the Committee observed that the explanation given by the Accounting Officer with regard to Unaccounted Transfers to Other Government Units was satisfactory; and
- (viii) The Committee marked the matter as resolved.

##### **1446. Budgetary Control and Performance - Late Exchequer Releases**

4553) The statement of receipts and payments indicates that the State Department for Co-operatives received a total of Kshs.4,817,602,719 in form of Exchequer releases during the year under review. However, two (2) Exchequers issued totalling Kshs.35,597,445 were released from The National Treasury on 25th June, 2020 and 30th June, 2020. Late release of Exchequer issued could have affected the Department's budget performance and execution for the year ended 30th June, 2020.

#### **Submission by the Accounting Officer**

4554) The Accounting Officer submitted that the State Department for Co-operatives had requested for exchequer of Kshs.5,925,000.00 through letter Reference No. SDC/EFT/01/09/110 dated 9th June, 2020 addressed to the National Treasury being 4th quarter allocation for SASRA F/Y 2019/2020 and Kshs.29,672,443.70 through letter reference No. SDC/EFT/01/09/112 dated 22nd June 2020 being salary and deduction for June 2020 and Office Operations & maintenance. The exchequers were expended by 30th June 2020 for the respective intended purposes. There were no pending bills carried forward to 2020/2021 financial year.

#### **4555) Committee Observations and Findings**

- (ix) The Committee observed that the explanation given by the Accounting Officer with regard to Budgetary Control and Performance was satisfactory; and
- (x) The Committee marked the matter as resolved.

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **Basis for Conclusion**

#### **1447. Irregular Procurement of Goods and Services**

4556) The statement of receipts and payments for the year ended 30 June, 2020 reflects an expenditure of Kshs.171,965,608 under use of goods and services. However, the State Department did not advertise for the pre-qualification of suppliers for goods and services totaling Kshs.41,154,499 as required by Section 93 of the Public Procurement and Asset Disposal Act, 2015.

#### **Submission by the Accounting Officer**

4557) The Accounting Officer submitted that the Kshs.41,154,499 was set aside for procurement of items for AGPO and the State Department carried out continuous registration of suppliers who provided AGPO certificate from the National Treasury as provided by Public Procurement and Assets Disposal Act 2015.

4558) Also, according to the Treasury circular No.112015 on implementation of the 30% Public Procurement Reservation and preferences for youth, women and person with disability, prequalification of firms, the procurement entity was advised not to be subjected to the prequalified firms to further prequalification.

#### **4559) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Irregular Procurement of Goods and Services was satisfactory; and
- (ii) The Committee marked the matter as resolved.

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### **Basis for Conclusion**

#### **1448. Failure to Constitute an Internal Audit Committee**

4560) The Management of the State Department did not provide for audit verification the minutes of meetings for the Audit Committee for the financial year ended 30 June, 2020 to confirm that the Department had an independent Audit Committee as required under Section 73(5) of the Public Finance Management Act, 2012. In the absence of a functioning Audit Committee, monitoring and review of the effectiveness of internal controls for the State Department could not be adequately undertaken. In addition, the Management did not provide for audit verification evidence of audits carried out by the internal audit as per the approved 2019/2020 audit plan including internal audit reports for the year ended 30th June, 2020.

#### **Submission by the Accounting Officer**

4561) The State Department for Co-operatives was under Audit Committee of the Ministry of Trade, Industry and Co-operatives in the financial 2019/2020. The Audit Committee was appointed on 11th September 2017 and commissioned on 23rd January 2019. In the financial year 2019/2020, the committee met once in October 2019 as per attached minutes. Due to Covid 19 Logistic hindrances the Committee did not meet again. The minutes are yet to be confirmed since the committee has not met. Also attached is the Audit Work plan and Audit Reports for the financial year 2019/2020.

**4562) Committee Observations and Findings**

- (i) The Committee observed that the Accounting Officer failed to provide evidence that the Joint Ministerial Audit Committee that was established was indeed approved by the National Treasury as expected under sections 174 (2) of the Public Finance Management (National Government) Regulations, 2015 ; and
- (ii) The Committee, however, marked the matter as resolved.

**1449. Lack of ICT Strategic Committee**

4563) During the year under audit, it was observed that there was no Information Technology Strategic Committee in place for the financial year ended 30 June, 2020. Although Management wrote to the Ministry of Information, Communication and Technology on 5 August, 2019 requesting for Senior ICT officers, no evidence was provided during the audit of the action taken by the Ministry of Information, Communication and Technology or evidence of any follow up from the Department for Co-operatives on the same. Failure to establish an Information Technology Strategic Committee could result in information technology governance being overlooked as part of the State Department's governance

**Submission by the Accounting Officer**

4564) The ICT strategy function is bestowed upon the Ministry of ICT, Innovation and Youth Affairs, which is delivered by the posted officers of the ICT Unit from the Ministry of ICT, Innovation and Youth Affairs. A substantive, Head of ICT for the year ending 30th June 2020 was posted to State Department in April, 2020 and the officer reported on duty on 28th April, 2020. Therefore, the ICT unit being substantively constituted is in-charge of all ICT Strategic functions, implementations and vision in line with the overall mandate of the Ministry of ICT Innovation and Youth Affairs.

**4565) Committee observations and findings**

- (iii) The Committee took note of the submission by the Accounting Officer and found the explanation provided as unsatisfactory; and
- (iv) The matter, however, remained unresolved.

**4566) Committee recommendations**

**The Accounting Officer should within three (3) months of tabling and adoption of this report to constitute the ICT strategic committee and submit the supporting documents before the Committee for verification.**

**CO-OPERATIVE SOCIETIES LIQUIDATION ACCOUNT  
REPORT ON THE FINANCIAL STATEMENTS**

**Basis for Disclaimer of Opinion**

#### **1450. Failure to Submit Financial Statements**

4567) The Management of the Fund did not prepare and submit for audit the financial statements and did not maintain the books of accounts for the Fund for nine (9) years ended 30 June, 2004 to 30 June, 2012. This was contrary to the requirements of Section 19(3) of Co-operative Societies Act which requires that the Fund shall be audited annually by the Auditor-General. In the circumstances, the accuracy of the opening balances could not be confirmed.

#### **Submission by the Accounting Officer**

4568) The state department wishes to state that within the said period Co-operative Societies Liquidation account was under the Ministry of Co-operative Development & Marketing and its accounts were incorporated in the Financial Statement of the Ministry. The Ministry prepared financial statements and submitted to the Auditor General for audit during the years ended 30th June, 2004 to 30th June, 2012 as evidenced in the report of Auditor General 2009/2010.

#### **4569) Committee Observations and Findings**

- (i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
- (ii) However, the Committee observed that the explanation given by the Accounting Officer with regard to Failure to Submit Financial Statements was satisfactory; and
- (iii) The Committee marked the matter as resolved.

#### **1451.1 Late Submission of Financial Statements**

4570) The financial statements of the Fund for the financial years ended 30 June, 2013 to 30 June, 2019, were submitted for audit on 24 February, 2020 contrary to the provisions of Section 68 (2)(k) of the Public Finance Management Act, 2012 which requires an Accounting Officer to prepare annual financial statements for each financial year within three months after the end of the financial year.

#### **Submission by the Accounting Officer**

4571) The Accounting Officer submitted that the Co-operative Societies Liquidation Account under this period was managed by the Ministry of Industrialization and Enterprise Development and accounted for through Headquarters general deposit account. The Ministry was mandated to prepare the financial statements for Co-operative Societies Liquidation Account within this period. The Ministry had prepared the financial statements but combined with those of the other accounts. All this period the financial statements were Audited and verified by the Auditor General.

4572) This matter was raised by the Auditor General in 2016/2017 Audit Report and the new State Department for Co-operative undertook to correct the abnormally by separating the accounts. The State Department prepared separate financial statements for liquidation account and submitted them to the Auditor General on 24th February 2020. The issue had been brought before the committee on 22nd August 2019 and the Committee marked the matter as resolved.

#### **4573) Committee Observations and Findings**



- (i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
- (ii) However, the Committee observed that the explanation given by the Accounting Officer with regard to Late Submission of Financial Statements was satisfactory; and
- (iii) The Committee marked the matter as resolved.

### **1451.2 Unsupported Balances**

4574) As reported in the previous year, supporting documents including cash books, ledgers, trial balances and bank confirmation certificates in support of the cash and cash equivalents and liquidation fund capital balances reflected in the statement of financial position as at 30 June, 2013 to 30 June, 2018 were not provided for audit.

4575) Consequently, the accuracy of the reported balances could not be confirmed.

#### **Submission by the Accounting Officer**

4576) The Accounting Officer reported that within the stated period the State Department had not separated from the Ministry of Industrialization and Enterprise Development, the Financial Statements had been prepared but combined with those of the Ministry. The State Department has now separately prepared the Financial statement and submitted the same to the Auditor General through Letter referenced SDC/ACCOUNTS/FIN/00123 dated 13th August, 2019; and the State Department has also resubmitted the Financial Statement through letter referenced SDC/ACCTS/FIN/00123

#### **4577) Committee Observation and Findings**

- (i) The Financial Statements have since been provided to the Office of the Auditor-General and reviewed; and
- (ii) The issue was marked as resolved.

### **1451.3 Incomplete Set of Financial Statements**

4578) Paragraph 21 (d) of International Public Sector Accounting Standards No. 1 provides that a complete set of financial statements includes a cash flow statement. However, the financial statements for the year ended 30 June, 2013 to 30 June, 2018 submitted for audit did not include the cash flow statement.

4579) In the circumstances, the sets of financial statements presented for audit for the six (6) years were incomplete.

#### **Submission by the Accounting Officer**

4580) The Accounting Officer submitted that, it was true that the financial statements for the year ended 30 June, 2013 to 30 June, 2018 submitted for audit did not include the cash flow statement.

#### **4581) Committee Observations and Findings**

The financial statements submitted for audit did not include the cash flow statement

#### **4582) Committee Recommendations**



- (i) The Accounting officer should within three (3) months of tabling and adoption of this report to prepare and submit the cash flow statement to the Auditor General for Audit Verification.
- (ii) The Accounting officer should at all times ensure there is complete compliance to the IPSAS standards of reporting issued from time to time by the Public Sector Accounting Standards Board.

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### 4583) **Conclusion**

**1452.** Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### 4584) **Conclusion**

**1453.** Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

## MANAGEMENT AND SUPERVISION FUND

## REPORT ON THE FINANCIAL STATEMENTS

### **Basis for Disclaimer of Opinion**

#### **1454. Inaccuracies in the Financial Statements**

4585) The statement of financial position reflects a balance of Kshs.728,671 under property plant and equipment. However, the balance was not supported with schedules and register for audit verification purposes. Further, the statement reflects a balance of Kshs.1,732,278 in respect of cash and cash equivalents which differs with cash book balance of Kshs.4,292,758 resulting to unreconciled difference of Kshs.2,560,480 which has not been explained.

4586) In addition, the statement reflects an amount of Kshs.6,214,248 as the deficit drawn from operations for the year, which differs by Kshs.45,041 with the balance of Kshs.6,169,207 reflected on the statement of financial performance. No explanation has been given for the unreconciled difference.

4587) In view of the foregoing, it has not been possible to confirm the accuracy, presentation and completeness of the financial statements.

### **Submission by the Accounting Officer**

4588) The Accounting Officer reported that, the balance of Kshs.2,560,480 is unreconciled in the books because the records are yet to be traced to facilitate the reconciliation.

#### 4589) **Committee Observations and Findings**

The Accounting officer during the financial year under review (2019/2020 failed to ensure that, required documents in support of property plant and equipment and cash and cash equivalents are available for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 at the time of audit.

#### 4590) **Committee Recommendations**

- 1) **The Accounting officer should within three (3) months of tabling and adoption of this report to prepare and submit the supporting schedules and register to the Auditor General for Audit Verification.**
- 2) **Accounting Officers at all times ensure that reconciliations are done in time and 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.**

### **1455. Unresolved Prior Year Matters**

4591) As was reported in the previous years' audit report, the following matters were noted:

#### **1455.1 Failure to Submit Financial Statements from 2004 to 2012**

4592) The Management of the Fund did not prepare and submit for audit the financial statements or maintain the books of accounts for the Management and Supervision Fund for nine (9) years ended 30 June, 2004 to 30 June, 2012. This was contrary to the requirements of Section 19(3) of Co-operative Societies Rules in 2004 (revised 2012) which requires the Fund to be audited annually by the Auditor-General.

4593) In the circumstances, the accuracy of the opening balances for the year ended 30 June, 2019 and earlier years could not be confirmed.

#### **Submission by the Accounting Officer**

4594) The state department wishes to state that within the said period Co-operative Societies Liquidation account was under the Ministry of Co-operative Development & Marketing and its accounts were incorporated in the Financial Statement of the Ministry. The Ministry prepared financial statements and submitted to the Auditor General for audit during the years ended 30th June, 2004 to 30th June, 2012 as evidenced in the report of Auditor General 2009/2010.

#### 4595) **Committee Observation and Findings**

The Committee observed and found that:

- (i) **The Financial Statements have since been provided to the Office of the Auditor-General and reviewed; and**
- (ii) **The issue was marked as resolved.**

#### **1455.2 Late Submission of Financial Statements**

4596) The financial statements for the years ended 30 June, 2013 up to 30 June 2019 were submitted for audit on 20 February, 2020 contrary to Section 68(2)(k) of the Public Finance

Management Act, 2012 which requires Accounting Officers to prepare annual financial statements for each financial year within three months after the end of the financial year. Management was in breach of the law.

4597) Late submission of financial statements affects the audit programme.

#### **Submission by the Accounting Officer**

4598) The Accounting Officer reported that within the stated period the State Department had not separated from the Ministry of Industrialization and Enterprise Development, the Financial Statements had been prepared but combined with those of the Ministry. The State Department has now separately prepared the Financial statement and submitted the same to the Auditor General through Letter referenced SDC/ACCOUNTS/FIN/00123 dated 13th August, 2019; and the State Department has also resubmitted the Financial Statement through letter referenced SDC/ACCTS/FIN/00123

#### **4599) Committee Observations and Findings**

- (i) The Committee observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
- (ii) However, the Committee observed that the explanation given by the Accounting Officer with regard to Late Submission of Financial Statements was satisfactory; and
- (iii) The Committee marked the matter as resolved.

### **1455.3 Unsupported Balances**

#### **1455.3.1 Statement of Financial Performance**

4600) The statement of financial performance for the year ended 30 June, 2019 reflects an amount of Kshs.14,035,091 in respect of general expenses. However, no supporting documentation has been provided to support the above balance.

#### **Submission by the Accounting Officer**

4601) The Accounting Officer submitted that, supporting documentation of an amount of Kshs.14,035,091 reflected in the statement of financial performance for general expenses was not provided at the time of audit.

#### **4602) Committee Observations and Findings**

- (i) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012
- (ii) The Accounting Officer did not provide supporting documentation for general expenses amounting to Kshs.14,035,091.

#### **4603) Committee Recommendations**

- 1) The Accounting officer should within three (3) months of tabling and adoption of this report to prepare and submit the supporting documentation of general expenses to the Auditor General for Audit Verification.**
- 2) Accounting Officers at all times ensure that reconciliations are done in time and 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.**

#### **1455.3.2 Statement of Financial Position**

4604) The statement of financial position as at 30 June, 2019 reflects a balance of Kshs.7,758,732 under cash and cash equivalents and Kshs.10,219,347 as management and supervision fees - debtors. However, no supporting documentation has been provided for the balances.

4605) In absence of relevant information, documents and records for audit verification, it was not possible to confirm the accuracy and completeness of the balances reflected in the financial statements.

#### **Submission by the Accounting Officer**

4606) The Accounting Officer submitted that, it is true that, supporting documentation of Kshs.7,758,732 under cash and cash equivalents and Kshs.10,219,347 as management and supervision fees - debtors. reflected in the statement of financial performance was not provided at the time of audit.

#### **4607) Committee Observations and Findings**

- (i) The Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
- (ii) The Accounting Officer failed to provide supporting documentation of Kshs.7,758,732 under cash and cash equivalents and Kshs.10,219,347 as management and supervision fees - debtors.

#### **4608) Committee Recommendations**

- 1) The Accounting officer should within three (3) months of tabling and adoption of this report to prepare and submit the supporting documentation under cash and cash equivalents of Kshs.7,758,732 and Kshs.10,219,347 as management and supervision fees - debtors to the Auditor General for Audit Verification.**
- 2) Accounting Officers at all times ensure that reconciliations are done in time and 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.**

#### **1455.4 Inaccuracies of the Financial Statements**

4609) The statement of changes in net assets reflects a balance of Kshs.18,760,263 as net fund balance as at 30 June, 2019 which differs with the balance of Kshs.18,894,544 reflected in the statement of financial position resulting to an unexplained difference of Kshs.134,281. Further, the deficit for the period of Kshs.2,765,651 is reflected as Kshs.2,815,604 resulting to a difference of Kshs.49,953 which has not been explained.

4610) In view of the foregoing, it has not been possible to confirm the accuracy, presentation and completeness of the financial statements.

#### **Submission by the Accounting Officer**

4611) The Accounting Officer submitted that, it is true that, there were unexplained differences of Kshs.134,281 in the statement of changes in net assets and Kshs.49,953 in the deficit figure reflected in the statement of financial position. However, we wish to state that the anomalies will be rectified in subsequent years with Bank Reconciliation done monthly.

**4612) Committee Observations and Findings**

**The Committee observed that the issues were discussed during the examination of the State Department account for financial year 2017/18 and a recommendation was issued therein.**

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**4613) Conclusion**

**1456.** Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**4614) Conclusion**

**1457.** Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

## 37. STATE DEPARTMENT FOR TRADE AND ENTERPRISE DEVELOPMENT

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1174

**Amb. Johnson Weru, the Principal Secretary and Accounting Officer for the State Department for Trade (Vote 1174) appeared before the Committee on 23<sup>rd</sup> August, 2021 to adduce evidence on the Audited Financial Statements for the State Department for Trade (Vote 1174) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                          |                              |
|--------------------------|------------------------------|
| 1. Ms. Mildred Eve Akoth | – Deputy Accountant General. |
| 2. Mr. Joash O. Akuma    | – Chief Finance Officer      |
| 3. Mr. Issack Nur Osman  | – Senior Support Staff.      |
| 4. Ms. Teresa W. Chege   | – Supply Chain               |

And submitted as follows:

#### 4615) **Unqualified Opinion**

**1458.** There were no material issues noted during the audit of the financial statements of the State Department.

#### **Other Matter**

#### **1459. Pending Bills**

4616) As disclosed under Annex I to the financial statements, the State Department had pending bills amounting to KShs.20,933,998 as at 30 June, 2020 that were not settled in the year under review but were carried forward to the 2020/2021 financial year. Management has not explained why the bills were not settled during the year they occurred. Failure to settle bills in the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year, as they form a first charge.

#### **Submission by the Accounting Officer**

4617) It was true that the department had Pending Bills amounting to KShs20,933,998 as at 30th June 2020. Out of this, the department managed to pay KShs.3,045,108 leaving a balance of KShs.7,888,890. The Amount of KShs.7,888,890 comprises of two Merchants KICC and Francis Mungai. The schedule payment was availed for perusal by the Committee.

#### **4618) Committee Observations and Findings**

The department had Pending Bills amounting to KShs20,933,998 as at 30th June 2020. Out of which the department managed to pay KShs.3,045,108 leaving a balance of KShs.7,888,890.

#### **4619) Committee Recommendations**

**The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **Basis for Conclusion**

#### **1460. Unresolved Prior Year Matters.**

4620) Various prior year's audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year's audit issues. Further, some unresolved prior year issues are not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

#### **Submission by the Accounting Officer**

4621) The amount of KShs.28,040,000 for foreign mission was not disclosed in the Financial Statement for the Financial Year 2019/2020 since by the time of preparation of Financial Statement for the Financial Year 2019/2020, The State Department had not received the Audited Accounts from Auditor General due to delay in the Appointment of the Auditor General as the audited reports were signed on 19th October 2020 and copies were availed for perusal by the Committee.

#### **4622) Committee Observations and Findings**

That prior year issues were not resolved or disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

#### **4623) Committee Recommendations**

- 1) The Accounting Officer should at all times ensure there is complete compliance with the IPSAS standards of reporting issued from time to time by the Board.**
- 2) The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

#### **1461. Lack of Expenditure Returns for Disbursement to Foreign Mission**

4624) As disclosed in Note 11 to the financial statements, the statement of assets and liabilities reflects an accounts receivables balance of Kshs.20,380,584 in respect to disbursements by the State Department to foreign missions whose, expenditure returns were not provided for audit review. Although the Management had previously explained that the responsibility of providing the expenditure returns for the expenditure in foreign missions lies with the Principal Secretary, Ministry of Foreign Affairs, no evidence was provided for verification showing the actions being taken by the Department to ensure that returns are made available as and when required.



4625) In view of the above, the regularity of the unaccounted for AIEs held by foreign missions could not be confirmed.

**Submission by the Accounting Officer**

4626) In the year 2019/2020, a total of KShs.65,491,968 was issued as Authority to incur Expenditure (AIE) to Foreign Missions. The department in return, received a sum of KShs.68,387,394 in the same year as expenditure returns from the Foreign Missions which was then captured in the IFMIS System. This therefore, implied the total Expenditure Returns for AIE issued for Financial Year 2019/2020 was received back and an additional amount of KShs.2,895,426 received for prior years resulting to a reduction of outstanding Balance from KShs.23,276,010 for year 2018/2019 to KShs.20,380,584 for year 2019/2020. The schedule of Analysis was availed to the Committee.

**4627) Committee Observations and Findings**

That the outstanding/unaccounted Expenditure Returns for AIEs Disbursement to Foreign Missions for 2019/2020 and prior years was Kshs.20,380,584.

**4628) Committee Recommendations**

**The Accounting Officer should take appropriate administrative action against officers who failed to submit AIEs expenditure returns upon expiry of the Authority to Incur Expenditure.**

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**4629) Conclusion**

**1462.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## 38. STATE DEPARTMENT FOR INDUSTRIALIZATION

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1175

**Amb. Kirimi Peter Kaberia, CBS, the Principal Secretary and Accounting Officer the State Department for Industrialization (Vote 1175), appeared before the Committee on 1<sup>st</sup> February, 2022 to adduce evidence on the audited financial statement for the State Department for Industrialization (Vote 1175) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                       |                                   |
|-----------------------|-----------------------------------|
| 1. Mr. Nicholus Kamau | -Chief Finance Officer            |
| 2. Mr. Stephen Odua   | -Director Industrial.             |
| 3. Ms. Ruth Wanyonyi  | -Deputy Head of Accounts.         |
| 4. Mr. Obiero Makari  | - Head of Supply Chain Management |

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **1463. Unsupported Acquisition of Assets**

4630) As reflected in the statement of receipts and payments, the Department made payments totaling Kshs.130,498,443 under acquisition of assets. However, five payment vouchers for payments totaling Kshs.6,808,960 were not provided for audit review.

4631) Consequently, it has not been possible to confirm the accuracy and validity of Kshs.6,808,960 included in the reported expenditure on acquisition of assets.

#### **Submission by the Accounting Officer**

4632) The Accounting Officer submitted that it was true that payment vouchers for payments totaling Kshs.6,808,960 were not availed for audit review on time. This was due to a delay in retrieving from our filing system. By the time the vouchers were retrieved, the verification exercise had already been concluded. The vouchers have, however, since been availed to the officers from the Office of Auditor General and have been verified. Copies of the said payment vouchers were also availed to the Committee for perusal.

##### **4633) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to expenditure on acquisition of assets was satisfactory; and
- (ii) The support documents on expenditure on acquisition of assets was not availed at the time of audit contrary to Section 9 (1) (e) of the Public Audit Act, 2015 which constitutes dereliction of duty.

4634) **Committee recommendations**

**The Accounting Officer to ensure that documents are submitted to the Auditor General as required at the time of audit in accordance to Section 9 (1) (e) of the Public Audit Act, 2015.**

**1464. Unsupported Payments for Foreign and Domestic Travels**

4635) The statement of receipts and payments reflects use of goods and services expenditure of Kshs.383,694,728 which, as disclosed in Note 4 to the financial statements, includes Kshs.29,034,947 and Kshs.9,325,497 relating to domestic and foreign travel and subsistence respectively. The State Department paid an amount of Kshs.3,200,025 to three (3) tour and travel firms for local and foreign travels.

4636) However, supporting documents including copies of air tickets and boarding passes, copies of motor vehicle work tickets and imprest surrender vouchers were not provided for audit review.

4637) Consequently, the accuracy and validity of the expenditure of Kshs.3,200,025 could not be confirmed.

**Submission by the Accounting Officer**

4638) The Accounting Officer submitted that it was that Kshs.3, 200,025 was paid to three (3) tour and travel firms for local and foreign travel who are pre-qualified travel agents for air ticketing (Merchants). Hon. Chair, on the issue of surrender of imprest and the supporting documents are available and was provided to the officers from the office of the Auditor General for verification.

4639) The mentioned documents in the report are used by individual officers while surrendering temporary imprests.

**4640) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1465. Unsupported and Wrong Classification of Foreign and Domestic Travel Costs**

4641) Included in the transfers to other Government units' balance of Kshs.8,115,915,254 is Kshs.3,907,211 paid to a tour and travel firm on 13 December, 2019 vide payment voucher No.285 for invoices dated between 2016 and 2018. Most of the payments related to foreign travel by the former Cabinet Minister and his assistants. However, there was no evidence that the firm was subjected to competitive bidding and approval for budget re-allocation

was not provided. Further, clearance by the Head of Public Service and the surrender of imprests issued to the officers for the travel were not availed for audit review.

4642) In the circumstances, it has not been possible to confirm the accuracy, validity, value for money and correct classification of the Kshs.3,907,211 paid to the tour and travel firm.

#### **Submission by the Accounting Officer**

4643) The Accounting Officer submitted that the department paid Ksh.3,907,211 to the tour and travel firm which was one of the pre-qualified travel agent for air ticketing (merchants). This was a historical pending bill incurred in the financial year 2016/2017 and was part of the observation in the management letter for year ended 30th June 2019 paragraph 4.1.3 - Historical pending bills.

4644) The issue of surrender of imprest and the supporting documents, he informed the committee that these documents are available and were provided to the officers from the office of the Auditor General for verification. Copy of the payment vouchers were availed for perusal by the Committee.

#### **4645) Committee Observations and Findings**

- (i) The Committee observed the expenditure was wrongly classified as a transfers to other Government units instead of Travel expenditure under use of goods and services,
- (ii) The Committee observed that the explanation on propriety of the expenditure given by the Accounting Officer were satisfactory; and
- (iii) The Committee marked the matter as resolved.

#### **4646) Committee recommendations**

**The Accounting Officer to ensure always items in financial statements are properly classified in accordance to Section 68(2) (e) of Public Finance Management Act, 2012.**

#### **Other Matter**

#### **1466. Unresolved Prior Year Audit Matters**

4647) As disclosed under the progress on follow up of prior years' audit recommendations section of the financial statements, matters raised in the previous financial years, remained unresolved as at 30 June, 2020.

#### **Submission by the Accounting Officer**

4648) The Accounting Officer submitted that the matters raised during the financial year 2018/2019 were cleared by the external audit office thus do not appear in the final audit report of the financial year under review 2019/2020. The previous outstanding matter for the financial year 2017/2018 (Transfer to other government Units and other grants and

Transfers) was resolved in The Public Accounts Committee Report adopted by the house on 24th June, 2021 paragraph 1144 (3) on the Committee observation and findings.

**4649) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer were satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1467. Pending Bills**

4650) Notes 16.1 and 16.2 to the financial statements reflects pending bills amounting to Kshs.120,814,328 comprised of Kshs.25,083,850 for the State Department, Kshs.79,982,755 for Kenya Industrial Training Institute (KITI) and Kshs.15,747,723 due to other entities respectively, that were not settled in the year under review but were carried forward to the 2020/2021 financial year. Failure to settle bills in the year to which they relate will adversely affect the implementation of the subsequent year's budgeted programmes as the pending bills form a first charge to that year's budget provision.

**Submission by the Accounting Officer**

4651) The Accounting Officer submitted that the Pending bills were as a result of lack of exchequer from The National Treasury, some of the pending bills have been cleared during the financial year 2020/2021. Copy of the analysis of pending bills and approval by the National Treasury for additional funds was availed for perusal by the Committee.

4652) Currently as at 30th June 2021 the pending bills is Ksh.24,284,862 for the State Department Headquarter, Ksh.77,687,181 for KITI and Ksh.3,053,239 for Kenya Industry & Entrepreneurship Project (KIEP). It was due to lack of exchequer from the National Treasury that we still have these pending bills.

**4653) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer were satisfactory; and
- (ii) The Committee further observed that the Pending Bills of Kshs.15M are yet to be settled.

**4654) Committee Recommendations**

**The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

**1468. Budgetary Performance and Control**

4655) As reflected in the summary statement of appropriation - recurrent and development combined, the State Department had a budgeted revenue of Kshs.11,178,346,155 but received Kshs.9,201,586,113 resulting to under-collection of Kshs.1,976,760,042 or 18%. Similarly, the State Department's actual expenditure for the year amounted to Kshs.9,069,906,541 against budgeted expenditure of Kshs.11,178,346,155 resulting in an overall under absorption of Kshs.2,108,439,614 or 19% of the budgeted amount. Management attributed the under expenditure to delayed Exchequer releases. The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

#### **Submission by the Accounting Officer**

4656) The Accounting Officer submitted that the State Department rely on Treasury for release of exchequer to be able to implement government programs and offer services to the public. It is true that during the year under review, the State Department had an under absorption of Kshs.1,006,068,979 or 15% of the approved budget. This was however due to lack of exchequer from the National Treasury.

#### **4657) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer were satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **1469. Delay in Exchequer Releases**

4658) The Department received Exchequer releases amounting to Kshs.445,748,433 from The National Treasury in the month of June and July 2020 as summarized below:

Date Funds Received in the Bank Account	Vote	Amount (Kshs.)
25 June, 2020	Recurrent	220,785,654
30 June, 2020	Recurrent	17,031,708
2 July, 2020	Recurrent	31,948,162
3 June, 2020	Development	20,234,381
12 June, 2020	Development	54,131,010
15 June, 2020	Development	85,192,000
30 June, 2020	Development	16,425,519
<b>Total</b>		<b>445,748,434</b>

4659) The delay may have negatively affected timely implementation of the programmes of the State Department and provision of services to the public.

#### **Submission by the Accounting Officer**

4660) The Accounting Officer submitted that it was true the State Department received the exchequers from The National Treasury late but the requisition was done on time.

4661) **Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer were satisfactory; and
- (ii) The Committee marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4662) **Conclusion**

**1470.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4663) **Conclusion**

**1471.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**DONOR FUNDED PROJECTS**

**KENYA INDUSTRY AND ENTREPRENEURSHIP PROJECT (CREDIT NO. 6268-KE)**

REPORT ON THE FINANCIAL STATEMENTS

4664) **Unqualified Opinion**

**1477.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1478. Budgetary Control and Performance**

4665) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.230,000,000 and Kshs.227,492,638 respectively resulting in a shortfall of Kshs.2,507,362. Further, out of the budgeted amount of Kshs.230,000,000, only Kshs.96,412,036 was spent resulting to an under expenditure of Kshs.133,587,964 representing 58% of the estimated expenditure. The under expenditure of the approved budget indicates that some Project activities in the annual work-plan were not implemented which is likely to have impacted negatively on service delivery to the public.



### **Submission by the Accounting Officer**

4666) The Accounting Officer submitted that the shortfall was due to lack of exchequer from The National Treasury, and it is true that we spent only Ksh.96,412,036, the under expenditure was due to covid-19 challenges that some of the consultant contracts were never signed on time.

### **4667) Committee Observations and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer were satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **4668) Conclusion**

**1479.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **4669) Conclusion**

**1480.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

### **OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR INDUSTRIALIZATION**

#### **KENYA YOUTH EMPLOYMENT AND OPPORTUNITIES PROJECT (IDA CREDIT NO.5812-KE) - MICRO AND SMALL ENTERPRISE AUTHORITY**

*Micro and small enterprise authority has been moved to state department for trade therefore no submissions were made for paragraph 1481 to 1485. The matter has been referred to accounting officer-state department for trade to be discussed together with financial year 2020/21.*

### 39. STATE DEPARTMENT FOR LABOUR

#### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1184

**Dr. Peter Tum, the Principal Secretary, the Principal Secretary and Accounting Officer for the State Department of Labour (Vote 1184) appeared before the committee on 31<sup>st</sup> January, 2022 to adduced evidence on the Audited Financial Statements for the State Department of Labour (Vote 1184) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                        |   |                              |
|------------------------|---|------------------------------|
| 1. Mr. Ernest Lukayu   | - | Head of Accounting Unit      |
| 2. Ms. Joyce Mwale     | - | Director Administration      |
| 3. Mr. Ambrose Ogango  | - | Senior Chief Finance Officer |
| 4. Mr. John Maina      | - | Supply Chain management      |
| 5. Mr. Patrick Mwangi  | - | State Department for Labour  |
| 6. Mr. Bosco Chengiyaa | - | Personal Assistant to PS     |

And submitted as follows:

#### **Basis for Qualified Opinion**

#### **1486. Variances Between the Financial Statements and the IFMIS Trial Balance**

4670) A comparison between the financial statements and the supporting IFMIS trial balance revealed variances as shown below:

<b>Item</b>	<b>Trial Balance (Kshs.)</b>	<b>Financial Statements (Kshs.)</b>	<b>Variance (Kshs.)</b>
Deposit A/c	43,920,831	43,780,813	140,018
Recurrent A/c	12,535,643	11,047,297	1,488,346
Development A/c	1,195,869	2,668,085	(1,472,216)
Government Imprest	10,005,963	10,257,963	(252,000)
District Suspense	15,051,817	20,119,817	(5,068,000)
Deposit	44,160,670	43,780,813	379,857
Other Liabilities	8,700,524	-	8,700,524
Withholding Tax	892,625	-	892,625
Cash Clearing A/C	1,422,443,888	-	1,422,443,888
Provisions	83,186,014	-	83,186,014

4671) In the circumstances, the accuracy and completeness of the State Department's financial statements could not be confirmed.

### **Submission by the Accounting Officer**

4672) The Accounting Officer submitted that the recurrent account variance of Ksh.1,488,346 was cash at hand at the close of business on 30th June, 2020. The amount was verified by a board of Survey appointed by the Accounting Officer. The Board of Survey report is attached for verification.

4673) Figures on the following Accounts have since been reconciled as evidenced in Trial Balance:

- i. Deposit A/C
- ii. Recurrent A/C
- iii. Development A/C
- iv. Government Imprest

4674) The State Department engaged technical support from the National Treasury's Accounting Services and IFMIS Directorates in order to resolve the outstanding reconciliation issues on the district suspense, other liabilities, withholding tax, cash clearing and provisions accounts. The exercise was finalized. The audited financial statements for the financial year 2020/2021 thus do not have variances between the trial balance and the financial statements on the said Accounts.

### **4675) Committee Observations and Findings**

The Committee observed that, the issue has been resolved. The IFMIS team from the National Treasury assisted clearing the system generated balances. The explanation was satisfactory.

### **4676) Committee Recommendations**

- 1) Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012;**
- 2) Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012; and**
- 3) The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

### **Other Matter**

#### **1487. Pending Bills**

4677) Note 16.1 to the financial statements reflects pending bills amounting to Kshs.119,224,702 as at 30 June, 2020. A review of the position as at the time of audit in

December, 2020 revealed that an amount of Kshs.57,396,858 had been paid leaving an outstanding balance of Kshs.61,827,845. Failure to settle bills during the year to which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

#### **Submission by the Accounting Officer**

4678) The Accounting Officer submitted that during financial year 2019/2020 there was a budget rationalization undertaken by the National Treasury ranging between 50% to 75% on both Recurrent and Development Budgets. In addition, there was inadequate Exchequer releases. It is hoped that the challenges associated with the impact of COVID-19, inadequate Exchequer funding and budgetary cuts will not hamper the final clearance of the remaining pending bills.

4679) A sum of Ksh.108,266,609 of the total pending bills of Ksh.119,224,702 as at 1st July, 2020 has been settled as at 17th January, 2022 leaving a balance of ksh.10,958,093.80 majorly for development expenditure. The State Department has continued to budget for all ongoing projects in order to complete them for use.

#### **4680) Committee Observations and Findings**

- (i) The Committee observed that the pending bills arose due to insufficient Funds or delay in Exchequer releases.
- (ii) The Committee further observed that the pending bills for 2019/2020 did not form the first charge in 2020/2021 and was therefore in breach of Regulation 42 of the Public Finance Management - National Government Regulations 2015.

#### **4681) Committee Recommendations**

- 1) The Cabinet Secretary National Treasury should ensure that the revenue targets including Appropriations In Aid (AIA) factored by the Accounting Officers in annual budgets are realistic and achievable.**
- 2) The National assembly should formulate Regulations that will ensure that the state Departments that are affected by proposed Budget cuts are consulted before supplementary Budgets are tabled in the Parliament to avoid over-commitments that later resulted into avoidable pending bills.**
- 3) The Accounting Officers must at all times adhere to their annual work plans, procurement plans and cash disbursement schedule to increase their level of exchequer requests from the National Treasury.**
- 4) The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

### **1488. Budgetary Control and Performance**

4682) The summary statement of appropriation-recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.4,087,665,972 and Kshs.3,054,926,057 respectively resulting to an under-funding of Kshs.1,032,739,915 or 25% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.4,087,665,972 and Kshs.3,022,627,611 respectively resulting to an under-expenditure of Kshs.1,065,038,361 or 26% of the budget. The under-funding and the resultant under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

#### **Submission by the Accounting Officer**

4683) The Accounting Officer submitted that it was true we were funded to the tune of about 74% of the budget that had already been reduced by more than 37%. The under-expenditure for both recurrent and development as observed by the Auditor General, resulted in our performance contract targets not being fully met as planned. In addition, procurement of goods and services were not fully paid for during the year hence occasioning under-expenditure and pending bills for the year amounting to Ksh.119,224,702. The State Department reviewed and prioritized her activities to be in line with available budget.

#### **4684) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to budgetary performance was satisfactory as the supporting documents were verified by the Auditor General; and
- (ii) The National Treasury should ensure that the revenue targets for Donor Funding, Kenya Revenue Authority (KRA) and the Appropriations In Aid (AIA) factored by the Accounting Officers in annual budgets are realistic and achievable; and
- (iii) The Committee therefore marked the matter as resolved.

### **1489. Unresolved Prior Year Matter**

#### **1489.1 Construction of the National Employment Promotion Centre Kabete**

4685) As was previously reported, the construction of the proposed National Employment Promotion Centre at Kabete was awarded to a local company on 15 May, 2015 for a contract period of seventy-eight (78) weeks at a contract sum of Kshs.442,723,947. However, the Project has only marginally progressed even after payment of Kshs.167,098,228 or 38% of contract sum. A physical inspection during the month of January, 2021 revealed that, although the contractor was on site, there was minimal activity going on and the structure depicted an abandoned site. The contract period of 78 weeks had long expired.

4686) Consequently, it was not possible to determine when and if the project will be completed. Delayed completion continues to deny the public value for the money already paid.

**Submission by the Accounting Officer**

4687) The Accounting Officer submitted that the project has experienced considerable delays since inception. The delay is associated with lack of adequate budgetary provision over the years. The project implementation considerably slowed down due to partial payment of pending certificate carried forward during FY 2019/20. Some works progressed but ensuing certificates could not be settled due to the referred budget cut. The technical team from Public works at the time estimated the project completion at 58%.

4688) This project has been allocated in FY 2021/2022 an amount of Kshs.100 million of which Kshs.23,623,225.70 has been paid to the contractor in partial settlement a pending bill of Kshs.27,342,966 and the balance is available to continue additional works to complete part of the Office Block to occupancy level. In respect of expiry of contract, an extension was processed to 31st December, 2020, which has since expired. The Contractor has applied for another extension and the State Department is in consultation with the State Department for Public Works on the same.

4689) Arising from the challenges of funding and budget cut experienced on this project, the State Department requested for financial appraisal for implementation to make one section of the building usable. The State Department for Public Works responded but however recommended that adequate budgetary provisions should be considered for this project. This however, has not been the case. During FY 2019/2020, the budget allocated of Kshs.243 Million was slashed to KShs.34.3 Million.

4690) During FY 2020/2021, the Project was allocated KShs.98.2 Million which was reduced by half to Kshs.49.1 Million which was used to partly pay pending bill on this project. The cumulative expenditure as at 17th January, 2022 was Ksh.336.6 Million.

**4691) Committee observations and findings**

- (i) The Committee observed that the project had taken too long to complete and had lagged behind the contract completion date.
- (ii) The Committee further, observed that the Accounting Officer did not institute elaborate mechanisms to ensure that the project proceeds as scheduled as the committee had recommended in 2018/2019 report.

**4692) The Committee recommended as follows:**

- 1) Within sixty days upon adoption of this report, the Accounting Officer should institute elaborate mechanisms to ensure that the project proceeds as scheduled.**

- 2) **The Auditor General should review the matter and report back to the National Assembly expeditiously on the progress, status and elaborate mechanisms instituted by the Accounting Officer.**

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **Basis for Conclusion**

#### **1490. Lack of Comprehensive Fixed Assets Register**

4693) As disclosed in Note 9 to the financial statements, the statement of receipts and payments reflects an expenditure amount of Kshs.126,285,543 in respect of acquisition of assets during the year under review. However, a summary of fixed assets register, showing the asset classes, historical cost, additions, disposals during the year, transfer in/out during the year and total historical cost as at 30 June, 2020 was not provided in an annex to the financial statements as required by the Public Sector Accounting Standards Board.

4694) In the circumstances, it was not possible to confirm the valuation, location, ownership, existence and the security of all the assets held by the State Department.

#### **Submission by the Accounting Officer**

4695) The Accounting Officer submitted that the State Department has made progress in the compilation of an Assets Register to ensure its completeness. Towards this end, the State Department engaged the State Department for Housing and urban development to provide technical support on valuation of the listed Assets, being the Government Agency mandated for that function. The state department for Housing and Urban Development has proposed a schedule of officers nominated for the exercise and planned inspection sites. The state department is reviewing the cost implications for the activity in this quarter ending 30th March, 2021.

#### **4696) Committee Observations and Findings**

- (i) **The Committee observed that the Accounting Officer had made progress in the compilation of an Assets Register by engaging the State Department for Housing and urban development to provide technical support on valuation of the Assets.**
- (ii) **The fixed asset register has, however, not been submitted to the Auditor-General for audit review and verification.**

#### **4697) Committee Recommendations**

- 1) **Within three months of tabling and adoption of this report, the Accounting officer should submit the completed fixed asset register to the Auditor-General for review and reporting to the National Assembly.**
- 2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**



## 1491. Management of Temporary Imprests

4698) The statement of assets and liabilities reflects accounts receivable - outstanding imprests of Kshs.35,569,567 which, as disclosed in Note 11 to the financial statements, includes Kshs.10,257,963 in respect of outstanding Government imprests which ought to have been surrendered by 30 June, 2020. Further, the State Department had issued multiple imprests amounting to Kshs.2,595,134 contrary to Regulation 93(4)(b) of the Public Finance Management (National Government) Regulations, (2015) which requires an Accounting Officer to ensure that an imprest applicant has no other outstanding imprests.

4699) In the circumstance, the State Department was in breach of law.

### Submission by the Accounting Officer

4700) The Accounting Officer submitted that the outstanding imprests as at 30th June, 2020 of Kshs.10,257,963 were surrendered fully by the imprest holders. The said surrenders could not be expended in the IFMIS system at the time due to budgetary austerity measures effected around March - April, 2020 by the National Treasury.

4701) As regards issuance of multiple imprests, it is true some cases were noted and these were cases for Officers who had back to back travels for official duties and may not have been funded for the initial imprest request due to unavailability of Exchequer. The State Department has now put mechanisms in place to mitigate against such occurrences going forward

### 4702) Committee Observations and Findings

The committee observed that the explanation provided by the Accounting Officer was not satisfactory. Unless it is unavoidable the Accounting Officer should not over-commit the government to incur expenditure without budgeted funds.

### 4703) Committee Recommendations

- 1) **The holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station.**
- 2) **In the event of the imprest holder failing to account for or surrender the imprest on the due date, the/she shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.**
- 3) **In order to effectively and efficiently manage and control the issue of temporary imprests, no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary.**

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

## **Basis for Conclusion**

### **1492. Lack of IT Policy, Risk Management Policy and Data Recovery Strategy**

4704) A review of internal controls at the State Department revealed lack of a documented data recovery strategy, risk management policy and an information technology policy. Consequently, the Department may be under threat of loss of strategic data and information regarding its operations arising from possible cyber-attacks, poor response to fire outbreaks and unsafe storage of information technology resources.

#### **Submission by the Accounting Officer**

4705) The Accounting Officer submitted that the State Department has an ICT Policy which is currently being used to deal with any potential risks. The Policy addresses ICT security risks as well as data management and recovery issues among others.

#### **4706) Committee Observations and Findings**

The Committee observed that the State Department had an IT policy document dated June, 2014 was availed.

#### **4707) Committee Recommendations**

**The Accounting Officer should always ensure that risks and threat of loss of strategic data and information, possible cyber-attacks, poor response to fire outbreaks and unsafe storage of information technology resources are mitigated.**

### **1493. Lack of Staff Succession Plan**

4708) A review of the staff establishment of the State Department revealed that the Department had an ageing staff population. Out of the total staffing of five hundred and eighty-six (586), three hundred and eighty-nine (389), representing 66% were 45 years and above. The State Department did not provide any succession policy guideline on how to replace the ageing staff.

#### **Submission by the Accounting Officer**

4709) The Accounting Officer submitted that Succession Planning and Management are under the purview of Public Service Commission (PSC) and the Ministry in charge of Public Service namely the Ministry of Public Service and Gender (MPS&G). The two issue the policy guidelines on replacement of ageing staff. The policies are in the form of Schemes of Service, Human Resource Policies and Procedures Manual, (May, 2016), Approved Establishment and Organization Structure. All these are in place.

### **Current Status**

4710) The Authorized Staff Establishment as at July, 2021 was one thousand, three hundred and forty one (1,341). Out of this number, the in-post establishment stands at five hundred and fifty six (556). Officers above forty five (45) years are three hundred and forty nine (349), representing 62% of the total in-post. Those below forty five (45) years are two hundred and seven (207), representing 38% of the total establishment.

### **Succession Management**

4711) On 4th July, 2019, the Public Service Commission advertised fourteen (14) senior posts and on 20th November, 2019 advertised two hundred and forty seven (247) posts at entry level (Appendix...X). The total of the advertised posts was two hundred and sixty one (261). This was in response to the declaration of vacancies by the State Department.

4712) The Public Service Commission, in conjunction with the State Department for Labour has, from 26th August, 2020 to date promoted a total of three hundred and seventy-four (374) officers, one hundred and seventy-one (171) comprising technical officers and two hundred and three (203) Support Services Personnel.

4713) The Public Service Commission has recruited the two hundred and forty seven (247) officers. These officers have been deployed to various directorates of the state department in various stations. The fourteen (14) senior posts are still pending action of the Public Service Commission.

4714) The above two interventions have addressed succession management challenges, a process which started in the year 2019 as stated earlier.

### **4715) Committee Observations and Findings**

The Committee observed that the department had taken considerable steps towards a smooth succession.

### **4716) Committee Recommendations**

**The Accounting Officer should always ensure that successions are properly planned through timely recruitment and promotions in line with staff establishment and guided by the adequacy of the department Budget.**

## **DONOR FUNDED PROJECT**

### **KENYA YOUTH EMPLOYMENT OPPORTUNITY PROJECT (CR. NO.5812-KE)**

#### **REPORT ON THE FINANCIAL STATEMENTS**

4717) **Unqualified Opinion**

1494. There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1495. Budgetary Control and Performance**

**1495.1 Budget Under-Funding and Under-Absorption**

4718) The statement of comparative budget and actual amounts reflects budgeted revenue of Kshs.200,000,000 against actual receipts of Kshs.75,220,111 resulting in under-funding of Kshs.124,779,889 which the Management attributes to delays in approval for informal sector skills and occupations survey by the World Bank. Similarly, the statement reflects a budgeted expenditure of Kshs.200,000,000 against an actual expenditure of Kshs.92,982,988 resulting to an under expenditure of Kshs.107,017,012, an indication that the goals and objectives of the Project were not achieved as planned.

**Submission by the Accounting Officer**

4719) The Accounting Officer submitted as follows:

**Receipts**

4720) The project received less money compared to the budgeted amount because the project account had opening balance at the beginning of the year and it uses statement of expenditure (SOE) method to reimburse funds. At the closure of the year, we still had a closing balance meaning all activities were funded.

**Expenditure**

4721) The planned National manpower survey and a pilot survey were not undertaken due to delays in undertaking the informal sector skills survey. The advent of the Covid-19 Pandemic also had a negative impact on the planned activities given that most activities are consultative requiring workshops and retreats and face to face interviews. The revision of the Occupations Standard and the Domestication of the Industrial Standard involves consultative forums while planned field visits were hampered by the restriction on movements.

4722) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to budgetary performance was satisfactory as the supporting documents were verified by the Auditor General; and

- (ii) The National Treasury should ensure that the revenue targets for Donor Funding, Kenya Revenue Authority (KRA) and the Appropriations In Aid (AIA) factored by the Accounting Officers in annual budgets are realistic and achievable; and
- (iii) The Committee therefore marked the matter as resolved.

## **1495.2 Low Absorption Rate**

4723) Examination of the Project's Financing Agreement revealed that the project's total approved commitment is Kshs.1.35 billion and it has a commencement and completion date of 20 May, 2016 and 31 December, 2021 respectively. Further, the funding summary in respect of the Project revealed that only an amount of Kshs.352,168,557 or 26% had been absorbed by the project as at 30 June, 2020 leaving an unspent balance of Kshs.997,831,432 while the project was left with barely one year to the completion date. With this low absorption rate, the Project's objectives may not be realized.

### **Submission by the Accounting Officer**

4724) The Accounting Officer submitted that Funds for Component 3 of the project were majorly meant to finance three surveys Viz. the Informal Sector Skills and Occupations Survey (ISSOS) (Kshs200 Million), The National Manpower Survey (NMS) – (Kshs345 Million) Establishment Survey (Kshs.200 Million) with training/capacity building, dissemination of LMI among others taking the other funds. The delay in undertaking of the ISSOS and the advent of covid-19 has had a negative Knock-on effect hence the low absorption.

### **4725) Committee Observations and Findings**

The Committee in their report for 2018/2019 had observed that there was delay in undertaking the Informal Sector Skills and Occupations Survey (ISSOS) (Kshs200 Million), The National Manpower Survey (NMS) – (Kshs345 Million) Establishment Survey (Kshs.200 Million) was due to insufficient Funds. The delay was occasioned by the Donor and the National Treasury not releasing sufficient funds within the stipulated time period. The Committee then observed that the state Department had delayed too much to undertake the surveys.

### **4726) Committee Recommendations**

- 1) **Within sixty days upon adoption of this report, the Accounting Officer should submit the report on the status of the surveys to the Auditor-General and National Assembly.**
- 2) **The National Treasury should ensure that the revenue targets for Donor Funding, Kenya Revenue Authority (KRA) and the Appropriations In Aid (AIA) factored by the Accounting Officers in annual budgets are realistic and achievable.**
- 3) **The Accounting Officers must at all times adhere to their annual work plans, procurement plans and cash disbursement schedule to increase their level of exchequer requests from the National Treasury.**

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

4727) **Conclusion**

**1496.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4728) **Conclusion**

**1497.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR LABOUR  
KENYA YOUTH EMPLOYMENT AND OPPORTUNITIES PROJECT CREDIT NO. 5812 KE -- NATIONAL INDUSTRIAL TRAINING AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

4729) **Unqualified Opinion**

**1498.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1499. Budgetary Control and Performance**

4730) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,376,746,062 and Kshs.957,125,834 respectively resulting to an under-funding of Kshs.419,620,228 or 17% of the budgeted receipts. Similarly, the Project expended Kshs.1,140,669,670 against an approved budget of Kshs.1,376,746,062 resulting to an under-expenditure of Kshs.236,076,392 or 17% of the budget.

4731) The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

**Submission by the Accounting Officer**

4732) There were no submissions from the accounting officer.

4733) **Committee Observations and Findings**

4734) The Committee observed that the Accounting officer did not respond to this paragraph.

#### 4735) **Committee Recommendations**

**The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**

### REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

#### 4736) **Conclusion**

**1500.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

### REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

#### **Basis for Conclusion**

#### **1501. Proper Custody of Assets - Untagged Fixed Assets**

4737) Annex 3 to the financial statements reflects a total asset value of Kshs.111,803,778. Included in this figure are assets worth Kshs.9,113,180 that had not been tagged or serialized for ease of identification. Further, no evidence was availed to prove that the assets were verified quarterly as required by the project implementation manual.

#### **Submission by the Accounting Officer**

4738) The Accounting Officer submitted that it was true the fixed assets were not tagged by the time of audit. The tagging exercise has now been carried out as per asset and inventory tagging list attached. The Fund now tags and updates inventory of Assets purchased.

#### 4739) **Committee Observations and Findings**

- (i) The committee observed that the Accounting Officer had made progress in the tagging exercise for the Assets.
- (ii) The tagging exercise has not been verified by the Auditor-General.

#### 4740) **Committee Recommendations**

- 1) Within three months of tabling and adoption of this report, the Auditor-General should review and report the status of the tagging to the National Assembly.**
- 2) The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

### **OCCUPATIONAL SAFETY AND HEALTH FUND**



## REPORT ON THE FINANCIAL STATEMENTS

### Basis for Qualified Opinion

#### 1502. Unsupported Financial Statement Amendments

4741) The financial statements presented on 30 September, 2020 were revised and resubmitted on 14 January, 2021. However, the changes on some accounts balances between the first set and the revised set of the financial statements were not supported by adjustment journals as shown below:

ITEM	Financial statements presented on 30 September, 2020 (Kshs.)	Revised Financial Statements presented on 14 January, 20201 (Kshs.)	Unsupported changes (Kshs.)
License and permit	93,115,870	75,324,277	17,791,593
Use of goods and services	586,069	42,833,551	42,247,482
Bank charges	29,015	0	29,015
Boards and conferences	1,714,460	3,495,980	1,781,520
General expenses	46,724,907	0	46,724,907
Receivables from non-exchange transactions	574,178	889,600	315,422
Property, plant and equipment	20,200,442	20,581,655	381,213
Trade other payables from exchange transaction	150,000	531,213	381,213
Accumulated fund	30,407,392	45,989,488	15,582,096
Surplus for the year	42,142,174	27,075,500	15,066,674

4742) Consequently, the accuracy of the various accounts balances reflected in the financial statements could not be confirmed.

#### Submission by the Accounting Officer

4743) The Accounting Officer submitted that a copy of the journal voucher (F.O 25) supporting the adjustments is attached for the auditor's review.

#### 4744) Committee observations and Findings

4745) The Committee observed that a copy of the journal voucher (F.O 25) supporting the adjustments was provided for audit review.

#### 4746) Committee Recommendation

**The Accounting Officer should ensure that the Department keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year in line with Article 229 of the Constitution.**

**1503. Long Outstanding Reconciling Items**

4747) The statement of financial position reflected cash and cash equivalents balance of Kshs.58,924,946 as at 30 June, 2020. A review of the supporting bank reconciliation statements for the year ended 30 June 2020 indicated that there were debits in the bank statement totaling Kshs.4,185,150 which were not reflected as payments in the cashbook, some dating back to the financial year 2017/2018. Further, it was not clear how these amounts were debited in the bank statement and not in the cashbook as payments are initiated by the Management before being cleared by the bank.

4748) In addition, the bank reconciliation statement reflects receipts in bank statement not in cashbook totaling Kshs.19,638,512. Although the management has explained that these represents revenue banked at the Regions but whose returns were not submitted to the Headquarters, it was not clear why the returns had not been submitted.

4749) In the circumstances, the completeness and accuracy of the cash and cash equivalents balance of Kshs.8,924,946 as at 30 June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

4750) The Accounting Officer submitted that the payments vouchers for the Ksh.4,185,150 which were not reflected as payments in the cashbook were posted and the cash book adjusted accordingly. Extract of the cash book is attached.

4751) Receipts amounting to Kshs.19,638,512.10 were in the bank statement but had not been posted in the cashbook at the time audit. This was because during the said period our clients used to deposit applicable fees and licences directly to the Directorate's Bank Account but our field officers delayed in remitting the Miscellaneous Receipt returns to the headquarters for posting in the cashbook. However, this problem has been resolved since all outstanding receipts have been posted to cash book and bank reconciliation statement continue to be prepared on monthly basis. Attached is bank reconciliation statement (F.O 30) for the month of June, 2021.

**4752) Committee Observations and Findings**

The Committee observed that, the explanation given by the Accounting Officer that the Long Outstanding Reconciling Items have been reconciled was satisfactory.

**4753) Committee Recommendations**

- 1) **The Accounting Officer must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012;**
- 2) **The Accounting Officer must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012; and**
- 3) **The Accounting Officer must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

#### **1504. Unconfirmed Motor Vehicles**

4754) The statement of financial position reflects a balance of Kshs.20,581,655 under property, plant and equipment, which includes an amount of Kshs.10,250,000 being value for two (2) motor vehicles that were not availed for physical inspection. The vehicles, GKB 968R and GKB 938S were transferred to the State Department for Labour without formal documentation or agreement while the logbooks were still held by the Fund.

4755) In view of the foregoing, the security and carrying values of two vehicles of Kshs10,250,000 could not be ascertained.

#### **Submission by the Accounting Officer**

4756) The Accounting Officer submitted that from time to time, Departments under the State Department for Labour share vehicles as there is a big shortage of vehicles. Noting the fact that DOSHS is a Department under the State Department for Labour, the vehicles were actually not transferred but released in order to fill a temporary gap in transport at the State Department in the spirit of sharing and optimal utilization. The motor vehicles are available for physical inspection by the Auditor.

#### **4757) Committee Observations and Findings**

**The Committee observed that the State Department for Labour share vehicles with the DOSHS Fund since there is a big shortage of vehicles. The vehicles were actually not transferred but released in order to fill a temporary gap in transport.**

#### **4758) Committee recommendations**

**The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**

#### **1505. Unreconciled Revenue from Registration of workplaces (Licenses and Permits)**

4759) As disclosed in Note 1 to the financial statements, the statement of financial performance indicates that the Fund received revenue totaling Kshs.75,324,277 from licenses and permits. However, the fund's register for registered workplaces availed for audit indicated that there were 11,695 workplaces that were expected to pay license fee at the rate of Kshs.5,000 per registered workplace. The Fund was therefore expected to

receive revenue from license fees amounting to Kshs.58,475,000 from the 11,695 registered workplaces. The resultant difference of Kshs.16,849,277 between the revenue receipts of Kshs.75,324,277 and the expected revenue of Kshs.58,475,000 has not been explained. Further, the manual register provided was susceptible to manipulation.

4760) In the circumstances, the accuracy and completeness of revenue from non-exchange transactions of Kshs.75,324,277 could not be confirmed.

#### **Submission by the Accounting Officer**

4761) The Accounting Officer submitted that the fund received Kshs.58,475,000 from licence fee paid by 11,695 registered work places. The amount reported in financial statement shows a figure of Kshs.75,324,277 bringing a difference of Kshs.16,849,277. The difference of kshs.16,849,277 was Miscellaneous Receipts collected from other revenue sources which include lift registration, sale of abstracts, general registers, approval of building plans, OSH trainings, approved persons/institutions application fees, medical examination, induction training and issuance of practice certificates for approved persons/institutions and workshops for approved persons and institutions.

4762) The Miscellaneous Receipts collections have been presented to the Auditor's.

#### **4763) Committee Observations and Findings**

The Committee observed that the difference of kshs.16,849,277 was Miscellaneous Receipts collected from other revenue sources which include lift registration, sale of abstracts, general registers, approval of building plans, OSH trainings, approved persons/institutions application fees, medical examination, induction training and issuance of practice certificates for approved persons/institutions and workshops for approved persons and institutions. However, the department did not explain how they resolved the concern raised by the Auditor General that the manual register provided was susceptible to manipulation.

#### **3642) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation for the miscellaneous revenue to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to this Committee.**

### **1506. Irregular Transfer of Appropriation- in- Aid (AIA)**

4764) The statement of financial performance reflects a balance of Kshs.42,833,551 under use of goods and services. Included in the balance, and as disclosed in Note 3 to the financial statements, is an amount of Kshs.1,375,000 described as transfer of Appropriation- in- Aid to the State Department of Labour. However, the basis and purposes of the transfer was not explained as the Fund is a semi-autonomous entity and there is no provision for such remittances in Occupational Safety and Health Act, 2007.

4765) In the circumstances, the regularity of the transfer of Appropriation-in-Aid amounting to Kshs.1,375,000 could not be ascertained.

#### **Submission by the Accounting Officer**

4766) The Accounting Officer submitted that the State Department for Labour budgeted for, under the Directorate of Occupational Safety and Health Services in the Financial Year 2019/2020 estimates, AIA of Kshs.4,375,000. Expenditure of similar amount was also budgeted for. The remission of the Kshs.1,375,000 was necessary to enable the Directorate spend on accompanying expenditure items in the said budget. A copy of the budget and Miscellaneous Receipt No. C7389527 dated 3rd October, 2019 acknowledging receipt of the money is attached for verification as.

#### **4767) Committee Observations and Findings**

- (i) The committee Observed that the State Department for Labour budgeted for, under the Directorate of Occupational Safety and Health Services in the Financial Year 2019/2020 estimates. The remission of the Kshs.1,375,000 was necessary to enable the Directorate spend on accompanying expenditure items in the said budget; and
- (ii) The Committee marked the matter as resolved.

#### **4768) Committee recommendations**

**The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**

#### **1507. Unrecovered Repairs and Maintenance Expenditure**

4769) The statement of financial performance reflects a balance of Kshs.573,525 under repairs and maintenance. Included in the balance is an expenditure amount of Kshs.189,999 incurred by the Fund on behalf of the State Department of Labour for repairing the State Department's vehicle number GKB 694M. This amount was to be refunded back to the Fund. However, as at the time of audit in December, 2020 no refund had been received and no disclosure had been made in the financial statements.

4770) In the circumstances, the accuracy and completeness of Repairs & Maintenance balance as at 30 June 2020 could not be confirmed.

### **Submission by the Accounting Officer**

4771) The Accounting Officer submitted that the Fund procured services for repair of motor vehicle GK 694M at Kshs.189,999 from Toyota Kenya on behalf of the State Department for Labour on request by the Secretary Administration on agreement that the amount will be refunded by the State Department on receipt of exchequer. The refund is being processed and will be paid as soon as we access third quarter budget 2021/2022.

#### **4772) Committee Observations and Findings**

The Committee observed that the Fund procured services for repair of motor vehicle GK 694M at Kshs.189,999 from Toyota Kenya on behalf of the State Department for Labour on request by the Secretary Administration on agreement that the amount will be refunded by the State Department on receipt of exchequer. However, the Accounting officer had not refunded the amount and this amounts to procurement without a Budget contrary to Section 44 (2) (a) of the Public Procurement and Asset Disposal Act 2015.

#### **4773) Committee Recommendations**

The Committee cautions the Accounting Officer for breach of Section 44 (2) (a) of the Public Procurement and Asset Disposal Act 2015 by procuring without a Budget.

### **1508. Long Outstanding Imprest**

4774) The statement of financial position reflects a balance of Kshs.889,600 under receivables from non-exchange transactions which includes Kshs.153,200 being imprest held by three (3) officers that has been outstanding since the year 2017. This is contrary to Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station. Regulation 93(6) further provides that in the event of the imprest holder failing to account for or to surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with interest at the prevailing Central Bank Rate. The Fund Management was, therefore, in breach of the law.

### **Submission by the Accounting Officer**

4775) The Accounting Officer submitted that out of the outstanding imprests of Kshs.153,200, a total amount of Kshs.99,000 has been surrendered leaving a balance of Kshs.54,200 for two officers. However, one Mr. Morris Mugosi with outstanding imprest of Kshs.50,000 is on disciplinary action and therefore, not on payroll at the moment hence effecting recovery is not feasible. The other officer Mr. Mutuku with an outstanding imprest of Kshs.4,200 transferred to state department for social protection. We have notified the State Department for Social Protection to effect recoveries and remit the amount to OSH.

#### **3643) Committee Observations and Findings**

- (i) The Committee observed that a balance of Kshs.54,200 is yet to be recovered;
- (ii) The Committee further observed that the Accounting Officer was unable to recover the balance due from two officers. One Mr. Morris Mugosi with outstanding imprest of Kshs.50,000 is on disciplinary action and effecting recovery is not feasible. The other officer Mr. Mutuku with an outstanding imprest of Kshs.4,200 was transferred to the State Department for Social Protection.

**4776) Committee Recommendation**

**The Committee cautions the Accounting Officer for failing to ensure that all outstanding imprest was surrendered in time in accordance to the provisions of the PFM Act 2012 and Regulation 93 of the PFM (National Government) Regulations 2015.**

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**4777) Conclusion**

**1509.** There were no material issues relating to effectiveness of internal controls, risk management and governance.



## 40. TATE DEPARTMENT FOR SOCIAL PROTECTION

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1185

**Mr. Nelson Sospeter Marwa, the Principal Secretary and Accounting Officer the State Department for Social Protection (Vote 1185), appeared before the Committee 9<sup>th</sup> August, 2021, to adduce evidence on the audited financial statement for the State Department for Social Protection (Vote 1185) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                           |                               |
|---------------------------|-------------------------------|
| 1. Mr. Beatrice Igwada    | - SDSP- Accounts              |
| 2. Mr. John Gachigi       | -Director                     |
| 3. Mr. Noah M.O. Sanganyi | -Director Children's service. |
| 4. Ms. Josephine Mumuke   | -Director Social Development. |
| 5. Mr. Willis O. Olwalo   | - Deputy Director Social.     |
| 6. Mr. Kennedy Okeyo      | -Chief Finance Officer        |

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **1510. Cash Transfers**

##### **1510.1 Transfer to State Department for Interior and Citizen Services**

4778) The statement of receipts and payments reflects an expenditure of Kshs.37,184,662,431 under transfers to other government units which includes an amount of Kshs.9,340,270,000 transferred to the State Department for Interior and Citizen Services to assist households of members living with severe disability to cushion them against adverse economic effects of COVID-19. However, the amount was deposited in Account Number 333567300 at Kenya Commercial Bank, Moi Avenue in the name of MPESA Holding Co. Limited and no explanation was provided as to why the deposit was made to MPESA Holding Company Limited instead of the State Department for Interior and Citizen Services recurrent account.

4779) It could therefore not be confirmed that the full disbursement was received by the intended recipients:

Date	Pv no	amount	Account name	Account no
22/04/2020	3148	1000212543	State department of interior deposit account	1,300,000,000
04/06/2020	4451	1000212543	State department of interior deposit account	2,400,000,000
06/07/2020	5220	1000212543	State department of interior deposit account	5,640,270,000
<b>TOTAL</b>				<b>9,340,270,000</b>

4780) The account in which the funds were sent to is State department of interior deposit account. Attached please find letters from the national treasury and requests from the Ministry of Interior and National Government on the transfers.

#### **Submissions from Accounting Officer**

4781) The state department received 10 billion for purposes of cushioning the elderly, orphans and other vulnerable members of the society from the adverse effect of the Covid 19 pandemic out of which Kshs 9,340,270,000 was transferred to the state department of interior and coordination of national government as directed by the national treasury and requests from the state department of interior and coordination of national government.

4782) The account in which the funds were sent to is State department of interior deposit account. The accounting Officer provided letters from the national treasury and requests from the Ministry of Interior and National Government on the transfers.

#### **4783) Committee observations and findings**

- (i) The Committee took note of the submission by the Accounting Officer and found the explanation to be satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **Beneficiaries Sharing Similar Bank Account Numbers**

4784) Review of the Payroll data extracted from the system revealed that one thousand three hundred and twenty-three (1323) beneficiaries shared two hundred and fifty-seven (257) account numbers through which Kshs.8,296,000 was paid in six (6) payment phases during the year under review. No plausible explanation was given as to why beneficiaries are sharing bank accounts.

4785) In the circumstance, the authenticity of the amount of Kshs.8,296,000 paid into these accounts could not be ascertained.

#### **Submission by the Accounting Officer**

4786) The Accounting Officer admitted that there are instances where beneficiaries share similar account numbers. This is a case where an OPTC beneficiary is also a PWSD-CT/CT-OVC. There are instances where the PSP did not open two accounts for one individual who was Beneficiary and also Caregiver and they simply reused same account number screen shot from the system. The department also wishes to invite the auditors to come and verify the same from our system.

**4787) Committee observations and findings**

- (i) After the analysis, The Committee observed that 256 accounts were duplicated and not 1323 as earlier indicated in the audit report;
- (ii) The Committee observed that the Accounting Officer ought to have identified the 256 Accounts with corresponding details and submit the information to the Office of Auditor General for further audit verification and subsequent reporting to the Committee;
- (iii) The matter remained unresolved.

**4788) Committee Recommendations**

**Within one month of adoption of this report, the Accounting Officer to identify the 256 Accounts with corresponding details and submit the information to the Office of Auditor General for further audit verification and subsequent reporting to the Committee**

**1510.2 Beneficiaries Registered in More than One Program**

4789) A comparison of Payrolls for Older Persons and Orphans and Vulnerable Children revealed that twelve thousand one hundred and eighty-eight (12,188) beneficiaries were registered in two (2) separate social protection programs (Older People, and Orphans and Vulnerable Children) and they were paid Kshs.266, 228,000 from both programs.

4790) Although Clause 3.1.2.8(v) of the Consolidated Cash Transfer Program(CCTP) Operations Manual has categorized circumstances under which beneficiaries can be registered in more than one (1) program, the State Department of Social Protection has not provided any document to justify beneficiaries registered in more than one (1) program.

4791) In the circumstances, it has not been possible to confirm that the twelve thousand one hundred and eighty-eight (12,188) beneficiaries are legally registered and/or eligible in the two (2) programs (Older People, and Orphans and Vulnerable Children) and therefore, the payment of Kshs.266,228,000 could not be confirmed as a proper charge on public funds.

**Submission by the Accounting Officer**

4792) The Accounting Officer admitted that there are beneficiaries who appear to be registered in two programmes. This is because following the enrolment of the 70 Years and above into the OPCT Programme in 2017, the eligibility criteria for the OPCT were changed to 'individual and became a universal programme for those deserving and were 70 years and above'. This allowed those who were Caregivers to Beneficiaries in either CT-OVC or PwSD-CT to remain as Caregivers, and therefore have two (2) separate accounts namely: (a.) for themselves as Beneficiaries as an entitlement, and (b.) as Caregiver to

others. This will mean that the OPTC is the primary recipient in both the OPTC and CT-OVC/PWSD-CT. The department would also wish to invite the auditors if they can come and verify the same from our system.

4793) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards Beneficiaries Registered in More than One Program was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1511. Land Parcels without Title Deed**

4794) The Committee observed the above paragraph was discussed during the examination of the report of the Auditor General on Accounts of the State Department for Social Protection for FY 2018/19 and made following recommendations;

4795) **Committee recommendations**

**Within three (3) months of tabling and adoption of this report, the Accounting Officer, with support of National Land Commission, should take measures to expedite acquisition of ownership documents for the properties and report to the National Assembly on the progress.**

**Other Matter**

**1512. Delay in Exchequer Releases**

4796) Examination of records on Exchequer releases revealed that the State Department received Exchequer releases for the month of June 2020 from The National Treasury as detailed below:

<b>Date Received</b>	<b>Vote</b>	<b>Amount (Kshs.)</b>
30 June, 2020	Development	34,173,675
23 June, 2020	Development	537,864,804
15 June, 2020	Development	41,660,672
25 June, 2020	Recurrent	121,624,317
23 June, 2020	Recurrent	4,431,288,851
15 June, 2020	Recurrent	100,315,040
04 June, 2020	Recurrent	2,513,587,991
30 June, 2020	Recurrent	5,640,270,000
<b>Total</b>		<b>13,420,785,350</b>

4797) The delay in Exchequer releases may have negatively affected timely implementation of the programmes of the State Department and provision of services to the public.

### **Submission by the Accounting Officer**

4798) The Accounting Officer Submitted that various exchequer releases were received in the month of June, however it is worth noting that the issue of funding exchequer requests purely lies with the national treasury. Nevertheless, the state department exchequer requisitions funded in June were required at that appropriate period in time e.g for payment of May/ June Inua Jamii cash transfer payment of 4,431,288,851 , cushion for the vulnerable members of the society from the adverse effects of the Covid 19 pandemic 5,640,270,000 and 2,513,587,991.

### **4799) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to delay in exchequer releases was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.

### **1513. Unresolved Prior Year Matters**

4800) Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues. Further, the unresolved prior year issues are not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

### **4801) Committee Observations and Findings:**

The Committee observed the above paragraph was discussed during the examination of the report of the Auditor General on Accounts of the State Department for Social Protection for FY 2018/19.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

#### **1514. Non-Provision of Reports by Service Providers**

4802) The Committee observed the above paragraph was discussed during the examination of the report of the Auditor General on Accounts of the State Department for Social Protection for FY 2018/19 and made following recommendation;

### **4803) Committee recommendations**

**The Accounting Officer should within three (3) months of tabling and adoption of this report provide the Auditor General, for verification, with information as listed in a format that could help in the preparation of an accurate aggregated cash transfer reconciliation as anticipated in the contract and complete reconciliations.**

#### **1515. Grounded Motor Vehicles**

4804) The Committee observed the above paragraph was discussed during the examination of the report of the Auditor General on Accounts of the State Department for Social Protection for FY 2018/19 and made following recommendations;

- 1) Within three (3) months of tabling and adoption of this report, the Accounting Officer should ensure that all the proposed steps are carried out to conclusion and in complete compliance with applicable laws.**
- 2) The Accounting Officer to ensure compliance with section 72(1)(b) of Public Finance Management Act 2012; which requires the Accounting Officer to ensure they manage assets that are under their responsibility in a way which ensures that the national government entity achieves value for money in acquiring, using and disposing of those assets.**

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **Basis for Conclusion**

#### **1516. Unreliable and Inefficient Call Centre Number 1533**

4805) The establishment of a call center was a key component since inception of the cash transfer initiative to facilitate reliable and efficient service provision. However, the call center toll free line 1533 has not been in operation as envisaged by the Management. Further, it was observed that the call center was inadequately staffed and therefore had no capacity to serve the general population. Further, the toll-free line operated from 8.00 am to 5.00 pm from Monday through Friday and the calls made were one way with the system unable to provide a feedback mechanism on the toll-free line. An addition, a non-Safaricom subscribed caller could not reach the line and when the Consolidated Cash Transfer Programme Management Information System (CCTPMIS) was experiencing network challenges, no proper feedback could be given to callers since beneficiary status was inaccessible.

#### **Submission by the Accounting Officer**

4806) The Accounting Officer admitted that that the Inua Jamii Call Centre has not been upgraded. This is due to the fact that the Call Centre was envisioned to take place under the funding from the Department for International Development (DfID) World Bank Trust Fund, in the financial year 2018/2019. However, the requirements for the purchase of equipment exceeded the available allocation during that period; hence inability to procure what was intended.

4807) Despite the challenges cited by the Auditors, the following developments with regard to the Call Centre have taken place recently:

- (i) The State Department is working on the full establishment of the Call Centre under Kenya Social and Economic Inclusion Project (KSEIP). The KSEIP Program Agreement Document (PAD) envisions having “*a functional module to record the grievances and case management received and the actions taken*”;
- (ii) The Programme has had meetings with Telkom Kenya and Airtel to configure their systems to be part of the Toll-Free line for all callers, which is on-going;
- (iii).Going forward, in the event that the CCTPMIS experiences network challenges the Call Centre Personnel use the Test CCTPMIS Environment (which is a replica of the live environment) to provide feedback to the clientele; and
- (iv)The recent elevation of the Programme to a Directorate will make it possible to have more personnel at all levels, including the Call Centre.

**4808) Committee observations and findings**

- (i) The Committee observed the State Department had not ensured the call center was reliable and efficient for service delivery as intended.
- (ii) The Committee further observed the Accounting Officer had not fully addressed the shortcomings to ensure the call center operates efficiently.

**4809) Committee recommendations**

**The Accounting Officer should within three (3) months of tabling and adoption of this report design measures to address the weaknesses identified and report to the National Assembly on progress.**

**DONOR FUNDED PROJECTS**

**NATIONAL SAFETY NET PROGRAMME - IDA CREDIT NO.5287**

**REPORT ON THE FINANCIAL STATEMENTS**

**4810) Unqualified Opinion**

**1517.** There were no material issues noted during the audit of the financial statements of the Project.

**Other Matter**

**1518. Budgetary Control and Performance.**

4811) The financial statements indicate that the Programme’s actual revenue during the year under review amounted to Kshs.42,222,228,747 and the budget Kshs.42,175,916,416 resulting to excess receipts amounting to Kshs.46,312,331. The Programme’s expenditure



budget amounted to Kshs.42,169,625,416 and actual expenditure Kshs.41,922,581,651 resulting to under-expenditure of Kshs.247,043,765. The under-expenditure mainly occurred in the Hunger Safety Net Programme at Kshs.846,579,884 and the Social Protection Secretariat at Kshs.11,478,616 equivalent to 16% and 11% of the respective budgets. On the other hand, Cash Transfers for Persons with Severe Disabilities recorded over-expenditure of Kshs.206,109,447 or 17% of the budget.

4812) However, contrary to the reporting requirements set by the Public Sector Accounting Standards Board (PSASB), Management has not explained, in the Notes to the financial statements, the reasons for the material revenue and expenditure variances.

4813) As a result of the aggregate under-expenditure amounting to Kshs.247,043,765, some activities planned for the year were not implemented, which in turn hindered the Programme from attaining its objectives.

Submission by the Accounting Officer

4814) The Accounting Officer submitted that, while it was true there was under-expenditure mainly occurred in the Hunger Safety Net Programme at Kshs.846, 579,884 and the Social Protection Secretariat at Kshs.11, 478,616 equivalents to 16% and 11% of the respective budgets this was because of lack of exchequer from the GOK counterpart funding during the financial year under review. However, the over expenditure on Cash Transfers for Persons with Severe Disabilities of Kshs.206, 109,447 or 17% of the budget was on balance brought forward funds from the previous year's finance.

4815) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to budgetary control and performance was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4816) **Conclusion**

**1519.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**Basis for Conclusion**

**1520. Inadequate Accounting for Imprests**

4817) Review of the Project's accounting systems indicated that the imprests register maintained by the Programme, did not indicate dates imprests are surrendered and as a result, audit and control of the imprests was not effective.

4818) Further examination of imprest records indicated that on many occasions, imprests were issued to one staff member on behalf of one or more teams engaged in a common activity. This was contrary to regulations on imprests which require each officer to apply and be issued with imprests separately to ensure accountable and effective use of public funds.

#### **Submission by the Accounting Officer**

4819) The Accounting Officer submitted that, while it was true that there was Inadequate Accounting for Imprest under Hunger Safety Net Programm, the entity has so far procured a standalone system which has the capacity to effectively manage their imprest systems as well as improve on their internal control systems for imprest management.

#### **4820) Committee Observations and Findings**

(i) **The Committee observed the Accounting Officer had not maintained proper records in accordance to section 68(2) of Public Finance Management Act, 2012 in respect of imprest and Regulation 92 of Public Finance Management (National Government) Regulations, 2015.**

(ii) **However, the Committee noted that the State Department has since procured a standalone system which has the capacity to effectively manage their imprest systems as well as improve on their internal control systems for imprest management.**

#### **4821) Committee Recommendations**

**The Committee recommends the Accounting Officer to always ensure proper records in respect to imprest are maintained in accordance with section 68(2) of Public Finance Management Act, 2012 and Regulation 92 of Public Finance Management (National Government) Regulations, 20.**

**KENYA SOCIAL AND ECONOMIC INCLUSION PROJECT IDA CR NO. 6348-KE AND GR NO. TF0A 9527**

#### **REPORT ON THE FINANCIAL STATEMENTS**

#### **4822) Unqualified Opinion**

**1521.** There were no material issues noted during the audit of the financial statements of the Project.

#### **Emphasis of Matter**

### **1522. Foreign Exchange Difference**

4823) The statement of receipts and payments reflects loans from external development partners (World Bank) of Kshs.343,722,900 disclosed under Note 1 to the financial statements. This figure differed with an amount of Kshs.346,962,300 reflected in the special account which has been explained as an exchange rate difference of Kshs.3,239,400 arising from the application of different exchange rates applicable at different periods.

4824) My opinion is not modified on the matter described above.

### **Submission by the Accounting Officer**

4825) The Accounting Officer submitted that while it was true there was an exchange difference, this was explained satisfactorily and the auditor agreed to the fact as expressed above.

### **4826) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to foreign exchange difference was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved

### **Other Matter**

### **1523. Budgetary Control and Performance**

4827) The statement of comparative budget and actual amounts reflects actual receipts of Kshs.343,722,900 against budgeted amount of Kshs.906,000,000 resulting to underfunding of Kshs.562,277,100 representing 62% of the budget. Similarly, the statement reflects actual payments of Kshs.18,291,087 against budgeted amount of Kshs.906,000,000 resulting to under expenditure of Kshs.887,708,913 representing a 96% under-absorption. Management has attributed the underfunding and under absorption to slow pace on implementation arising from delayed approval of the work plans and the effects of COVID 19 pandemic mitigation measures. This is an indication that goals and objectives of the Project may not have been achieved as disbursement link indicators were not realized.

### **Submission by the Accounting Officer**

4828) The Accounting Officer submitted that it was true that there was under expenditure on the Purchase of goods & services such that the Project's goals and objectives may not have been realized. The under expenditure arose because of slow take off of the project due to.

- i. 1.The effect of the covid pandemic.
- ii. 2.Delay in the funding of the project, the project received the funding on 12/11/2019 came after five months into the financial year. This further delayed on the implementation arrangements.

- iii. 3. Most expenditure items requires procurement process which are ongoing into the new financial year and thus the actual low absorption realized. Such expenditure includes procurement of a firm to offer technical assistant to economic inclusion programme of which the process has just been concluded in the new financial year.

4829) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to budgetary control and performance was satisfactory; and  
(ii) The Committee therefore marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4830) **Conclusion**

**1524.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

4831) **Conclusion**

**1525.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## 41. STATE DEPARTMENT FOR MINING

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1192

**Mr. Andrew K. Kamau, CBS, Principal Secretary and the Accounting Officer for the State Department of Mining (Vote 1192) appeared before the Committee on 17<sup>th</sup> February, 2022 to adduce evidence on the Audited Financial Statements for the State Department of Mining (Vote 1192) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                           |   |                                 |
|---------------------------|---|---------------------------------|
| 1. Mr. Charles Nyaga      | - | Head of Accounts                |
| 2. Mr. Bernard O. Wandera | - | Assistant Accountant General    |
| 3. Mr. Charles Liyayi     | - | Deputy Accountant General       |
| 4. Mr. Mathew Musyoka     | - | Chief Finance Officer           |
| 5. Mr. Raymond Mutiso     | - | Ag. Director of Mines           |
| 6. Mr. James Mwangi       | - | Supply Chain Management Officer |

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **1526. Misallocation of expenditure**

###### **1526.1 Acquisition of Assets**

4832) The statement of receipts and payments reflects an expenditure of Kshs.268,073,537 under acquisition of assets, being assets acquired during the year under review. However, the supporting schedules provided for the audit indicated an amount of Kshs.121,905,803 reported under acquisition of assets related to purchasing of toners, subsistence allowances, consultancy services, conference services, purchase of air tickets, hire of a chartered plane, and other unrelated expenses.

4833) This is contrary to section 43(1) (b) of the Public Finance Management Act, 2012 which prohibits the reallocation of funds appropriated for capital expenditure, and Regulation, 43(b) of the Public Finance Management (National Government) Regulations, 2015 which provides that an Accounting Officer shall ensure that public funds entrusted to their care are properly safeguarded and are only applied for purposes for which they were intended and appropriated by Parliament.

###### **1526.2 Use of Goods and Services**

4834) The statement of receipts and payments reflects an expenditure of Kshs.242,763,608 under use of goods and services. However, a review of the expenditure ledgers revealed that an amount of Kshs.63,016,713 relating to domestic travel and subsistence allowances, office and general expenses, honoraria and hospitality was charged to unrelated expenditure categories of specialized materials and other services, other operating expenses, routine maintenance of motor vehicles, routine maintenance of other assets and printing, advertisement and information supplies and services.

4835) This is contrary to Section 43 (2) (c) of the Public Finance Management Act, 2012 which provides that the total sum of all reallocations made to or from a program or sub-vote should not exceed ten percent (10%) of the total expenditure approved for that program or sub-vote for that financial year.

#### **Submission by the Accounting Officer on 1526.1 and 1526.2**

4836) The Accounting Officer submitted that the State Department for mining was allocated Ksh.574,000,000 and Ksh.316,163,037 for development and recurrent budget respectively during the financial year 2019/2020. The Development Vote was drastically reduced by Ksh.241,478,082 to Ksh.332,521,918 through National Treasury Circular No 03/2021 dated 31st January 2020 that contained the Austerity measures (Budget Cuts) in the Supplementary Estimates No. 11 of the financial year 2019/2020. This affected the common user items: Utilities Supplies and services, Communication, Domestic Travel, and Subsistence Printing and Advertising.

4837) The reduction of the budget occurred midway during the financial year when expenditure and commitments had been incurred. This resulted to negative balances on these items and sub-items. To clear the negatives, the expenditures had to be journalized on sub-items on the same item that had unspent balances.

4838) Also, the Pending Bills amounting to Ksh.23,175,481.00 for the previous Financial Year, (2018/2019), were incurred as the first charge in the Financial Year 2019/2020, the year under review.

#### **4839) Committee Observations and Findings**

- (i) The Committee observed and found that the explanation and documents given by the Accounting Officer with regard to acquisition of Assets and Use of Goods and Services was satisfactory;
- (ii) However, the Committee observed that the Accounting Officer had written to the National Treasury seeking permission for reallocation of funds with but no response.

#### **4840) Committee Recommendation**

**The Cabinet Secretary for the National Treasury & Planning should always ensure departments are made aware of intended budget cuts in supplementary budgets well in**

**advance before incurring the expenditure. Further, the Cabinet Secretary for the National Treasury & Planning should within three months of adoption of this report, take measures to ensure proper flow of information between National Treasury and State Department to ensure supplementary budget are factual by only moving allocations that have not been spent.**

#### **1527. Difference between financial statements and fixed assets register**

4841) The statement of receipts and payments and Annex 8 – summary of fixed assets register reflects an expenditure of Kshs.268,073,537 for the acquisition of assets. However, the fixed assets register provided for audit, reflected fixed assets additions of Kshs.3,934,349 during the year resulting into an unexplained variance of Ksh264,139,188.

4842) In addition, the summary of the fixed assets register reflected assets with a cumulative historical cost of Kshs.515,127,542 while the fixed assets register reflected assets with a cumulative value of Kshs.302,307,775 resulting into a difference of Kshs.212,819,767. The difference between the two sets of records was not explained or reconciled.

4843) In the circumstance, the accuracy of the acquisition of assets expenditure of Kshs.268,073,537 could not be confirmed. It could also not be confirmed that the assets of the State Department had been properly safeguarded.

#### **Submission by the Accounting Officer**

4844) The Accounting Officer submitted that the summary of fixed assets register from IFMIS reflected assets with cumulative historical costs of Kshs.515,127,542 while the manual fixed asset register reflected assets with a cumulative value of 302,307,775 resulting into a difference of 212,819,767. This difference is as a result of the fixed asset register reflected in the financial statements having been derived from the summary as reflected in the IFMIS System. The IFMIS System gives the actual historical cost of the assets based on the original purchase price.

4845) The State Department for mining has been domiciled in various Ministries and for Mining Department. One time it was under Environment, then the Ministry of Mining, State Department and finally under the Ministry of Petroleum and Mining. This has caused challenges in the preparation of a comprehensive cumulative fixed assets register. Some assets have no known purchase date or even price. Other assets like land, building, and motor vehicles have not been valued due to a change of ownership between these Ministries and Departments.

4846) However, the Ministry of Petroleum and Mining has now undertaken the process of evaluating the vehicles, land, equipment, and Buildings. The other challenge is that the



expenditure on research is placed as an acquisition of assets by IFMIS. This causes a difference between the manual fixed assets register and the IFMIS register.

**4847) Committee Observations and Findings**

- (i) The Committee observed and found that the explanation and documents given by the Accounting Officer with regard to difference between financial statements and fixed assets register was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1528. Inaccuracies of Cash and Cash Equivalents Balance**

4848) The Statement of assets and liabilities reflects cash and cash equivalents of Kshs.3,998,642. As shown in Note 9A to the financial statements, the balance comprised of bank balances of Kshs.1,951,608, Kshs.15,221 and Kshs.2,031,813 held in the recurrent, development and deposits bank accounts respectively. However, the cash and cash equivalents balance of Kshs.3,998,642 differed with the total cash books balances of Kshs.2,158,899 for the three bank accounts as certified by the Board of Survey on 30 June 2020, resulting into a variance of Kshs.1,839,743 which was not reconciled.

4849) Further, the cash in hand balance of Kshs.94,133 held in the recurrent cashbook on 30 June 2020 was not included in the cash and cash equivalents balance thus understating the reported cash and cash equivalents.

4850) In the circumstances, the accuracy and completeness of the cash equivalents balance of Kshs.3,998,642 could not be confirmed.

**Submission by the Accounting Officer**

4851) The Accounting Officer submitted as follows:

- a) The Recurrent cash book balances was amended by adjusting the cashbook resulting to a balance of Kshs.1,951,608 as follows:

Balance as per cash book	Ksh.17,928.95
Payment Reversed	Ksh.52,365.05
Add Receipts of	Ksh.1,920,509.65
Cash Book Adjustments	<u>Ksh. (39,195.65)</u>
Adjusted Cash Book Balance	<b><u>Ksh.1,951,608.00</u></b>

4852) Thus the cumulative cash and cash equivalent is as follows:

Recurrent	Kshs.1,951,608
Development	Kshs.15,221

Deposit	Kshs.2,031,813
<b>Total</b>	<b>Kshs.3,998,642</b>

4853) This can be verified from Bank Reconciliation of 30<sup>th</sup> June 2020 as per note 9A to the Financial Statements:

- b) The cash in hand adjustment was done accordingly on the Recurrent cashbook. The cash balance of Kshs.94,133 was expended on paying PVNO 2976 Kshs.88,000 and PVNO 2977 K
  - c) Kshs.6,133 totaling to Kshs.94,133.
- This can be verified from Recurrent cashbook folio no 74 and 75.

**4854) Committee Observations and Findings**

- (i) The Committee observed and found that the explanation and documents given by the Accounting Officer with regard to Inaccuracies of Cash and Cash Equivalents Balance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1529. Unsupported pending bills**

4855) As disclosed in Note 17.1 to the financial statements, the State Department for Mining had pending bills totaling Kshs.54,589,919. However, pending bills amounting to Kshs.2,621,082 were not supported and as a result, their authenticity could not be ascertained. Failure to settle bills during the year to which they relate adversely affects the provisions of the subsequent year to which they have to be charged.

**Submission by the Accounting Officer**

4856) The Accounting Officer submitted that the Ministry had pending bills amounting to Kshs.54,589,919 as at 30<sup>th</sup> June 2020 for the supply of goods and services in the recurrent vote. The bills related to travel costs, hospitality costs, communications costs, routine maintenance, and general office expenses among other operating costs. The unpaid bills were attributed to the reduction of the Budget by Kshs.76,360,799.00 during Supplementary No II, IFMIS infrastructural challenges, late delivery of invoices by suppliers and technical challenges on the side of suppliers on the user procurement module.

4857) During the FY 2019/20, the State Department used part of the Exchequer received to settle pending bills carried over from FY 2018/19 as the first charge in the FY 2019/20 Budget allocation as guided vide National Treasury Circular No 7/2019 dated 28<sup>th</sup> June 2019 on the guidelines of the implementation of the Medium-Term Budget for Financial Year 2019/20 budget to avoid litigation against the State Department and accrual of interest on unpaid bills. This also affected the settling of the FY 2019/20 bills which led to pending bills.

4858) The payable bills have since been scrutinized and verified by a ministerial audit committee appointed by the Accounting Officer, validated by the Internal Auditor, forwarded to the National Treasury and Ksh.23,175,481 has been paid leaving a balance of Ksh.31,414,438.

**4859) Committee Observations and Findings**

- (i) The Committee observed and found that the explanation and documents given by the Accounting Officer with regard to Unsupported pending bills was satisfactory;
- (ii) The Committee further observed that the said pending bills were cleared in the year 2020/2021; and
- (iii) The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**Basis for Conclusion**

**1530. Award of Tender to a Contractor with contradicting Registration Dates**

4860) The Statement of receipts and payments reflects an expenditure of Kshs.268,073,537 under acquisition of assets, which as disclosed in Note 8 to the financial statements, includes an amount of Kshs.134,785,468 incurred on construction of buildings. Included in the latter balance is an amount of Kshs.6,525,000 paid to a consultancy firm as part payment for undertaking a feasibility study on the establishment of a granite processing plant in Vihiga County at a consultancy fee of Kshs.26,100,000. The same firm was contracted to undertake a feasibility study on the establishment of a soapstone value addition center in Kisii County for Kshs.13,777,520 in April, 2019.

4861) The certificate of incorporation – CPR/2013/213800 submitted by the firm during tendering for the services indicated that the Company was incorporated on 5 November 2013. However, independent confirmation of the registration status of the Company with the Registrar of Companies (CR12) indicated that the Company was registered on 28 August 2018. No explanation was provided for the anomaly.

4862) In the circumstances, the authenticity of the registration documents of the firm, and the validity of the contractual agreements entered into with the State Department, as well as the payments made could not be confirmed.

**Submission by the Accounting Officer**

4863) The Accounting Officer submitted that the State Department for Mining advertised Tenders For Consultancy Services for conducting feasibility Study On Establishment Of Granite Processing Plant In Vihiga County Vide Tender Number SDM/RFP/001/2018-2019 and also Consultancy Services For Feasibility Study On The Establishment of a Soap Stone Value Addition Center In Kisii County Vide Tender No SDM/RFP/003/2018-2019.

4864) The Tender was done in two stages with stage one being Expression of Interest (EOI) and stage two being Request for Proposal (RFP). In the EOI the firms which bided were evaluated according to the criteria which was given in the notice of advert. The tender was open to every eligible firm. Those bidders who were responsive were issued with a request for a proposal document. The Tender was evaluated and Bitrov Limited was awarded the tender. The tender was evaluated in accordance with the evaluation criteria stated in the tender document, as supported by Section 80 of the Act.

4865) Bitrov Limited meet all the evaluation criteria which included provision of documentary evidence of the Company's certificate of incorporation dated 5th November 2013. They also presented CR12 or the Directorship of the company. There was no criteria in the bid document concerning the date of registration of the company. In fact the tenderer may have been a sole proprietorship, only having a certificate for registration and no CR12. The evaluation criteria was based on prima facie approach in good faith. There was no criteria in the tender document on the date of registration of the company. The technical evaluation criteria was based on the experience and qualifications of individual Consultants.

4866) Bitrov Limited also meet the criteria of having signed and stamped self-declaration statement that the firm and its consultant shall not engage in any corrupt and fraudulent practices. This tender was evaluated in accordance with the provisions of the Act and there was no requirement for due diligence in accordance with Section 83 of the Act. Inception and interim reports were provided for perusal by the Committee.

**4867) Committee Observations and Findings**

- (i) The Committee observed and found that the explanation and documents given by the Accounting Officer with regard to Unsupported pending bills was not satisfactory;
- (ii) The Committee further observed that the Chief Procurement Officer failed to due diligence on the bidders before award of tender thereby making unlawful award.

**4868) Committee Recommendations**

- 1. Within three months of adoption of this report, the Cabinet Secretary should write a reprimand letter to the officers involved in the evaluation of the bid documents for failing to carry out due diligence as a disciplinary action.**
- 2. Within three months of adoption of this report, the Public Procurement Regulatory Authority to initiate investigations as per Section 9 (h) of Public Procurement and Asset Disposal Act, 2015 with view to bar the bidder from future public procurement for submitting fraudulent documents.**

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

4869) **Conclusion**

1531. There were no material issues relating to effectiveness of internal controls, risk management and governance.

## **REVENUE STATEMENTS OF THE STATE DEPARTMENT FOR MINING**

### **REPORT ON THE REVENUE STATEMENTS**

#### **Basis for Qualified Opinion**

##### **1532. Unreported Cement Levy Arrears**

4870) The statement of arrears of revenue as at 30 June, 2020 reflects cement levy arrears totaling Kshs.1,721,112,708 owed by various companies. Included in the balance, is Kshs.280,329,449 owed by East African Portland Cement Company (EAPCC) accrued in the period 2014/2015 to 2018/2019. Further, the company did not file self-declaration assessments and was, therefore, not assessed for cement levy in 2018/2019 and 2019/2020 financial years. Management did not provide any explanation on why levies chargeable to the Company were not assessed and reported in the financial statements. In the circumstances, the recoverability of the long outstanding arrears of revenue and the accuracy of arrears of cement revenue due since 2017/2018 financial year could not be ascertained.

#### **Submission by the Accounting Officer**

4871) The Accounting Officer submitted that Cement mineral levy arrears for the period under review totaling Kshs.1,721,112,708 owed by various companies, Kshs.280,329,449 was owed by East African Portland Cement Company (EAPCC), which had accrued for the period 2014/2015 to 2017/2018 and that by the time of assessment the company had not filed self-declaration assessments for cement levy for 2018/2019 and 2019/2020.

4872) The company has since been assessed under the financial year 2020/2021 and issued with a notice of default in payment of cement levy arrears totaling Kshs.404,759,572.20 (letter Ref. DM/3/7/(88) dated 21st June 2021) and requested to make payments and submit the sales returns within thirty days thereof. The Company has cited financial difficulties as the reason for their inability to pay. However, they have promised to clear the arrears once their financial position improves.

##### **4873) Committee Observations and Findings**

The Committee observed that the matter was discussed in its report of 2018/2019 and recommendations made therein:

**The Receiver of Revenue should within three months provide information to Parliament on measures taken to recover the outstanding arrears including instituting legal measures to recover any outstanding amounts.**

### **1533. Long Outstanding Arrears**

4874) Included in the arrears of revenue of Kshs.1,721,112,708 is Kshs.375,862,635 due from Savanna Cement Company as cement minerals levy as at 30 June, 2020. Although a payment plan agreement was signed in August 2017 between the State Department and the Company requiring settlement of the arrears in twenty-four (24) monthly installments starting from September 2017. The Company had reneged on the plan stating that it did not hold a mineral license from the State Department and therefore was not liable to pay the levy. The company had also moved to the High Court challenging Legal Notice No. 222 of 2013 which required payment of cement minerals levy by all cement producing companies in Kenya.

4875) As a result, the recoverability of the long outstanding arrears of revenue and cement levy arrears accruing from the Company since the 2017/2018 financial year could not be confirmed.

### **Submission by the Accounting Officer**

4876) The Accounting Officer submitted that Savannah Cement Company had defaulted in payment of cement minerals levy since FY 2017/18 despite the company having agreed on a payment plan signed in August 2017 for payment of arrears in 24 monthly instalments starting from September 2017.

4877) The Company had moved to the High Court, under Petition No. 224 of 2020, challenging the validity of the Legal Notice 222 of 2013. As advised by the Attorney General vide letter Ref.AG/CPT/MPM/131/2020 of 7th December 2021, consent had been recorded in court and the matter was thereafter marked as settled and the consent adopted as final orders of the Court with no orders as to costs and the matter closed. The Ministry has since received the Court Order, of the recorded consent, dated 26th December 2021, signed by the Deputy Registrar, for implementation and record purposes.

### **4878) Committee Observations and Findings**

The Committee observed that the matter was discussed in its report of 2018/2019 and recommendations made therein:

**The Receiver of Revenue should within three months provide information to Parliament on measures taken to recover the outstanding arrears including instituting legal measures to recover any outstanding amounts.**



#### **1534. Non-Settlement of Cement Levy Arrears**

4879) Included in the arrears of revenue of Kshs.1,721,112,708 is an amount of Kshs.255,530,933 owed by ARM Cement Plc, having accrued during the financial years 2014/2015 to 2016/2017. During the year under review, ARM Cement Plc was acquired by the National Cement Company Limited as a going concern for a purchase price of US\$.50 Million (Kshs.5.2 billion) and a distribution made to all creditors in April 2020 as per the administrator records.

4880) However, the outstanding cement levy arrears of Kshs.255,530,933 at the time of acquisition was not settled from the proceeds realized from the sale. Management did not explain why outstanding cement levy arrears were not settled after the sale of ARM assets and no evidence was provided to show how the buyer, the National Cement Company, intends to settle the outstanding levy.

4881) In the circumstances, the recoverability of the outstanding arrears of Kshs.255,530,933 is in doubt.

#### **Submission by the Accounting Officer**

4882) The Accounting Officer submitted that ARM Cement PLC had owed the Ministry Kshs.290,232.493, as updated under 2020/21 financial statements as outstanding cement minerals levy arrears by the time it was placed under Administration.

4883) The company has since been sold to National Cement Company Limited. Through a letter dated 22nd May, 2019, the administrators acknowledged the amount owned at the time the company was put under administration to be the amount admitted as part of unsecured creditor claims in accordance with the Insolvency Act, 2015. Out of this, 1.31% equivalent of Kshs.3,802,045 of the admitted claims was payable to the State Department of Mining. The Ministry sought advice from the AG on the validity of the Administrative assertion and admissibility of the Insolvency Act.

4884) The Solicitor General vide letters Ref. AG/CONF/21/21/63 VOL.II of 8th July 2021 and Ref. AG/CONF/21/21/63 VOL.II dated 30th August 2021 confirmed that the sale of the ARM Cement PLC and payment of its creditors, after it had been placed under Joint Administration, was to be guided by the Insolvency Act, 2015. This implied that the claims are paid out as per the Second Schedule of the Insolvency Act.

4885) The administrators have since paid Kshs.3,782,335 vide OR No D1298034 of 13th July 2021 being 1.3% of the admissible claim of Kshs.290,232,493 and stated that the final payment is dependent on the resolution of a claim raised by Tanzania Revenue Authority against Maweni Limestone Limited (ARM's subsidiary in Tanzania).

#### **4886) Committee Observations and Findings**



The Committee observed that the matter was discussed in its report of 2018/2019 and recommendations made therein:

**The Receiver of Revenue should within three months provide information to Parliament on measures taken to recover the outstanding arrears including instituting legal measures to recover any outstanding amounts.**

#### **1535. Long Outstanding Dues**

4887) The statement of arrears of revenue as at 30 June, 2020 reflects royalty arrears totaling Kshs.622,204,807 owed by Magadi Soda Company, which has accrued since the financial year 2015/2016. Although the Company undertook to settle the arrears with the State Department, no significant progress was made in the year.

4888) Consequently, the recoverability of the arrears of revenue of Kshs.622,204,807 could not be confirmed.

#### **Submission by the Accounting Officer**

4889) The Accounting Officer submitted that Magadi Soda Company / Tata Chemicals Magadi Limited had accumulated royalty arrears of Kshs.622,204,807 during the financial year 2019/2020. Based on the Legal Notice No 221 of 2013, Magadi Soda products were to attract royalty at 3% for the period 1st July 2015 to 30th June 2017, 4% for the period from July 2017 to 30th June 2019 and 5% for the period from 1st July 2019 and there-after. The company had cited serious operational and financial challenges as the reason for inability to pay the royalties as per the gazetted rates. The company proposed a negotiated rate of 3% to be applied retrospectively from 1st July, 2017.

4890) Since July 2017 the company has paid royalties for its products at 3% instead of 4% for the period July 2017 to June 2019 and 5% thereafter, hence the accumulation of arrears.

4891) The unpaid royalties must be paid at the prescribed rate and this will only change when new rates are prescribed. The Ministry is in the process of reviewing royalty rates, of which proposed rates were published for public participation and the comments received are under review. Upon concurrence, new rates will be gazetted.

4892) The Mining Act, 2016, provides that royalty arrears are public debt and recoverable. The Ministry has written to Tata Chemicals Magadi Limited demanding that the company submit a payment plan for royalty arrears.

#### **4893) Committee Observations and Findings**

The Committee observed that the matter was discussed in its report of 2018/2019 and recommendations made therein:

**The Receiver of Revenue should within three months provide information to Parliament on measures taken to recover the outstanding arrears including instituting legal measures to recover any outstanding amounts.**

#### **1536. Long Outstanding Dues**

4894) The statement of arrears of revenue shows arrears of revenue of Kshs.30,464,301 due from Carbacid (CO2) Limited. The arrears relate to the financial years 2017/2018 and 2018/2019. However, a review of correspondences revealed that the Company Management had expressed their reservations regarding payment of the royalties before a consensus on payment rates was reached, In addition, he Company did not file a self-declared assessment and was, therefore, not assessed for royalties due in the year under review. Recoverability of the arrears of revenue could not, therefore, be confirmed.

#### **Submission by the Accounting Officer**

4895) The Accounting Officer submitted that the royalties for Carbon Dioxide gas were set at 2% of gross sales value for the period from 1st July, 2013 to 30th June 2015; at 3% for the period from 1st July, 2015 to 30th June 2017; at 4% for the period from 1st July, 2017 to 30th June 2019; and at 5% of gross sales value from 1st July 2019 and thereafter.

4896) The unpaid royalties must be paid at the prescribed rate and these only changes when new rates are prescribed. The Ministry is in the progress of reviewing royalty rates, of which proposed rates were published for public participation and the comments received are under review. Upon concurrence new rates will be gazetted. The Mining Act, 2016, provides that royalty arrears are public debt and recoverable. The Ministry has written several demand letters to Carbacid (CO2) Limited, the latest being letter Ref. L/57/I/(85) of 26th January 2022, demanding for the payment royalty arrears.

#### **4897) Committee Observations and Findings**

The Committee observed that the matter was discussed in its report of 2018/2019 and recommendations made therein:

**The Receiver of Revenue should within three months provide information to Parliament on measures taken to recover the outstanding arrears including instituting legal measures to recover any outstanding amounts.**

#### **1537. Unremitted Mining Royalties**

4898) The statement of arrears in revenue for the year under review includes outstanding mining royalties totaling Kshs.43,938,695. The royalty arrears comprise of Kshs.28,893,656, 14,995,851 and Kshs.49,274 accruing from Kilimapesa Gold Pty Limited, African Diotomite Industries Ltd, and Consol Limited respectively. Management did not provide evidence of any tangible steps being undertaken to recover the arrears of revenue. In addition, a review of records maintained by the State Department revealed that,

declared and assessed sales records in respect to Kilimapesa Gold Pty Limited were not up to date and thus the accuracy and recoverability of the royalty arrears could not be confirmed

**Submission by the Accounting Officer**

4899) The Accounting Officer submitted as follows:

(a) **Kilimapesa Gold Pty Limited**

4900) Kilimapesa had an outstanding royalty arrears of Kshs.28,893,568 as of June 2020. According to the company, the non-payment of the arrears had been occasioned by financial difficulties in its gold mining operations at Lolgorian, Lolgorian, Transmara West, Narok County.

4901) Later in 2020, Kilimapesa Gold Mining Pty got a new investor, Mayflower Capital Investments Limited, who committed to pay all the outstanding royalties on completion of the acquisition and raising of new capital as part of the transaction.

4902) The current management of Kilimapesa Gold Pty Limited has since, on (13th October 2021), paid the historical royalty arrears which had accumulated to Kshs.31,428,381.65 through EFT to the Ministry's revenue account at the Central Bank of Kenya, and a receipt OR No B6068580 for Kshs.31,428,381.65 issued on 28th October 2021. The royalty payable by Kilimapesa Gold Pty Limited computed based on the value of each gold export consignment at the time of issuance of the specific export permit.

**Appendix 1537(a)**

(b) **African Diatomite Industries Limited**

4903) African Diatomite Industries Limited had by June 2020 accumulated royalty arrears amounting Kshs.14,736,833.43.

4904) Though Legal Notice No 40 of 2015 royalties for African Diatomite Industries ltd were set at 2% of gross sales value for the period from 1st July, 2013 to 30th June 2015; at 3% for the period from 1st July, 2015 to 30th June 2017; at 4% for the period from 1st July, 2017 to 30th June 2019; and at 5% of gross sales value from 1st July 2019 and thereafter. The company initially complied with the initial rates but later complained that the higher rates were hurting its business.

4905) The Ministry has however has been demanding payments under the applicable rates until such a time when the rates will be revised through a legal notice. The Ministry has since proposed new rates and has called for comments from the public under notice published in the media on 21st September 2021, the public had been invited to give comments on the proposed royalty rates within 30 days thereof, pursuant to the Statutory

Instruments Act, 2013. However, until new rates are prescribed, the current rates are still applicable.

**(c) Consol Glass Limited**

4906) From the production returns for silica sand by Consol Glass Limited for the financial years 2019/2020, 2020/2021 and 2021/2022 (up to December 2021), the respective royalty payable was Kshs.49,630.25, Kshs.58,937.65 and Kshs.34,163.35. This gives the total royalty payable for the period from FY 2019/2020 to December 2021 as Kshs.149,381.75. The royalty remittances for the same periods were Kshs.52,646.10, Ksh.64,045.35 and ksh32,690.30, totaling to Kshs.149,381.75.

4907) Hence Consol Glass Limited had no outstanding royalty payments due to the Ministry as at 31st December 2021.

**4908) Committee Observations and Findings**

The Committee observed that the matter was discussed in its report of 2018/2019 and recommendations made therein:

**The Receiver of Revenue should within three months provide information to Parliament on measures taken to recover the outstanding arrears including instituting legal measures to recover any outstanding amounts.**

**1538. Outstanding Dues**

4909) During the year under review, Rai Cement Company remitted cement levies totaling Kshs.44,701,140. At the time the Company had outstanding arrears of Kshs.25,776,900 whose recoverability and regularity could not be confirmed.

**Submission by the Accounting Officer**

4910) The Accounting Officer submitted that based on the cement production returns, by Rai Cement Limited, for the financial years 2019/2020 and 2020/2021 the cement minerals levy due was Kshs.30,776,900 and Kshs.28,198,800 respectively. The total amount payable for the two financial years was thus Kshs.58,975,700. Taking into account the previous arrears of Ksh.25,776,900 the amount payable by end of 2020/2021 was Kshs.84,752,600

4911) Remittances for the cement levy by the company for the two financial years 2019/2020 and 2020/2021 was Kshs.52,701,140 and Kshs.51,735,000 respectively. For the two years the company made payments totaling Kshs.104,436,140. Thus remittances made within 2019/2020 and 2020/2021 financial years fully covered due royalties and the arrears of the previous years. Hence the arrears have since been fully paid.

4912) **Committee Observations and Findings**

- (i) The Committee observed that Rai Cement had fully paid the outstanding arrears.
- (ii) The committee marked the matter as resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**Basis for Conclusion**

**1539. Dealing in Minerals without Valid Licenses**

4913) A review of the mining cadastral records maintained by the State Department for Mining revealed that East Africa Portland Cement Company (EAPCC) and Rai Cement Company had not been issued with mining rights licenses. However, the companies continued to undertake mining activities and deal in minerals without valid licenses or permits contrary to section 159 of the Mining Act, 2016.

**Submission by the Accounting Officer**

4914) The Accounting Officer submitted that both East African Cement Company Limited and Rai Cement Limited are in the business of manufacturing cement. The manufacture of cement entails the use of various minerals.

4915) However, the companies buy mineral raw materials for cement production. Thus they require Mineral Dealers Processing Licenses as per sections 4 and 159 of the Mining Act 2016. Subsequently, vide letters Ref. DM/3/(A)/II/71 of 28th May 2021 and Ref. DM/3/(A)/II/72 of 28th May 2021 both Rai Cement and EAPCC were informed of the requirements of the Law in dealing with minerals and requested to apply for a Mineral Dealers License or Mineral Dealers Processing License within 30 days from the date thereof.

4916) Rai Cement Limited has since complied, whereby they applied and were issued with Mineral Dealers (Processing) License No DPL/2021/1150. They have also applied for its renewal for the calendar year 2022. However, East African Portland Cement Company Limited was yet to respond.

4917) **Committee Observations and Findings**

The Committee observed that Rai Cement had since complied. However, the East African Portland Cement Company Limited was yet to comply.

4918) **Committee recommendations**

**Within sixty days of adoption of this report, the Receiver of Revenue should take legal measures to ensure East African Portland Cement Company Limited complies with section 159 of the Mining Act, 2016**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT  
AND GOVERNANCE

4919) **Conclusion**

**1540.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

FINAL REPORT 2019/2020

## 42. STATE DEPARTMENT FOR PETROLEUM

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1193

**Mr. Andrew Kamau, CBS, the Principal Secretary and Accounting Officer for the State Department of Petroleum (Vote 1193) appeared before the Committee on 26<sup>th</sup> August 2021 to adduce evidence on the Audited Financial Statements for the State Department of Petroleum (Vote 1193) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                           |   |                           |
|---------------------------|---|---------------------------|
| 1. Mr. Charles Liyayi     | – | Deputy Accountant General |
| 2. Mr. Matthew K. Musyoka | – | Head of Finance.          |

And submitted as follows:

#### 4920) **Unqualified Opinion**

**1541.** There were no material issues noted during the audit of the financial statements of the State Department.

#### 1542. **Pending Bills**

4921) As disclosed in Note 21 to the financial statements, the State Department for Petroleum had pending bills totalling Kshs.438,179,896 as at 30 June, 2020, that were not settled during the 2019/2020 financial year but were instead carried forward to 2020/2021. Failure to settle bills during the year to which they relate to adversely affects the provisions of the subsequent year to which they have to be charged. Additionally, the reported pending bills amount differs with the detailed schedule figure of Kshs.436,253,689 provided by the State Department resulting to a variance of Kshs.1,926,207 which has not been explained.

#### 4922) **The Committee observed and found that:**

The Committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the contingency measures put in place to address the problem.

#### 4923) **The Committee recommended that:**

**The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

#### 1543. **Budgetary Control and Performance**

4924) The statement of appropriation-recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.3,275,722,164 and Ksh.2,608,843,791 respectively, resulting in underfunding of Ksh.666,878,373 or 20%. Similarly, the State Department incurred a total expenditure of Kshs.2,573,214,429 against an approved budget of Kshs.3,275,713,164 resulting in an under-expenditure of Kshs.702,502,735 or 21% of the budget. However, included in the total expenditure of Ksh.2,573,214,429 is an amount of Kshs.973,418,817 under use of goods and services



component which was incurred against a budget of Kshs.941,157,664 resulting in an over-expenditure of Kshs.32,261,151.65 or about 3% of the budgeted amount.

**Submission by the Accounting Officer**

4925) The underperformance of 79% occurred as a result of the COVID 19 containment measures imposed by the government which impeded movement across counties thus disrupting the planned activities for the financial year resulting to under expenditure 21%.

4926) **Committee observations and findings**

(v) The Committee took note of the submission by the Accounting Officer and found the explanation as satisfactory; and

(vi) The matter was marked as resolved.

**1544. Delay of Exchequer Releases**

4927) Review of records maintained by the State Department of relation to Exchequer releases revealed that the State Department received Kshs.90,794,153 Exchequer releases from The National Treasury in the month of June, 2020, as detailed below:

Date Funds Released by The National Treasury	Vote	Amount Received (Kshs)
15 June, 2020	Recurrent	1,035,021
24 <sup>th</sup> June, 2020	Recurrent	11,794,868
28 May 2020	Department	52,621,360

Date Funds Released by The National Treasury	Vote	Amount Received Kshs
11 June, 2020	Development	21,038,100
15 June, 2020	Development	4,484,804
<b>Total</b>		<b>90,794,153</b>

4928) The above delay in release of Exchequer may have negatively affected timely implementation of the programmes of the State Department and provision services to the public.

**Submission by the Accounting Officer**

4929) The Accounting Officer stated that:-

1. Exchequer requisition is done through the IFMIS System and it is only for the invoices that have been processed and ready for payment.
2. MDAs are allowed to requisition for the exact amount that are needed at any given time.

4930) **Committee Observations and Findings**

(i) The Committee observed that the explanation given by the Accounting Officer with regard to delay in exchequer release was satisfactory; and

(ii) The Committee therefore marked the matter as resolved.

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### 4931) **Conclusion**

**1545.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### **Basis for Conclusion**

#### **1546. Lack of an Audit Committee**

4932) Section 174(1) of the Public Finance Management (National Government) Regulations, 2015, requires every National Government entity to establish an Audit Committee. However, during the year under review, the State Department did not have an Audit Committee in place. Consequently, the oversight functions expected to be fulfilled by the Committee were not realized.

#### **Submission by the Accounting Officer**

4933) The Accounting Officer submitted It was true that the State Department did not have an audit committee in place as required by law and thus the oversight function and purpose for which the committee was intended to perform has not been realized at the time of audit.

4934) He further state that the ministry has an audit committee in place after the positions for audit committee members were advertised via mygov and Nation newspapers dated 17th March 2020 MOM/CR/2/27 dated 13th may 2021. The shortlisting exercise took place on 19th may 2021 and the interviews conducted from Wednesday 2nd June 2021 to Friday 4th June 2021 at works building 3rd floor.

#### 4935) **Committee Observations and Findings-**

- (i) The Committee observed the Accounting Officer had already addressed the matter satisfactorily; and
- (ii) The committee marked the matter as resolved.

#### **1547. Weak Controls over Fuel Expenditure**

4936) Note 7 to the financial statements reflects expenditure of Kshs.7,483,725 on fuel and lubricants under the Use of Goods and Services expenditure component. The expenditure largely comprised prepayment for petroleum products supported by proforma invoices from the National Oil Corporation Limited (NOC). However, a review of records maintained on usage of the petroleum products revealed lack of a proper stocks management system. For instance, a record of fuel drawn, quantities remaining and levels of stocks requiring replenishment were not being maintained by the State Department. In addition, no consumption statements were being obtained from NOC, indicating consumption and remaining balances before next payments could be made and no regular reconciliation of stocks were being done.

4937) The Management indicated that there was a fuel card system in place that was being used by the State Department and that the National Oil Corporation was required to submit monthly reports on quantities drawn against the prepayment made.

4938) In the absence of these documents, it was not possible to ascertain whether the fuel paid for was drawn and utilized for the intended purposes.

**Submission by the Accounting Officer**

4939) The management indicated that there was a fuel card system that was being used to and National Oil Corporation was required to submit monthly reports on quantities drawn against the prepayment made. However, there were no documents to support the assertions by management.

4940) Although there did not exist an elaborate system of recording, the purchased fuel, what levels of stock required replenishing of fuel products, proof of already drawn fuel from the National Oil Corporation, the management had in place a system of communication between the transport office and management of National Oil Corporation via email regarding which vehicle, driver and quantity of fuel to be drawn have been availed as proof the transactions that took place during the financial year. In addition, the fuel cards have an inbuilt control system that records the details on who, when and how much fuel drawn that can be retrieved at any given time.

4941) Management besides opening files for each vehicle, it has come up with registers to monitor fuel consumption and to keep track of consumed petrol.

**4942) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Weak Controls over Fuel Expenditure was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**Paragraphs 1548 to 1562 on petroleum development levy fund and petroleum training levy fund were examined by the special fund accounts committee**

## 43. STATE DEPARTMENT FOR TOURISM

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1202

**Mrs. Zeinab Hussein, the Accounting Officer for the State Department of Tourism (Vote 1202) appeared before the Committee on 7<sup>th</sup> February, 2022 to adduce evidence on the Audited Financial Statements for the State Department of Tourism (Vote 1202) for the Financial Year 2019/2020. She was accompanied by the following officers:**

- |                         |   |
|-------------------------|---|
| 1. Mr. Peter Chemwili   | - Senior Chief Finance Officer                |
| 2. Ms. Grace Kariuki    | - Ag Director Supply Chain Management Service |
| 3. Mr. Francis Odera    | - Senior Deputy Accountant General            |
| 4. Mr. M. N. Ole Tialal | - Senior Accountant                           |
| 5. Mr. Richard mwarema  | - Director Planning                           |
| 6. Mr. Baptista Mutura  | - Personal Assistant - PS                     |

And submitted as follows

#### **Basis for Qualified Opinion**

#### **1563. Presentation of Financial Statements - Follow Up Issues**

4943) Note 17 to the financial statements on progress on follow up of prior years' auditor's recommendations has not been updated to include the status of audit issues raised in the financial years 2017/2018 and 2018/2019. The reporting and disclosure requirements prescribed by the Public Sector Accounting Standards Board have therefore not been met.

#### **Submission by the Accounting Officer**

4944) The Accounting Officer admitted that the Financial Statement on progress on follow-up of prior years' auditor's recommendations was not updated on issues raised in Financial Year 2017/2018 and 2018/2019. The Financial Statements have been amended to include all audit issues raised in the auditor reports of 2017/2018 and 2018/2019 as requirement prescribed in the Financial Statement of 2020/2021.

#### **4945) Committee Observations and Findings**

- (i) The Committee observed that the Financial Statement has since been amended to include the audit issues raised earlier;
- (ii) The Committee further observed that at the time of audit, the Accounting Officer failed to comply with Section 81 (3) of the PFM Act, 2012; which requires the Accounting Officer to prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.

(iii) However, the Committee observed that the explanation and documents given by the Accounting Officer with regard to Presentation of Financial Statements was satisfactory.

#### **Committee recommendation**

The Committee recommended the Accounting Officer to always prepare financial statements in accordance Section 81 (3) of the PFM Act, 2012; which requires the Accounting Officer to prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.

#### **1564. Cash and Cash Equivalents**

##### **1564.1 Inaccurate Cash and Cash Equivalents Balance**

4946) The statement of assets and liabilities reflects a cash and cash equivalents balance of Kshs.157, 621,413. However, the balance differs with the amount of Kshs.656, 487,652 reflected in the supporting Trial Balance occasioning a difference of Kshs.498, 866,239 which was not reconciled.

#### **Submission by the Accounting Officer**

4947) The difference was occasioned by a challenge in the IFMIS in the cash management module. However, the challenge has since been addressed and the difference of Kshs.498,866,239.00 between the statement of assets and liabilities and the original trial balance reconciled as analysed below and the revised Trial Balance was availed for perusal by the Committee.

<b>Item</b>	<b>Original Trial Balance (Kshs)</b>	<b>Revised Trial Balance (Kshs.)</b>	<b>Reconciled difference (Kshs.)</b>
Cash	258,483,834.75	-	258,483,834.75
Cash in Transit	69,759,993.05	-	69,759,993.05
Cash in hand	328,243,827.80	-	328,243,827.80
Recurrent Bank A/C		103,938.50	(103,938.50)
Development Bank A/		1.05	(1.05)
Deposit Bank A/C	-	157,517,473.05	(157,517,473.05)
	<b>656,487,655.60</b>	<b>157,621,412.60</b>	<b>498,866,243.00</b>

#### **4948) Committee Observations and Findings**

- (i) The Committee observed that the difference cash and cash equivalent of Kshs.498,866,239 between Statement of Assets and liabilities balance of Kshs.157,621,413 and Trial balance figure of Kshs.656,487,652 has been reconciled and verified; and
- (ii) The Committee marked the matter as resolved.

#### **1564.2 Deposits Account**

4949) The bank reconciliation statement for deposits accounts reflects payments in bank statement not in cash book of Kshs.5,125,837 as at 30 June, 2020. However, the supporting schedule and the dates when the reconciling items were subsequently cleared were not provided for audit review.

4950) Further, the deposits account balance of Kshs.157,517,473 reflected in the financial statements differ with the deposits cash book balance of Kshs.151,877,286 resulting to an unexplained balance of Kshs.5,640,187.

4951) Under the circumstances, the accuracy of cash and cash equivalents balance of Kshs.157, 621,413 as at 30 June, 2020 could not be ascertained.

#### **Submission by the Accounting Officer**

4952) The bank reconciliation statement for deposits accounts reflected payments in bank statement not in cashbook of Kshs.5,125,837.00 as at 30th June, 2020. The payments were analyzed and posted in the cashbook in the month of July, 2020. The deposit account balance of Kshs.157,517,473 reflected in the financial statements differ with the deposit cash book balance of Kshs.151,877,286 resulting to a difference of Kshs.5,640,187.

4953) The difference represents the amount of receipts in the bank statement that had not been posted in the cashbook. The cash book was later updated and reconciled in the month of July. The bank reconciliation statement as at 30th June, 2020 and cashbook extract was availed for perusal by the Committee. The reconciling payments of Kshs.5,125,837 in bank statements not in cashbook were verified as updated in the cashbook in the month of July 2020.

#### **4954) Committee Observations and Findings**

- (i) The Committee observed that the difference of Kshs.5,640,187 being receipts in the bank statements not posted in the cashbook has been verified as posted to the cashbook in of July 2020; and
- (ii) The Committee marked the matter as resolved.

### **1565. Pending Bills**

#### **1565.1 Unsupported Pending Bills**

4955) As disclosed under Annex I to the financial statements, the statement department had pending bills totaling Kshs.193,492,683.00 as at 30th June, 2020. Management has not explained why the bills were not settled during the year when they occurred. Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

#### **Submission by the Accounting Officer**

4956) The Accounting Officer admitted that the department had pending bills totaling to Kshs.193,492,683.00 as at 30th June, 2020. The pending bills were not settled in the year under review due to lack of budget provision and late submission of invoices by the suppliers. However, the bills were settled as first charge in the subsequent year 2020/2021 schedule of bills paid.

#### **4957) Committee Observations and Findings**

- (i) The Committee observed that the Payments of Pending bills of Kshs.190,311,753.17 has since been settled; and
- (ii) The Committee marked the matter as resolved.

#### **1565.2 Wasteful Expenditure and Non-Disclosure of Pending Bills**

4958) As previously reported, the Ministry of Tourism in 2015/2016 made a payment of Kshs.150 Million to a local law firm in respect of a pending bill from the former Ministry of Trade and Industrialization and Tourism. The payment was in respect of an initial bill of Kshs.12Million payable to a media firm but which was in contention as the firm continued to render the services after the contract period for advertising services by the firm had expired in June, 2004. 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 the disputed third phase of the programme. As at 17th June, 2010 the bill had accumulated to Kshs.52,606,872.00 being outstanding amount plus 3% interest since 2004. In August, 2011, the Attorney General advised the then Ministry of Trade, Industrialization and Tourism to pay the contractual amount but negotiate the interest payable even though there was no formal contract for Phase II but this advice was not adhered to.

4959) The firm went to court for non-payment and by the judgment dated 24th July, 2012 ruled in their favour, the firm was awarded Kshs.110,061,691.00 being the initial Kshs.12 million plus 26% interest since April, 2004. Part payment of Kshs65 Million was made in July 2013 as interest continued to accumulate. As at December, 2016, the outstanding bill had accumulated to Kshs.210 Million.

4960) 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 services without a valid contract and also



negligence 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 accumulated interest of Kshs.198 Million.

4961) In the 2017/2018 financial year, a further payment of Kshs.70 Million was made. By the end of 2017/2018 financial year, the Ministry had paid a total of Kshs.285 Million against Kshs.210 Million accumulated balance as at December, 2016. Thereafter the Ministry received an estimation statement from the Attorney-General instructing the Ministry to pay a further amount of Kshs.62 Million arising from the accrued interest which had further increased to Kshs.74 Million as at 30th June, 2020. The amount has not been disclosed as a pending bill in the financial statements.

4962) Consequently, there is a risk of further loss of public funds through accumulated interest and penalties with continued delay in payment.

#### **Submission by the Accounting Officer**

4963) The Accounting Officer admitted that the department had a pending bill of Ksh.74Million owed to Tele News African and Atlantic Region. The department appeared before Public Account Committee (PAC) on 8th June 2020 and the committee directed the department to settle the pending bills without further delay.

4964) Also appeared before PAC on 28th June 2021 and the pending bills to Tel news African and Atlantic Region was deliberated among others. The committee also directed the Accounting Officer to fast tract the settlement of this bills before the end of the Financial Year 2020/2021. The PAC report on examination of the Auditor General's Report on the National Government for Financial Year 2017/2018 recommended that the Accounting officer must within one month upon adoption of the report by the house, settle in full the pending bill in favour of Telenews Africa and Atlantic Region to save the public from further loses by way of accruing interest and potential legal liabilities.

4965) The department requested the National Treasury to provide the budget under supplementary II of 2020/2021. The budget was provided and the bill was fully settled and the file closed.

#### **4966) Committee Observations and Findings**

- (i) The Committee observed that the state department made payments of Kshs.50,000,000, Kshs.198,305 and Kshs.35,735,950 in the month of June 2021 to settle the outstanding liability; and
- (ii) The Committee marked the matter as resolved.

#### **Other Matter**

## **1566. Budget Control and Performance**

4967) The summary statement of appropriation-recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.8,849,239,810.00 and Kshs.6,420,260,067.00 respectively, resulting to an under-funding of Kshs.2,428,979,743.00 or 27% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.8,849,239,810.00 and Kshs.6,419,524,424.00 respectively, resulting to an under expenditure of Kshs.2,249,715,386.00 which occurred mainly under transfers to other government units.

4968) The under-funding and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

### **Submission by the Accounting Officer**

4969) The Accounting Officer admitted that the summary statement of appropriation recurrent and development combined reflects receipt budget and actual on comparable basis of Kshs.8,849,239,810.00 and Kshs.6,420,260,067.00 respectively resulting to underfunding of Kshs.2,426,979,743.00 or 17% of the budget. This was due to under-collection of the receipts due to effects of Covid-19 pandemic in the Tourism sector. There was under-collection of catering levies due to closure of hotels.

4970) The statement also reflects expenditure budget and actual on comparable basis of Kshs.8,849,239,810.00 and Kshs.6,419,624,424.00 respectively resulting to under expenditure of Kshs.2,249,715,386.00. This was due to non-transfer of Ksh.800 Million from other government entities for implementation of KICC pretab and development of Lake Naivasha Waterfront projects. This was due to under collection of AIA by most of the SAGAs due to the Government ban on meeting/hotel closure and effects of Covid - 19. The analysis of AIA collected by SAGAs was availed for perusal by the Committee.

### **4971) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard Budget Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

## **1567. Late Exchequer Releases**

4972) The State Department for Tourism received exchequer releases from the National Treasury totaling Kshs.2,126,754,160.00 for the year under review, however, exchequer releases totaling Kshs.294,983,890.45 were received in the month of June as tabulated below:

<b>Date Funds Received</b>	<b>Amount Received (Kshs)</b>	<b>Type</b>
04.06.2020	111,655,520.00	Recurrent
25.06.2020	15,806,289.00	Recurrent
26.06.2020	96,932,486.00	Recurrent
03.07.2020	65,446,096.00	Recurrent
30.06.2020	5,143,500.00	Development
<b>Total</b>	<b>294,983,891.00</b>	

4973) The delay in exchequer release may have resulted in low absorption of the budget thus negatively affecting timely implementation of the programmed of the State Department and provision of services to the public.

#### **Submission by the Accounting Officer**

4974) The Accounting Officer admitted that the State Department for Tourism received exchequer provision totaling to Ksh.294,983,890.45 in the months of June and July, 2020. This affected timely implementation of the programmes and provision of services to the public. The State Department processed exchequer request on time, however the Supplementary II of 2019/2020 was approved late in the month of June thus affecting the processing and funding of exchequer request.

#### **4975) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Late Exchequer Releases was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **1568. Unresolved prior year matters**

4976) The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2018/19 and a recommendation was issued therein:

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **Basis for Conclusion**

#### **1569. Office Lease Agreements and Partitioning of Tourism Trust Fund Building**

4977) On 11<sup>th</sup> October, 2017, the State Department engaged a contractor to carry out partitioning of offices works at the Tourism Trust Fund Building at a contract sum of Kshs.138,500,657.00. The letter of notification of award of the contract dated 28th August, 2017 stated that the contract would be signed not later than 30 days from the date of the letter. However, the contract was signed on 11th October, 2017 and no explanation was provided for the delay.

4978) Further, the State Department paid the contractor an amount of Kshs.24,000,000.00 on 14th May, 2020 even though the performance bond of Kshs.6,925,033 had expired on 7th February, 2020.

4979) In addition, although the State Department also occupied offices at NSSF Building and Utalii House, the lease agreement were not provided for audit and the terms of occupation could not therefore be confirmed.

4980) Under the circumstances, it was not possible to confirm that the resources of the State Department were used in an effective, efficient, economical and transparent manner as required under Section 68 (1) of the Public Finance Management act, 2012.

#### **Submission by the Accounting Officer**

4981) The Accounting Officer admitted that the contract was signed later than the stipulated day. However, the anomaly was corrected and the contract signed within the tender validity period as provided by the Procurement Act. The Accounting Officer further admitted that the payment was made without a valid performance bond. This mistake was corrected and the contractor renewed the performance bond.

4982) The Accounting Officer similarly admitted that the State Department for Tourism engaged a contractor to carry out partitioning of office works at the Tourism Trust Fund Building at a cost of Kshs.138,500,657.00. It is also true that the State Department occupies offices at NSSF Building and Utalii House and the lease agreement was not provided for audit review. The State Department for Tourism was offered space by its State Corporation (Tourism Fund) with a view to accommodate all the staff both at Utalii House and NSSF Building.

4983) Tourism Fund forwarded a letter of offer to the State Department for Tourism on the term of the lease. The State Department sought advice from the Ministry of Housing on the terms of entering into lease agreement with another State Agency. Discussion have been going on between the three State Agencies with a view to finalize the lease agreement. The performance bond that had expired was renewed.

#### **4984) Committee observations and findings**

- (i) The Committee further observed that no evidence was presented that the contract was signed within the 30days from the date of notification of award and within the tender validity period;
- (ii) The Committee similarly observed that at the time of when the payment was made on 14th May 2020 there was no valid performance bond since it had expired on 7 February 2020. The provided performance bond was renewed on 17 December 2020 with expiry date of 31 December 2021; and

(iii) The Committee marked the matter as resolved

**4985) Committee Recommendation**

- 3) **The Committee reprimands the Accounting Officer for failing to ensure the contract was signed within the 30 days from the date of notification of award and within the tender validity period and performance bond was renewed as required; and,**
- 4) **The Accounting Officer should ensure compliance with Public Procurement and Asset Disposal Act, 2015 and its regulations in all procurement processes.**

**1570. Repair and Rehabilitation of Farm Murera Gate Road**

4986) The contract was awarded for Repair and Rehabilitation of 26 kilometers of road. However, the scope of the works was changed to construction of 11 kilometers under unclear circumstances.

4987) The contract was awarded on 22nd March, 2017 and commenced on 21st May, 2017 for a contract period of twelve (12) months with a completion date of 31st May, 2018. Thereafter, the contractor was awarded 146 days extension thereby revising the completion date to 24th October, 2018. However, an audit review of the status in October, 2020 revealed that there was no valid performance security in place and works were still ongoing although no evidence was provided that the employer had approved a second extension of time or started charging liquidated damages in accordance with conditions of contract.

4988) Continued delay in completing the project denies the employer intended benefits from use of the road and consequently, until the project is completed, value for money spent cannot be realized.

4989) Further, it was also observed that some certificates were paid beyond the stipulated time such as Certificate No.4 signed on 21st June, 2018 paid on 24th December, 2019 and Certificate No.3 signed on 14th February, 2018 and paid on 24th January, 2019. The delays exposed the State Department to additional costs in form of interest on delayed payments.

**Submission by the Accounting Officer**

4990) The Accounting Officer admitted the road project to be repaired and rehabilitated was approximately 26Km and after appraising the bills of quantities and available contract sum provided was only sufficient to repair and rehabilitate 11.5Km. The reason being, the road was at different levels of deterioration. Part of the road section required re-construction.

4991) The appraisal was informed by recommendations from Chief Engineer Materials, Ministry of Transport, who carried out pavement structure evaluation and gave detail recommendations on what was to be undertaken on the different sections and the road pavement. The recommendations aimed to improve the serviceability levels of the road to acceptable standards.

4992) The initial estimates for the project were computed in 2016 and by the time the contractor commenced works in June 2017, the status of the road had deteriorated further and hence required a detailed evaluation. The scope of works was based on provisions of Clause 102 of the Special Specifications whereby the extent of works to be executed under the contract was described. There was no mention that the total 26 Km was to be rehabilitated and maintained. We were guided by the provisions of the Bill of Quantities.

4993) The revised scope of works was therefore based on 11.5 Km that included pothole patching and surface dressing (8Km) and reconstruction of 3.5 Km (Total 11.5Km). The Variation Order No.1 was issued to the contractor based on the original contract provisions at no extra cost to the Employer.

#### **Performance Security**

4994) The initial performance security that expired on 4th December, 2018 was renewed to 1st May, 2019 and then further renewed to June, 2020. The contractor has a valid Performance Security that was renewed on 2nd March, 2021 and expires on 2nd March, 2022.

4995) In previous interim payment certificates, the Department has charged the contractor Kshs.6,000,000.00 for liquidated damages.

#### **Delay in Payment of Interim Certificate**

4996) Delay in payment of certificates was occasioned by lack of budgetary provisions and exchequer. Funds have since been availed and the certificates settled.

#### **Delay in Completion of Works**

4997) The contractor applied and was granted an extension of time claim No. 1 of 146 days which was revised to 24th October, 2018 and a second extension of time claim No. 2 of 207 days which expired on 19th May, 2019. The contractor applied for an Extension of time claim No. 3 pending approval by the Project manager.

4998) In previous interim payment certificates, we have charged the contractor Kshs.6M for liquidated damages. The contractor has now completed the works, final inspection carried out and the contractor released from contractual obligations. Project cost appraisal No.1 report on variation of the scope of works recommended by Chief Engineer (Materials) as per the MTRD report No. 1347 Re.M.499/35/m/340 dated 11 October 2017 availed.

#### **4999) Committee observations and findings**

(i) The Committee observed that no evidence was presented to prove existence of a valid performance bond by October 2020 as it had expired on 29 August 2019;



- (ii) The Committee further observed that the provided performance bond was renewed on 2 March 2021 and valid up to 2 March 2022;
- (iii) The Committee similarly observed that delay in payment of certificates beyond the stipulated time was occasioned by lack of budgetary provision and delay in exchequer releases; and
- (iv) In addition, the Committee observed that evidence of approval of second extension of time by the employer ref; MOT3/11 dated 20 January 2020 was provided.

#### **5000) Committee Recommendation**

- 1) The Committee reprimands the Accounting Officer for failing to ensure the performance bond was renewed as required; and,**
- 2) The Accounting Officer should ensure compliance with Public Procurement and Asset Disposal Act, 2015 and its regulations in all procurement processes.**

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **Basis for Conclusion**

##### **1571. Lack of Audit Committee**

5001) Section 73(5) of the Public Finance Management Act, 2012 provides that every National Government entity shall establish an Audit Committee whose composition and functions shall be as prescribed by the Regulations. However, as previously reported, the State Department did not have an Audit Committee. In the absence of a function Audit Committee, monitoring and review of the effectiveness of the internal audit process, review of internal controls, risk management systems and financial statements among other functions of an Audit Committee did not take place which may have hindered good corporate governance at the State Department.

##### **Submission by the Accounting Officer**

5002) The Accounting Officer admitted that during the audit the department did not have audit committee in place in contravention of Section 73 (5) of PFM Act 2012. The process of recruiting members of the audit committee was in progress during the time of audit. The process was concluded and the Ministry has Audit Committee in place. Evidence of appointment of chair and members of the Ministerial Audit Committee availed.

##### **5003) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Lack of Audit Committee was persuasive; and
- (ii) The Committee marked the matter as resolved.



## 44. STATE DEPARTMENT FOR WILDLIFE

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1203

**Dr. Erustus Kanga, acting for the Accounting Officer for the State Department of Wildlife (Vote 1203), appeared before the Committee on 9<sup>th</sup> August, 2021 & 16<sup>th</sup> February, 2022 to adduce evidence on the Audited Financial Statements for the State Department of Natural Resources (Vote 1203) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                             |   |  |
|-----------------------------|---|--|
| 1. Mr. Benson Kinywa        | - | Assistant Accountant General               |
| 2. Mr. John K. Chelimo      | - | Secretary Administration                   |
| 3. Ms. Margaret Otieno      | - | National Coordinator.                      |
| 4. Mr. John Gicaci          | - | Chief Finance Officer                      |
| 5. Dr. Erustus Kanga        | - | Secretary Wildlife                         |
| 6. Mr. George Madanji Obuya | - | Assistant Director Supply Chain Management |
| 7. Mr. Shaiya Sheikh Adan   | - | Wildlife clubs of Kenya.                   |

And submitted as follows:

#### **Basis for qualified opinion**

##### **1573 Transfers to Wildlife Clubs of Kenya (WCK)**

5004) Included in transfers to other government agencies of Kshs.7,385,760,884 is an amount of Kshs.49,000,000.00 transferred to the wildlife Clubs of Kenya during the year under review. However, the Wildlife Clubs of Kenya did not present their financial statements for audit. Further, although the Wildlife Clubs of Kenya is listed among State Corporations, Semi-Autonomous Government Agencies and Public Funds under the State Department as shown under Annex 3 to the financial statements information available shows that Wildlife Clubs of Kenya is a Charitable, Non-Governmental Organization founded in 1968. As such, no justification has been given for transfers of public funds to the organization.

#### **Submission by the Accounting Officer**

5005) It is true that among the transfers to other government agencies is an amount of Ksh.49,000,000 transferred to the wildlife clubs of Kenya. It is also true that WCK is listed among the state corporations, Semi-Autonomous Government Agencies and public funds under The State Department. However, WCK is a youth-focused programme founded in 1968 with the backing of the then Ministry of Environment and Natural Resources among other organizations and has served as a model for conservation education work in Kenya over the last 50 years.

5006) The Government has been collaborating with the Wildlife Clubs of Kenya since formation through the ministry responsible for matters of Wildlife. Available records indicate that since the 1970's, WCK has been receiving annual government funding/contribution through the Ministry responsible for matters of wildlife. As per Executive

Order No. 1 of 2018 June (Revised) (annex 5) that organize the operations of Government as per Article 132 (3) of the Constitution, as read with Article 135, one of the functions of the State Department for Wildlife is collaboration with Wildlife Clubs of Kenya. A letter Ref. No SDW/4/21 VOL.III (23) dated 13<sup>th</sup> May, 2020 (annex 4) was written to the Director Wildlife Clubs of Kenya, directing the institution to comply with the legal requirement by forwarding their financial reports to the Auditor General for Auditing. The national coordinator/CEO of Wildlife Clubs of Kenya made an undertaking in regard to submission of Financial Report for audit to the Auditor general vide letter Ref. No. SDW/4/21/ (4) dated 21<sup>st</sup> October, 2020..

**5007) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Transfers to Wildlife Clubs of Kenya (WCK) was satisfactory; and
- (ii) The matter was marked as resolved.

**1574 Unverifiable Assets**

5008) Annex 2 to the financial statements reflects a fixed assets balance of Kshs.24,359,304.00. However, the balance differs with the amount of Kshs.217,588,640.00 reflected in the fixed assets register as at 30<sup>th</sup> June,2020. In addition, the schedule of fixed assets includes a list of seventeen (17) motor vehicles inherited from the defunct Ministry of Regional Development and Ministry of Environment and Natural Resources. However, the State Department did not have logbooks for twelve (12) of these vehicles, while logbooks for the other five (5) vehicles are in the names of other entities and had not been transferred to the State Department's name. As a result, it was not possible to verify the value of assets owned by the State Department.

**Submission by the Accounting Officer**

5009) This is so because the financial statement from the IFMIS System covers cumulative value for the number of years the State Department has been in existence while the fixed assets register covers the assets from previous years which includes assets inherited from previous Ministries/State Department. The State Department for Wildlife has also initiated the process of registering the motor vehicles in its name vide our letter Ref No. SDW/1/17 Vol II dated 29<sup>th</sup> July 2021 to the Director General NTSA (Annex 2).

**5010) Committee observations and findings**

- (i) The Committee observed that fixed assets balance of Kshs.24,359,304.00 in the financial statement differs with the amount of Kshs.217,588,640.00 reflected in the fixed assets register as at 30<sup>th</sup> June,2020.
- (ii) The Committee further observed that the explanation given by the Accounting Officer with regard to Unverifiable Assets was unsatisfactory; and
- (iii)The matter remained unresolved.

#### 5011) **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 updated and presented to the Auditor-General at the time of audit upon request.**

#### **1576 Failure to appoint an audit committee**

5012) Contrary to Regulation 174 (1) of the Public finance management (National Government) regulation, 2015 the state department operated without an Audit committee during the year under review. The duties and responsibilities of the audit committee were not undertaken and therefore, the entity operated without the required oversight and guidance especially on matters relating to recommendations made by internal audit.

#### **Submission by the Accounting Officer**

5013) The vacant positions of audit committee members were advertised, shortlisting done and the successful candidates invited for interview, however due to Ministry of Health guidelines and protocols on Covid-19 pandemic the exercise was postponed by the time of audit review. The exercise has been completed and appointment of Audit Committee Members has been done.

#### 5014) **Committee Observations and Findings**

- (i) The Committee further observed that the explanation given by the Accounting Officer with regard to Failure to appoint an audit committee was satisfactory.
- (ii) The Committee marked the matter as resolved.

#### **1577. Lack of a risk management policy**

5015) Contrary to regulation 165 (1) of the Public Finance management (national Government regulations, 2015, the State Department did not have a Risk Management Policy. Failure to develop a risk policy means that the State Department did not have a framework for management of risk and hence it was not possible to identify, assess and control risk. As a result, it was not possible to define the entity's risk appetite and set the risk tolerance levels by identifying boundaries against unacceptable risk exposures.

#### **Submission by the Accounting Officer**

5016) It is true we did not have the risk management policy in place by the time of the audit review. The state department did take advice and appointed a risk management framework task force on 23<sup>rd</sup> March, 2021 which is in the process of formulating the policy.

#### 5017) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Lack of a risk management policy was satisfactory.
- (ii) The Committee marked the matter as resolved.

## **1578 Lack of ICT Policy**

5018) The State Department had not prepared and implemented an ICT Policy as a commitment to the process of implementing digital technology. An ICT policy would give guidance on how to ensure confidentiality, integrity and availability of the entity's data.

### **Submission by the Accounting Officer**

5019) The Accounting officer admitted that the State Department did not have a comprehensive ICT policy however, a Ministerial ICT strategic Committee has been appointed for the purpose of driving this agenda amongst other strategic ICT agendas. A draft ICT policy has been developed by the committee and its awaiting public participation before onward transition to the Cabinet Secretary for approval.

### **5020) Committee observations and findings**

- (i) The Committee observed that the draft ICT policy has been developed awaiting public participation and subsequent Cabinet Approval; and
- (ii) The matter remained unresolved.

### **5021) Committee Recommendations**

**The Auditor General should review the approved ICT Policy and report back to the National Assembly in the next Audit cycle.**

## 45. STATE DEPARTMENT FOR GENDER

### REPORT ON THE FINANCIAL STATEMENTS – VOTE 1212

**Prof. Collette Akinyi Suda, FKNA, CBS, the Principal Secretary and Accounting Officer for State Department for Gender (Vote 1212) appeared before the Committee 8<sup>th</sup> February, 2022 to adduce evidence on the audited financial statement for the State Department for Gender (Vote 1212) for the Financial Year 2019/2020. She was accompanied by the following officers:**

- |                         |   |   |
|-------------------------|---|---|
| 1. Mr. Henry Mabegi     | - | Assistant Accountant General            |
| 2. Ms. Sephone Omlechi  | - | Chief Finance Officer                   |
| 3. Mr. Andrew Kimuli    | - | Senior Supply Chain Management Services |
| 4. Mr. Protus Onyango   | - | Director Gender                         |
| 5. Mr. Henry Omosa      | - | Director Human Resource Management      |
| 6. Mr. Henry N. Omosa   | - | Director                                |
| 7. Mr. James A. Sangori | - | Director                                |
| 8. Mr. Moffat Adika     | - | Assistant Director                      |
| 9. Mr. Duncan Muraguri  | - | Internal Auditor                        |

And submitted as follows:

#### **Basis for Qualified Opinion**

#### **1579. Accuracy and Completeness of the Financial Statements**

#### **1579.1 Variances between the Financial Statements and IFMIS Balances**

5022) Comparison of financial statements balances and the supporting schedules generated from the Integrated Financial Management Information System (IFMIS) revealed variances which were not explained or reconciled as detailed below:

<b>Details</b>	<b>Financial Statements (Kshs.)</b>	<b>IFMIS Reports (Kshs.)</b>	<b>Generated</b>	<b>Variance (Kshs.)</b>
Bank Balance	741,374	(1,461,367,510)		1,462,108,884
Cash Balance	0	2,669,885,976		(2,669,885,976)
Accounts Receivables	5,400,477	4,011,932		1,388,545
Accounts Payables	100,000	80,825,266		(80,725,266)
Fund Balance Brought Forward	1,816,101	1,126,772,833		(1,124,956,732)
Prior Year Adjustments	(706,459)	0		(706,459)

Adjustments During the Year	4,190,925	3,937,379,631	(3,933,188,706)
Net Cash Flow from Operating Activities	156,971,620	3,775,510,536	(3,618,538,916)
Net Increase in Cash and Cash Equivalents	34,825	(3,932,447,331)	3,932,482,156
Cash and Cash Equivalents at the Beginning of the Year	706,549	5,140,965,798	(5,140,259,249)
Cash and Cash Equivalents at the End of the Year	741,374	1,208,518,467	(1,207,777,093)

5023) Consequently, the accuracy and completeness of the financial statements for the year ended 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

5024) The Accounting Officer submitted that the matter was discussed by the Committee in the previous year.

#### **5025) Committee Observations and Findings**

- (i) The Committee observed that a similar matter was deliberated in 2018/2019. However, the Accounting Officer did not respond to this paragraph which is different from the one raised in 2018/2019.
- (ii) The financial statements for the year ended 30 June, 2020 and the supporting schedules generated from the Integrated Financial Management Information System (IFMIS) were not reconciled as at the time of audit.
- (iii) The revised financial statements for financial year 2019/2020 were not submitted for audit review and verification.

#### **5026) Committee Recommendations**

- 1) **Within three months of tabling and adoption of this report, the Accounting officer should prepare the revised financial statements and submit to the Auditor-General for review and reporting to the National Assembly.**
- 2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

#### **1579.2 Unsupported Accounts Receivables Balances**

5027) The statement of assets and liabilities reflects a balance of Kshs.5,400,477 under accounts receivables – outstanding imprest which, as disclosed in Note 8 to the financial statements, includes district suspense and clearance accounts balances of Kshs.3,234,101

and Kshs.1,659,216 respectively, for which supporting documents were not provided for audit review.

5028) In the circumstances, the accuracy and full recoverability of the reported accounts receivables balance of Kshs.5,400,477 could not be confirmed.

#### **Submission by the Accounting Officer**

5029) The Accounting Officer submitted that the matter was discussed by the Committee in the previous year.

#### **5030) Committee Observations and Findings**

- (i) The Committee observed that a similar matter was deliberated in 2018/2019. However, the Accounting Officer did not respond to this paragraph which is different from the one raised in 2018/2019.
- (ii) The Committee further observed that the Accounting Officer did not take any action in line with Regulation 92 (5), (6) and (8) of the PFM (National Government) Regulations, 2015 for the failure to account for or surrender the imprest on the due date and issuing a second imprest before surrender of the first one.

#### **5031) Committee Recommendations**

- 1) **The Accounting Officer must at all times ensure that a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station.**
- 2) **In the event of the imprest holder failing to account for or surrender the imprest on the due date, he/she shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.**
- 3) **In order to effectively and efficiently manage and control the issue of temporary imprests, no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary.**

### **1579.3 Unsupported Expenditure Balances**

#### **1579.3.1 Routine Maintenance – Other Assets**

5032) The statement of receipts and payments reflects an expenditure balance of Kshs.626,275,634 under use of goods and services which, as disclosed in Note 4 to the financial statements, includes an amount of Kshs.2,810,591 in respect of routine maintenance – other assets, whose ledger reflected unexplained and unsupported adjustments of Kshs.1,614,314 (Debit) and Kshs.241,200 (Credit).

#### **Submission by the Accounting Officer**

5033) The Accounting Officer submitted that the matter was discussed by the Committee in the previous year.



#### **5034) Committee Observations and Findings**

- (i) The Committee observed that a similar matter was deliberated in 2018/2019. However, the Accounting Officer did not respond to this paragraph which is different from the one raised in 2018/2019.
- (ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012.

#### **5035) Committee Recommendations**

**The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also, ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

#### **1579.3.2 Supply and Delivery of Sanitary Towels**

5036) Included in the expenditure amount of Kshs.626,275,634 under use of goods and services is an amount of Kshs.485,721,875 in respect of office and general supplies and services. The latter balance includes prior year's pending bills amounting to Kshs.104,262,688 paid out during the year to various suppliers in respect of supply and delivery of sanitary towels. However, the payments were made without proof of requisite supporting documents including procurement requisitions, monitoring reports, minutes of the implementation committee confirming supply and receipt, delivery status reports, signed stores ledgers (S13) confirming the receipts, Kenya Bureau of Standards compliance certificate, inspection and acceptance report and performance bonds.

#### **Submission by the Accounting Officer**

5037) The Accounting Officer submitted that the matter was discussed by the Committee in the previous year.

#### **5038) Committee Observations and Findings**

- (i) The Committee observed that the payments were made without proof of requisite supporting documents including procurement requisitions, monitoring reports, minutes of the implementation committee confirming supply and receipt, delivery status reports, signed stores ledgers (S13) confirming the receipts, Kenya Bureau of Standards compliance certificate, inspection and acceptance report and performance bonds.

#### **5039) Committee Recommendations**

**The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

**Also, ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

### **1579.3.3 Other Unsupported Expenditure**

5040) Also included in the expenditure amount of Kshs.626,275,634 under use of goods and services, is unsupported expenditure totalling to Kshs.1,797,649 incurred on printing, advertising and information supplies and services (Kshs.175,088), communication supplies and services (Kshs.339,501), and domestic travel and subsistence (Kshs.1,283,060).

5041) From the foregoing, the accuracy and validity of the reported expenditure of Kshs.626,275,634 for use of goods and services could not be confirmed.

#### **Submission by the Accounting Officer**

5042) The Accounting Officer submitted that the State Department has now availed the following documents to the auditors for verification. Copy of the trial balance, list of unsupported expenditures.

#### **5043) Committee Observations and Findings**

The Committee observed that the Accounting Officer did not respond to the specific issue raised by the Auditor General on the payments being made without proof of requisite supporting documents including procurement requisitions, monitoring reports, minutes of the implementation committee confirming supply and receipt, delivery status reports, signed stores ledgers (S13) confirming the receipts, Kenya Bureau of Standards compliance certificate, inspection and acceptance report and performance bonds.

#### **5044) Committee Recommendations**

**The Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012. Also, ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

### **1580. Non-Compliance with Financial Reporting Guidelines**

5045) The forward by the Cabinet Secretary contained in the financial statements presented for audit was not signed contrary to guidelines issued by the Public Sector Accounting Standards Board. In addition, issues contained in the prior year's audit report on lawfulness and effectiveness in use of public resources and on effectiveness of internal controls, risk management and governance are not included under the progress on follow up of prior year's auditors recommendations section of the financial statements.

#### **Submission by the Accounting Officer**

5046) The Accounting Officer submitted that the matter was discussed by the Committee in the previous year.

#### **5047) Committee Observations and Findings**

The Committee observed that the Accounting Officer did not prepare financial statements for the financial year in a form prescribed by the Accounting Standards Board.

#### **5048) Committee Recommendations**

**The Committee expresses concern with the Accounting Officer for failing to comply with the requirements of the Accounting Standards Board when preparing the financial statements for the financial year.**

### **1581. Compensation of Employees**

5049) As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects an expenditure balance of Kshs.259,420,630 (2019- Kshs.205,404,606) under compensation of employees which includes an amount of Kshs.3,864,480 (2019 – Kshs.3,819,832) paid to the Secretary- Gender Affairs whose appointment, as previously reported, was irregular.

#### **Submission by the Accounting Officer**

5050) The Accounting Officer submitted that the matter was discussed by the Committee in the previous year.

#### **5051) Committee Observation and Findings**

The Committee observed that the matter was deliberated in 2018/2019 and the following Observation and Findings were made.

- (i) The committee observed that the Position of Secretary, Gender was not processed through Ministerial Human Resource Management Advisory Committee - MHRMAC as per the requirements contrary to Section B.3(3) of the Human Resource Policy and Procedure Manual.
- (ii) The committee also observed that the officer, who was recruited on local agreement terms for a period of three years, was placed at the maximum of the salary scale of that job group contrary to the requirement of Section C. (2) of the Human Resource Manual which requires that on first appointment, an officer will enter the salary structure at the minimum point of the respective salary scale.

#### **5052) Committee Recommendations**

**The Accounting Officer must ensure full compliance with Section B.3(3) and Section C. (2) of the Human Resource Policy and Procedure Manual.**

#### **Other Matter**

## **1582. Unresolved Prior Year Audit Matters**

5053) As disclosed under the Progress on Follow Up of Prior Year's Auditor's Recommendations section of the financial statements, various prior year audit matters remained unresolved as at 30 June, 2020. Management has not provided any explanation for the delay in resolving the prior year audit matters.

### **Submission by the Accounting Officer**

5054) The Accounting Officer submitted that the matter were resolved by the Committee in the previous year.

### **5055) Committee Observations and Findings**

- (i) The Committee observed that the matter was deliberated in 2018/2019 where observations and findings were made.
- (ii) The committee marked the matter as resolved.

## **1583. Pending Bills**

5056) Note 15 to the financial statements reflects pending bills amounting to Kshs.2,214,035 that were not settled in the year under review but were carried forward to 2020/2021 financial year. Failure to settle bills in the year to which they relate adversely affects the implementation of the subsequent year's budgeted programmes as the pending bills form a first charge to that year's budget provision.

### **Submission by the Accounting Officer**

5057) The Accounting Officer submitted that the State Department has availed the payment vouchers, list of pending bills and Central Bank Transaction details to the auditors for verification. Payment vouchers and list of pending bills were availed for perusal by the Committee.

### **5058) Committee Observation and Findings**

- (i) The Committee observed that all pending bills have since been cleared in the subsequent Financial Year.
- (ii) The Committee observed that the Accounting Officer gave the underlying reasons for not settling the pending bills and the contingency measures put in place to address the problem.

### **5059) The Committee recommended that:**

**The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

## **Basis for Conclusion**

### **1584. Irregular Procurements**

#### **1584.1 Communication Supplies and Services**

5060) As disclosed in Note 4 to the financial statement, the statement of receipts and payments reflects an expenditure of Kshs.3,639,381 relating to communication supplies and services. The expenditure includes an amount of Kshs.1,545,572 paid on 8 October, 2019 in respect of procurement of ICT equipment and networking services contrary to ICT Circular No. MICT/A/10/3 VOL.L of 24 January, 2019. The circular directed that all ICT procurements be done through the State Department for ICT. No approvals or exemptions from the Ministry of ICT were availed for audit examination.

5061) Further, the State Department had a budgetary allocation of Kshs.21,609,270 provided for under the Ministry of ICT for purchase of computers, printers and other IT equipment, photocopiers, and ICT networking and communication equipment for the financial year 2019/2020. However, Management did not utilize the allocation and no explanation has been provided for failure to utilize.

5062) Under the circumstances, the State Department was in breach of the Presidential Procurement Directives on ICT equipment and no value was derived from unutilized budgetary allocation of Kshs.21,609,270.

#### **Submission by the Accounting Officer**

5063) The Accounting Officer submitted that it was true the Department had an expenditure of Kshs.1,545,572 respect of procurement of ICT equipment and networking services. The expenditure incurred was of internet connections nature, and the Department had a budget line approved under that item of Internet Connections which falls under Communication, Supplies and Services. The expenditure came as a package to improve the Department's internet connections at a time when there was a challenge of communication. The goods and services procured included; network monitoring software antivirus license, internet domains and smart UPS.

5064) In regard to unutilized budgetary allocation, we wish to point that the State Department for Gender had a budgetary allocation of Ksh.12,324,650.6 and not Kshs.21,609,270 under the Ministry of ICT for purchase of computers, printers and other IT equipment, photocopiers, and ICT networking and communication equipment for the financial year 2019/2020.

5065) ICT Annual work plan, ICT Procurement Plan and ICT Procurement Requisition for FY 2019/20 were submitted to the State Department for ICT and Innovation (with a copy to National Treasury) on 23 September 2019.

5066) During the year, there was a budget cut reducing our ICT budget allocation from Ksh.12,324,650.6 to ksh.3,592,807. This called for a revised ICT Procurement Requisition of thirty one (31no.) desktop computers and two (2no.) laptops and resubmitted to the State Department for ICT and Innovation on 10th January 2020 for processing. From the resubmitted procurement request, the State Department for Gender received only two laptops for the FY2019/2020 from Ministry of ICT under Consolidated ICT Procurement.

5067) As relates to the circular on Consolidated ICT Procurement arrangement, our role as an MDA was to prepare and forward a Consolidated ICT Budget Procurement Plan, a Procurement Requisition and Annual Work plan to the State Department for ICT and Innovation to undertake all the other procurement processes. Therefore, any resulting underutilization of funds cannot be attributed to State Department for Gender.

#### **5068) Committee Observations and Findings**

- (i) The Committee observed that the state department spent Kshs.1,545,572 in respect of procurement of ICT equipment and networking services contrary to ICT Circular No. MICT/A/10/3 VOL.L of 24 January, 2019 which, directed that all ICT procurements be done through the State Department for ICT.
- (ii) The Committee further, observed that the State Department had a budgetary allocation of Kshs.21,609,270 provided for under the Ministry of ICT for purchase of computers, printers and other IT equipment, photocopiers, and ICT networking and communication equipment for the financial year 2019/2020 which was not utilized.

#### **3644) Committee Recommendations**

- 1) The Cabinet secretary National Treasury should ensure that the budgets set are realistic and achievable.**
- 2) The Committee cautions the Accounting Officer for not following ministerial directives.**

#### **1584.2 Hospitality Supplies and Services**

5069) As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.30,565,632 under hospitality supplies and services. However, examination of records and documents revealed irregular procurements worth Kshs.12,996,957 by the State Department during the 12th Commonwealth Women Affairs Ministers Meeting (WAMM) held in Nairobi between 16 to 20 September, 2019 as follows:

5070) (a) On the hire of public address system (line array sound equipment and presidential backline) for three (3) days during the event at a cost of Kshs.1,322,400, the criteria and basis for identification of the three (3) firms invited to submit quotations on 16 September, 2019 (the date of the event commencement) could not be established. A fourth firm that



was not invited to submit quotations did so under unclear circumstances. Although there was an evaluation undertaken, no professional opinion was given for the approval of the Accounting Officer before issuance of the purchase order on 08 November, 2019 - more than a month after the event had taken place and a day after the invoice date from the service provider. The inconsistencies have not been explained.

5071) (b) The State Department procured event organizer services, supply of exhibition booths and hire of conference equipment at a cost of Kshs.889,256, Kshs.1,954,600 and Kshs.1,318,926 respectively through request for quotations method of procurement. However, the Local Purchase Orders (LPOs) were issued on 23 September, 2019 – seven days after the commencement of the event.

5072) (c) The department procured conference facilities at a cost of Kshs.7,511,775 using the request for quotations method contrary to the provisions of Section 106 of the Public Procurement and Asset Disposal Act, 2015 and the First Schedule of the Public Procurement and Disposal Regulations, 2013 which provides a threshold of Kshs.2,000,000 for use of the method for procurement of services.

5073) In addition, whereas the request for quotations to the service provider was dated 23 August, 2019, with a closing date of 26 August, 2019, the award had already been done vide letter Ref. No. MPSYGA/SDGA/PROC/3/5 of 12 July, 2019 with the acceptance of the award of the contract by the service provider having been received by the Department on 16 July, 2019.

5074) Further, the professional opinion No.01/01/2019/2020 dated 10 July, 2019 indicated that the Commonwealth Secretariat and the Office of the Commonwealth Secretary General had already indicated to the Accounting Officer on 9 November, 2018 of their preferential hotel and residences service provider. Subsequently, the Accounting Officer gave approval for the procurement of that venue on 3 May, 2019 vide a memo Ref:PSYGA/SDGA/FTA/7/15(A). However, the service provider had already forwarded a quotation of Kshs.13,405,500 on 7 March, 2019 which was 2 months earlier than the date of the memo and for which request for quotations was sent out in September, 2019. No explanation has been given of how the preferred service provider was identified without subjecting it to competitive procurement process or how two quotations of Kshs.13,405,500 and Kshs.7,027,500 were received for the same event from one service provider.

5075) It was also noted that the payment of Kshs.7,511,755 to the service provider was higher than the quoted cost of Kshs.7,027,500 resulting to an overpayment of Kshs.484,275 that was not explained.

#### **Submission by the Accounting Officer**

5076) The Accounting Officer submitted that the four (4) firms that were invited were selected from the list of prequalified suppliers for public address system. The professional opinion



was provided to the Accounting Officer for signing and was signed on 17th September 2019. The Professional Opinion was issued more than a month after the event to support payment after loading the budget in the IFMIS system on request from the State Department.

5077) It was true that the LPO was issued on 23rd September 2019, seven days after commencement of the event, as that is when the budget was loaded on the IFMIS system. The venue was procured directly as per Section 103 (2)(d) of the PPAD Act, 2015, for reasons of ‘standardization for hosting WAMMs, compatibility with technology, effectiveness in the meeting needs, reasonableness of the price as quoted by similar facilities and unsuitability of alternatives to the services in question’.

5078) The venue had been identified by the Commonwealth Secretariat (ComSec) in August 2018 and confirmed vide a letter by the Commonwealth Secretary General, Rt. Hon. Patricia Scotland, as the most ideal venue for the meeting, as per the Commonwealth ‘Red Book’ requirements, for hosting WAMMs. The Kshs.13,405,500 was not a quotation but an indication of the cost of the facility services offered, based on the ComSec’s meeting standards and discussions on hosting of the high-level meetings. The figure included items that were not procured during the actual event.

5079) An additional amount of Kshs.604,990 was requested to accommodate the core planning team of eight (8) officers for 5 days, to support bilateral and Minister’s meetings, registration and information, late delegates arrivals and early departures, and other logistics. Out of this, only Ksh.449,000 was spent on accommodation and that pushed the cost to Ksh.7,511,775.

5080) Additional documents availed to the Committee for perusal were as listed below:

- i. Prequalification list
- ii. Professional Opinion
- iii. Request letter to The National Treasury
- iv. Letter from the Secretary General, Aide Memoirs and PPAD Act, 2015.
- v. Request letter to The National Treasury
- vi. LPO, request memo, list of officers accommodated and payment receipts.

#### **5081) Committee Observations and Findings**

(i) The Committee observed that the state department flouted Procurement Laws and regulations on procurements worth Kshs.12,996,957 during the 12th Commonwealth Women Affairs Ministers Meeting (WAMM) held in Nairobi between 16 to 20 September, 2019. The irregularities ranged from inconsistent dates, wrong procurement and general lack of competitiveness.

(ii) The Committee observed that the procurement did not allow fairness, equitability, transparency, cost-effectiveness and competition among those who submitted their

applications contrary to Section 58 (2) Public Procurement and Asset Disposal Act 2015.

(iii) The Committee further, observed that the payment of Kshs.7,511,755 to the service provider was higher than the quoted cost of Kshs.7,027,500 resulting to an overpayment of Kshs.484,275.

#### **5082) Committee Recommendations**

**Within three months of tabling and adoption of this report, the Cabinet Secretary, National Treasury should reprimand all the officers involved in the procurement and payment processes.**

#### **1585. Irregular Expenses - Domestic Travel and Foreign Travel**

5083) Included in the expenditure amount of Kshs.626,275,634 under use of goods and services are amounts of Kshs.23,984,535 and Kshs.3,450,722 incurred on domestic travel and subsistence, and foreign travel and subsistence respectively. Examination of supporting documents and records revealed that the State Department staff undertook activities at their own expense in form of daily subsistence allowances amounting to Kshs.2,597,201 while away from their duty stations. The allowances or expenses were then later claimed for reimbursements. However, the State Department did not avail approvals or authority for staff to incur expenses on its behalf to be reimbursed later. In addition, it was not clear why the staff were not facilitated given that the activities were included in the work plan and budgeted for during the year. Further, reimbursements amounting to Kshs.2,284,000 brought forward from the previous financial year were neither budgeted for in the year under review nor disclosed in the previous year's financial statements as payables.

5084) In the circumstances, the regularity and validity of the payments could not be confirmed.

#### **Submission by the Accounting Officer**

5085) The Accounting Officer submitted that the matter were resolved by the Committee in the previous year.

#### **5086) Committee Observations and Findings**

- (i) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012; and
- (ii) In addition, the Committee observed that the Accounting Officer was in breach of Section 9 (1) (e) of the Public Audit Act, 2015 by failing to provide accurate supporting documents during the audit.

#### **5087) Committee Recommendations**

- 1) **Within three months of tabling and adoption of this report, the Accounting officer should prepare the revised financial statements and submit to the Auditor-General for review and reporting to the National Assembly.**
- 2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

#### **1586. Fixed Assets Register**

5088) As disclosed in Note 6 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.6,936,795 under acquisition of non-financial assets. However, as previously reported, the State Department did not maintain an updated fixed asset register. A comparison of the total cost of assets acquired in the financial year as reflected in the assets register submitted for audit review and the total acquisition of assets balance reflected in the financial statements revealed unexplained and unreconciled variances as shown below:

<b>Financial Year</b>	<b>Financial Statements (Kshs.)</b>	<b>Assets Register (Kshs.)</b>	<b>Variances (Kshs.)</b>
FY 2018/19	27,691,735	20,245,964	7,445,771
FY 2019/20	6,936,795	5,828,800	1,017,995

5089) In addition, the assets register reflected assets with a total value of Kshs.8,698,412 of which assets with a historical cost of Kshs.7,589,048 and Kshs.1,109,364 were indicated as issued to various officers and held in the stores respectively. However, the assets could not be identified by Management for physical verification.

5090) Under the circumstances, it could not be confirmed that preventative mechanisms were in place to eliminate theft, security threats, losses, wastage and misuse of assets as required under Regulation 139 of the Public Finance Management (National Government) Regulations, 2015.

#### **Submission by the Accounting Officer**

5091) The Accounting Officer submitted that the matter was resolved by the Committee in the previous year.

#### **5092) Committee Observations and Findings**

The Committee observed that the Accounting Officer did not maintain a proper and accurate fixed asset register during the year under review and assets with a total value of Kshs.8,698,412 could not be physically verified.

#### **5093) Committee Recommendations**

- 1) **Within three months of tabling and adoption of this report, the Accounting officer should submit the fixed asset register and allow the Auditor-General to physically access and verify the assets and report to the National Assembly.**
- 2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### **Basis for Conclusion**

#### **1587. Lack of Audit Committee and Public Finance Management Standing Committee**

5094) As previously reported, the State Department has not constituted an Audit Committee as required by Regulation 174(1) of the Public Finance Management Regulations, 2015 and Treasury Circular No. NT/IAG/GEN/055(163) of 26 April 2016. In addition, contrary to Regulation 18 (1) of the Public Finance Management (National Government) Regulations, 2015, the State Department had not put in place Public Finance Management Standing Committee. It has not been established how the roles and responsibilities meant for the committees and the other non-operational committees were carried out and there is no evidence of the Department having been exempted from the requirement of the Regulations.

#### **Submission by the Accounting Officer**

5095) The Accounting Officer submitted that the matter were resolved by the Committee in the previous year.

#### **5096) Committee Observations and Findings**

The Committee observed that the State Department had not constituted an Audit Committee as required by Section 174(1) of the Public Finance Management Regulations, 2015 and Treasury Circular No. NT/IAG/GEN/055(163) of 26 April, 2016 as at the time of audit.

#### **5097) Committee Recommendations**

**The Accounting Officer must at all times comply with Section 174(1) of the Public Finance Management Regulations, 2015 and Treasury Circular No. NT/IAG/GEN/055(163) of 26 April, 2016.**

## 46. STATE DEPARTEMENT FOR PUBLIC SERVICE

### REPORT ON THE FINANCIAL STATEMENTS – VOTE 1213

**Ms. Mary Kimonye, the Principal Secretary and Accounting Officer, State Department for Public Service (Vote 1213), appeared before the Committee 9<sup>th</sup> November, 2021 to adduce evidence on the audited financial statement for the State Department of Public Service and Youth for the Financial Year 2019/2020. She was accompanied by the following officers:**

- |                        |   |                                |
|------------------------|---|--------------------------------|
| 1. Mr. James Buyakane  | - | Chief Executive Officer Huduma |
| 2. Mr. Isaac N. Ngige  | - | Parliament Liaison.            |
| 3. Ms. Margret Wamoto  | - | Director Administration.       |
| 4. Mr. Peter M. Kabebe | - | Head of Accounting Unit.       |
| 5. Mr. Francis Muteti  | - | Chief Finance Officer.         |
| 6. Mr. Lawrence Nyagah | - | Personal Assistant, PS.        |

And submitted as follows

#### **Basis for Qualified Opinion**

##### **1601. Misclassification of Expenditure**

5098) The statement of receipts and payments reflects expenditure balances of Kshs.1,368,561,573 and Kshs.151,453,303 under use of goods and services and acquisition of assets, respectively. However, examination of a sample of payments under use of goods and services and acquisition of assets revealed that expenditure amounting to Kshs.63,194,517 had been charged to inappropriate budget lines distorting the budget execution as detailed below:

<b>Budget Line Charged</b>	<b>Accurate Budget Line</b>	<b>Amount (Kshs.)</b>
Utilities Supplies and Services	Hospitality Supplies and Services	3,187,925
Routine Maintenance – Other Assets	Refurbishment of Buildings	26,510,747
Refurbishment of Buildings	Office Furniture and General Equipment	12,287,590
Refurbishment of Buildings	Purchase of Computers and Other Accessories	5,917,175
Construction of Buildings	Purchase of Office Furniture and Institutional Equipment	6,402,680
Construction of Buildings	Purchase of Specialized Materials and Services	8,888,400
<b>Total</b>		<b>63,194,517</b>

5099) The charges to the inappropriate budget lines amounted to unauthorized budgetary reallocation as there were no approvals. Requisite journal adjustments have not been passed to correct the mis-postings.

5100) Under the circumstances, the accuracy and validity of the expenditure totaling Kshs.1,368,561,573 and Kshs.151,453,303 for use of goods and services and acquisition of assets respectively could not be ascertained.

#### **Submission by the Accounting Officer**

5101) The National Treasury vide Treasury Circular No. 7/2019 dated 28th June 2019 directed Accounting Officers in Ministries, Departments and Agencies (MDAs) to ensure that carry over payments emanating from the FY 2018/19 are treated as a first charge against the FY 2019/20 budgetary allocation before entering into any new commitments. These were to be accommodated strictly within the budgetary provisions for respective MDAs without seeking additional funding from the National Treasury.

5102) Based on the directive, the State Department undertook to clear all pending bills emanating from FY 2018/2019, however, there were no funds under the correct budget lines. In view of the directive, payments were settled from the related budget lines where funds were available and therefore there was no need to make the journal adjustments. The State Department did not deem it necessary to seek budgetary reallocation as the Circular provided explicit authorization to accommodate the payments within the budgetary provisions without seeking additional funds from the National Treasury. A copy of Treasury Circular No. 7/2019 dated 28th June 2019 was availed for perusal by the Committee.

#### **5103) Committee Observations and Findings**

- (i) The Committee further observed that the explanation given by the Accounting Officer with regards to Misclassification of Expenditure was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **5104) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**
- 2) The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

#### **1602. Unsupported Cash Transfers and Payments from Deposit Bank Account**

5105) The statement of Assets and Liabilities reflects bank balances of Kshs.132,024,750 which, as disclosed in Note 9 to the financial statements, comprised of recurrent, development, and deposit bank accounts balances of Kshs.53,121,461, Kshs.7,280,249 and Kshs.71,623,040 respectively. Examination of cashbooks and bank statements for the year under review indicated that Management transferred Kshs.48,718,198 and Kshs.5,955,629 from development and recurrent bank accounts respectively to the deposits bank account. However, the nature and purpose of the transfers was not provided. Further, the amounts



were also included in the reported expenditure on acquisition of assets under refurbishment of buildings even though the identity of the beneficiaries and nature of the works done has not been disclosed.

5106) Consequently, the accuracy and validity of Kshs.54,673,827 held in the deposits bank account as at 30 June, 2020 and included in the reported expenditure for acquisition of assets could not be confirmed.

#### **Submission by the Accounting Officer**

5107) The Head of Accounts Unit through a memo Ref. No. MPYG/SDPS/ACCTS/6 (60) dated 26th June, 2020 notified the Chief Finance Officer on withholding Kshs.54,673,827.25 due to inability to process the attached schedule of the payment that require verification and proper documentation.

5108) Further, the Chief Finance Officer vide a memo to the Principal Secretary Ref. No. MPYG/FIN/D/34 dated 26th June, 2020 requested for the authority to withhold the stated amount of funds at the deposit account to pay the bills after verification of the works. The Principal Secretary on 26th June, 2020 authorized withholding and transfer of Kshs.48,718,198 and Kshs.5,955,629 from Development and Recurrent bank accounts respectively to the Deposit Bank account. The transfer was done and invoices for the payments of works, goods and services were processed and paid after the verification exercise near the closure of the Financial Year 2019/2020.

5109) The transferred amounts were for specific beneficiaries and the nature of work and identification of beneficiaries are provided in the Table 1 below:

**Table 1: Development**

S/No	Huduma Centre	Beneficiaries	Nature of Works	Claim Amount
1.	Lamu Huduma Centre	M/s Pioneer Engineering Ltd	Construction of Huduma Centre Lamu	8,070,846.60
2.	Tana River Huduma Centre	M/s Al-Rahim Construction Ltd	Construction of Huduma Centre Tan River	10,329,680.81
3.	Kirinyaga Huduma Centre	M/s Butex Construction Company Ltd	Construction of Huduma Centre Kirinyaga	3,538,598.86
4.	Bomet Huduma Centre	M/s Escobar Kenya Ltd	Construction of Boment Hudum Centre	8,908,230.00



S/No	Huduma Centre	Beneficiaries	Nature of Works	Claim Amount
5.	Vihiga Huduma Centre	M/s Intex East Africa Limited	Construction of Huduma Centre Vihiga	9,029,991.67
6.	West Pokot Huduma Centre	M/s Ants Network Ltd	Construction of Huduma Centre West Pokot	8,840,850.00
<b>Total</b>				<b>48,718,198.03</b>

**Table 2: Recurrent**

S/No.	Payee	Claim Amount	Details of Services Paid For
1.	The Standard Group	1,863,295.24	Amount incurred by the Ministry to The Standard Group for advertisements during the launch of Huduma Kenya Programme and Africa Public Service Day.
2.	The People Daily	667,000.00	Amount incurred by the Ministry to The People Newspaper for advertisements during the launch of Huduma Kenya Programme and Africa Public Service Day.
3.	Mediamax Network Limited	928,000.00	Amount incurred by the Ministry Secretariat to the Mediamax Network limited for advertisements during the launch of Huduma Kenya Programme and Africa Public Service Day.
4.	The Star Newspaper	342,014.01	Amount incurred by the Secretariat to The Star Newspaper In lieu of Advertisements during the launch of Huduma Kenya Programme.

S/No.	Payee	Claim Amount	Details of Services Paid For
5.	Stemain Cleaning Services	191,920.00	Provision of cleaning services and sanitary bins at KICC 16 <sup>th</sup> floor for the month of May and June 2020.
6.	Rotam Cleaning Services	259,000.00	Provision of cleaning services Teleposta 2 <sup>nd</sup> and 19 <sup>th</sup> floors for the month of July, 2019.
7.	Dairy Training Institute	111,450.00	Provision of conference facilities during retreat for the Inter-Agency Committee to review policies on designated hardship areas & allowances.
8.	Dairy Training Institute	384,100.00	Provision of conference facilities during retreat on strengthening of Civil Service for Succession Management.
9.	Dairy Training Institute	156,600.00	Provision of conference facilities during retreat to develop a concept paper and policy on quality assurance standards.
10.	Silver Africa Tours and Safaris	119,000.00	Provision of air tickets Routing NBO-MBA-NBO.
11.	Silver Africa Tours and Safaris	785,950.00	Provision of air tickets Routing NBO-CDG-JFK-CDG-NBO.
12.	Silver Africa Tours and Safaris	123,400.00	Provision of air tickets Routing NBO-MBA-NBO
13.	Globus Tours & Travel Ltd	23,900.00	Provision of Air ticket Routing NBO-MBA-NBO
	<b>Total</b>	<b>5,955,629.25</b>	

5110) **Committee Observations and Findings**

- (i) The Committee observed that the Management made irregular transfer of Kshs.48,718,198 and Kshs.5,955,629 from development and recurrent bank accounts respectively to the deposits bank account.
- (ii) The Committee observed further that the explanation given by the Accounting Officer with regard to the Unsupported Cash Transfers and Payments from Deposit Bank Account was satisfactory; And

(iii)The Committee marked the matter as resolved.

**1603. Use of Goods and Services-Rentals of Produced Assets**

5111) The statement of receipts and payments and Note 4 to the financial statements reflects an amount of Kshs.1,368,561,573 in respect of use of goods and services which includes an expenditure of Kshs.264,125,377 relating to rentals of produced assets. Included in the amount is Kshs.27,778,106 relating to provision of office space and service charge in respect of Teleposta Towers. Of this amount, Kshs.22,569,642 relates to the period prior to 31 August, 2019 while the remaining amount of Kshs.5,208,464 relates to six (6) months period from 1 October, 2019 to 1 April, 2020.

5112) However, the Lease agreement presented in support of the of payment of Kshs.27,778,106 for the mentioned period does not agree to the terms stipulated in the lease agreement of monthly rental payment of Kshs.904,000 and monthly service charge of Kshs.282,500 payable, that would amount to an annual payment of Kshs.14,238,000. Further, the monthly invoices presented by the Landlord dated 1 October, 2019 were significantly different from the lease agreement as they had Kshs.4,168,344 and Kshs.1,040,119 for rent and service charge respectively.

5113) In addition, the lease agreement executed by both parties on 5 March, 2020 was later than the invoice issued by the Landlord and paid by the Management amounting to Kshs.27,778,106 purportedly for services rendered for a period earlier than the execution of the lease agreement. This contravenes Section 135(1) of the Public Procurement and Assets Disposal Act, 2015 which states that the existence of a contract shall be confirmed through the signature of a contract document incorporating all agreements between the parties and such contract shall be signed by the accounting officer or an officer authorized in writing by the accounting officer of the procuring entity and the successful tenderer. The invoices and the payment were not supported.

5114) Consequently, the authenticity, occurrence, and rights and obligations of the liability settled by the Management in respect of rental of produced assets amounting to Kshs.27,778,106 for the year ended 30 June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

5115) The State Department for Public Service entered into a Lease Agreement on 1st October 2013, for the occupation of the 2nd floor space at Telposta Building, where all the administrative support units are housed. Payment of rent in respect of Telposta Towers for the period 31st August, 2019 was Kshs.5,910,730.50 (part payment of the Kshs.18,930,602) as indicated in the invoices, statements of accounts from Tyson's Limited and the payment voucher. Payment of Kshs.12,040,701.95 (was part payment of the Kshs.18,930,602) for the period ending 30th September, 2019 which was made on 31st October, 2019 as indicated in the invoices, statements of accounts from Tysons Limited and the payment voucher. The amounts paid are as per the terms stipulated in the Lease

Agreement for the period 1st October, 2013 - 30th September, 2019 and the invoices presented by the Landlord for the period in question. The amount Kshs.27,778,106 mentioned above was not related to lease of Telposta Towers.

**5116) Committee observations and findings**

- (i) The Committee observed that the Accounting Officer did not submit a copy of the Lease Agreement, payment vouchers and Statement of Accounts from Tysons Limited for audit verification by the auditor at the time of audit.
- (ii) The Committee observed further that the explanation given by the Accounting Officer with regard to the Use of Goods and Services-Rentals of Produced Assets was not satisfactory and
- (iii) The matter remained unresolved.

**5117) Committee recommendations:**

**The Accounting Officer must at all times ensure that he/she prepares and keeps proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012.**

**1604. Pending Bills**

5118) Note 16.1 to the financial statements reflects pending bills amounting to Kshs.313,230,597 that were not settled in the year under review but were carried forward to 2020/2021 financial year. Failure to settle bills in the year to which they relate adversely affects the implementation of the subsequent year's budgeted programmes as the pending bills form a first charge to that year's budget provision.

**Submission by the Accounting Officer**

5119) The amount of Kshs.313,230.597 could not be paid due to budget cut during the financial year 2019/2020. However, The State department has paid pending bills amounting to Kshs.244 million leaving a balance of Kshs.69 million which have unresolved issues with service providers.

**5120) Committee Observations and Findings**

- (i) The Committee observed that the State Department for Public Service had pending bills totaling Kshs, 313.230.597 at the end of financial year 2019/2020 out of which pending bills amounting to Kshs. 244 million was paid in the financial year 2020/2021 leaving a balance of Kshs.69 million.
- (ii) The Committee further observed that the explanation given by the Accounting Officer with regard to the Pending Bills was satisfactory; And
- (iii) The Committee marked the matter as resolved.

**1605. Unresolved Prior Year Audit Issues**

5121) The Committee observed that the issues was discussed during the examination of the

State Department account for financial year 2017/18 and a recommendation was issued therein.

## **1606. Irregular Procurement of Security Guard Services at Huduma Kenya Secretariat**

### **1606.1: Tender Evaluation**

5122) The statement of receipts and payments reflects an expenditure of Kshs.1,368,561,573 in respect of use of goods and services which, as disclosed in Note 4 to the financial statements, includes an expenditure of Kshs.373,092,904 relating to other operating expenses. The latter balance includes an amount of Kshs.67,675,800 paid for provision of security services at various Huduma Centers.

5123) A review of the Tender Evaluation Committee report for the procurement of the services, revealed that twelve (12) firms bid to provide the services. However, three (3) firms that had submitted bids of Kshs.17,000, Kshs.18,000 and Kshs.20,880 per guard per month were not evaluated by the Committee as they were considered not feasible on the basis of business sustainability, administrative support and logistics as was demonstrated by the narrow margins and therefore not recommended for award. The Evaluation Committee introduced an extraneous criterion in arriving at the decision contrary to Section 80(2) of the Public Procurement and Asset Disposal Act, 2015 which provides that the evaluation and comparison shall be done using the procedures and criteria set out in the tender documents.

5124) Although Management is said to have been guided by the previous market survey carried out in the months of May to September, 2017 which had revealed a price range of Kshs.46,980 to Kshs.49,648, the identity of the researcher who prepared the market survey report and the market survey report itself that the Evaluation Committee relied on arriving at the conclusion were not disclosed or availed for audit verifications.

#### **Submission by the Accounting Officer**

5125) Huduma Kenya has operationalized fifty-two (52) Huduma Centres across the forty-seven (47) counties. With the fifty-two (52) Huduma Centres serving an average of fifty thousand (50,000) citizens on a daily basis, there is a need to manage the citizens coming to seek government services. Further, the Huduma Centres are classified by the National Security Advisory Council (NSAC) as security installations; hence the need for scrutiny of citizens coming to the Huduma Centres. The Ministry engages security guards who offer the following services: search of employees, citizens, and motor vehicles visiting the Huduma Centres; first respondents to emergencies for instance fire, disasters, terror attacks, among others; in case of emergencies seek the assistance of the relevant government bodies e.g. police, fire brigade and ambulance services; undertake patrols in and around the Huduma Centres; and secure all designated gates.

5126) In this regard, the Ministry advertised for a tender for the procurement of security services through open tender in line with section 96 of the PPADA, 2015. Twenty-one (21) firms responded to the tender and submitted their bids.

5127) In processing the bids, the Evaluation Committee followed the procedure and criteria set out in the tender/bid document which was developed in accordance with PPADA Act, 2015. The bids were evaluated in three stages: Preliminary Evaluation, Technical Evaluation, and Financial Evaluation. Any bidder who failed to meet all the set parameters was disqualified from the next stage of the evaluation process.

5128) In the Preliminary Stage, fourteen (14 No) bidders out of the twenty-one (21) bidders were found to be responsive. In the Technical Evaluation stage, twelve (12) bidders out of the fourteen (14No) were found to be responsive. In the Financial Evaluation stage, the twelve (12) bidders' prices were compared based on the market survey and four (4) firms were found to be competitive in pricing and also viable in executing the contracts in accordance with their respective prices.

5129) The three firms (B13, B15, and B21) who had quoted prices of Kshs.17,000.00, Kshs.18,000.00 and Kshs.20,880.00 respectively were successful in both the Preliminary and Technical Stages, but were eliminated at the Financial Evaluation stage because their prices were not viable based on the market survey. Some of the factors included in the prices being the salary of the guard, training costs, uniforms, operations, logistics costs, and administrative costs among others.

5130) Section 54 of PPADA, 2015, provides for carrying out of Market Survey, the results of which are used to inform the Evaluation Committee to arrive at a suitable decision and ensure value for money in the resultant outcome. The Market Survey was carried out by the Supply Chain Management Unit in line with the law. Details of the same was availed for perusal by the Committee.

5131) From the foregoing, it is the considered opinion of the Management that there was no extraneous criteria introduced during the process of evaluation and there was no irregularity in awarding the tender for procurement of security guards in Huduma Kenya Secretariat.

#### **1606.2: Tender Award**

5132) The remaining nine (9) firms were found responsive and taken through the full evaluation. The Evaluation Committee computed the average price based on the quoted prices by the nine (9) responsive firms that yielded Kshs.27,940 per guard per month inclusive of Value Added Tax (VAT) but then awarded the contract at Kshs.37,120 per guard per month resulting to an overcharge of Kshs.9,180 or 32.9% above the average price. No explanation or justification was rendered for awarding the contract at a higher price.



5133) Management did not conduct negotiations with the successful firms to ensure that the Huduma Kenya Secretariat received competitive prices and value for money.

#### **Submission by the Accounting Officer**

5134) The Tender Evaluation Committee awarded the tender to a firm that had quoted Kshs.37,120 per guard on the strength of Section 86(1) (b) of the Public Procurement and Asset Disposal Act 2015 which provides that a successful tender shall be the one with the highest total score determined by combining the Technical and the Financial scores.

5135) The Tender Evaluation Committee didn't undertake the negotiation as the successful bid was below the prevailing market price as guided by the market survey.

#### **5136) Plenary in regard to entire Paragraph 1606**

1. The Committee wondered why the tender was awarded to the highest bidder contrary to the procurement law
2. The Committee further wondered why the Accounting Officer could not allow for negotiations before awarding tender
3. For purpose of Accountability the CEO of the Huduma then was identified as Mr. Dennis Mutuku and the Head of Procurement was Ms. Mary Ndungu

#### **5137) Committee observations and findings in regard to entire Paragraph 1606**

- (i) The Committee observed that an amount of Kshs.67,675,800 was paid for provision of security services in the operationalized fifty-two (52) Huduma Centres across the forty-seven (47) counties and that the tender for Procurement of Security Guard Services was awarded to the highest bidder in pursuant to Section 86(1) (b) of the Public Procurement and Asset Disposal Act 2015.
- (ii) The Committee further observed that the explanation given by the Accounting Officer with regard to Irregular Procurement of Security Guard Services at Huduma Kenya Secretariat was satisfactory;
- (iii) The matter was marked as resolved.

### **1607. Irregular Procurement of Medical Insurance Services**

#### **1607.1 Provision of One-Month Insurance Services**

5138) The expenditure of Kshs.1,368,561,573 in respect of use of goods and services also includes an amount of Kshs.109,613,708 relating to insurance costs. The latter balance includes an amount of Kshs.6,085,529 paid to an insurance service provider for provision of one-month insurance services for group medical insurance cover for Cabinet Secretaries, Principal Secretaries and other senior civil servants. However, the basis of procurement of the one-month service was not supported. Further, the Management used an expired contract as the basis for payment which is contrary to the provisions of Section 135(1) of the Public Procurement and Assets Disposal Act, 2015.



### **Submission by the Accounting Officer**

5139) The State Department for Public Service is mandated to procure and manage Comprehensive Medical Insurance Cover for Cabinet Secretaries, Chief Administrative Secretaries, Principal Secretaries and all Senior Officers in Job Group 'U' and above and their eligible beneficiaries. The Department had a running contract with APA Insurance for FY 2018/2019 which was to expire on 30th June, 2019.

5140) Prior to the expiry of the contract, the Unit responsible for medical insurance schemes had submitted a request to the Principal Secretary for approval for the tendering process to commence. Following the approval, the State Department for Public Service advertised for the tender for provision of Comprehensive Medical Insurance for the Senior Officers on 21st May, 2019 and the closing date was on 11th June, 2019. A Technical Evaluation Committee was appointed to undertake the technical and financial evaluation exercise.

5141) As the procurement process progressed, it was noted that the timelines would not be met and a one (1) month extension of the contract for the period from 1st to 31st July, 2019 under similar provisions was requested. The one (1) month extension of the contract for the Medical Insurance Cover was to provide continuity of services to the Cabinet Secretaries, Chief Administrative Secretaries, Principal Secretaries and Senior Officers in Civil Service Job Group 'U' and above and their beneficiaries devoid of any interruption and also to allow for the finalization of the procurement process.

5142) The State Department for Public Service had requested the insurance provider Vide Letter Ref. No. MPYG.DPSM.2/7/3A dated 19th June, 2019 for an extension of the provision of Medical Insurance Service to all the enlisted officers for one (1) month with effect from 1st -31st July, 2019. The insurance provider also agreed to the extension vide letter dated 24th June, 2019. The one (1) month extension of the contract for provision of Medical Insurance Cover for Senior Civil Servants had the necessary approvals and was therefore not irregular as indicated in the documents annexed.

5143) The Management did not use an expired Contract because there was an extension of one-month Contract with the service provider using the same terms and conditions.

### **5144) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to the Provision of One-Month Insurance Services was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **1607.2 Provision of Group Medical Insurance Services**

5145) The insurance costs expenditure also includes an amount of Kshs.11,250,000 paid to an

insurance service provider being part payment from a total contract sum of Kshs.13,076,953 for provision of group medical insurance services for sixty-nine (69) Huduma Secretariat staff. However, even though the contract stated that the medical cover commenced on 22nd January, 2020 and would remain in force for a duration of one year through to 21st January, 2021 and renewable subject to the rights of either party to terminate the agreement on terms of termination contained in the agreement, the two parties signed the contract for the service on 29th January, 2020 thus backdating the contract seven days earlier and without evidence to show that services had been rendered during the seven days' prior the execution of the contract. No evidence has been provided for audit verification to show that the insurance services provider rendered services for the duration or that the period of cover was to be extended by the seven days at the expiry of the contract.

#### **Submission by the Accounting Officer**

5146) Whereas the two parties signed the contract on 29th January 2020, the effective date of the contract as documented within the contract itself was clearly indicated as 22nd January 2020. The State Department confirms that medical insurance services were rendered to the staff as required for the dates of 22nd – 29th January 2020 (7 days). A copy of Medical Utilization Report was availed for perusal by the Committee.

#### **5147) Committee Observations and Findings**

- (i) The Committee observed that the explanation and evidence given by the Accounting Officer on utilization of service within the seven days was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **1607.1 Performance Security Guarantee**

5148) Further, special conditions to the contract reference No.3.6 states that within twenty-eight (28) days of receipt of the notification of contract award, the successful tenderer should furnish the State Department with a performance security guarantee in the form of cash or a bank guarantee approved by the Insurance Regulatory Authority or a letter of credit equivalent to ten percent (10%) of the awarded contract sum of Kshs.13,076,953. However, no evidence was provided to show that the service provider complied with the performance security guarantee in line with the contract terms and Section 142(1) of the Public Procurement and Assets Disposal Act, 2015.

5149) Consequently, it was not possible to confirm whether the State Department adhered to the provisions of Article 227(1) of the Constitution of Kenya, 2010 which requires that when a state organ or any public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective. In addition, value for money on the expenditure for the period not covered by a valid contract as required under Section 142(1) of the Public Procurement and Assets Disposal

Act, 2015 could not be confirmed.

#### **Submission by the Accounting Officer**

5150) The State Department for Public Service entered into a contract for provision of Group Medical Insurance Services for Huduma Secretariat staff on 22nd January, 2020 for a period of one (1) year. On expiry, the State Department reviewed the contract on 21st January, 2021. It is noted that originally when the contract was entered into in 2018/2019 performance security guarantee was not requested. This error was unintentionally carried over as the subsequent contract renewals were done. This oversight is highly regretted.

5151) Despite the lack of performance security guarantee, the service provider provided the services to the satisfaction of the State Department as evidenced by the Utilization Medical Report. To ensure adherence to the provisions of law, the State Department has put in place administrative action with procedures for managing the procurement process and to correct such anomalies; a checklist of all requirements validation of the process by the Budget Implementation Committee and final verification by the Legal Counsel prior to signing by the Accounting Officer.

#### **5152) Committee observations and findings**

(i) The Committee observed that although the service provider offered service to the satisfaction of the procuring entity throughout the contract period, the State Department was in breach of special conditions to the contract reference No.3.6 by failing to acquire performance security guarantee from the service provider within twenty-eight (28) days of receipt of the notification of contract award.

(ii) The Committee further observed that the explanation and evidence given by the Accounting Officer on Performance Security Guarantee was satisfactory; and

(iii) The Committee marked the matter as resolved.

#### **1608. Use of Expired and Invalid Contract - Procurement and Payment for Communication Consultancy Services for Huduma Kenya Program**

5153) During the Financial Year 2014/2015, the Management of the State Department for Public Service and Youth Affairs signed a twelve (12) months contract with a service provider for provision of communication consultancy services for Huduma Kenya Program. The contract sum was Kshs.47,270,000 payable in four (4) tranches upon submission of an acceptable inception report, submission of the first quarter acceptable report, submission of the second quarter acceptable report and upon approval of the third quarter (final) report.

5154) However, in 2019/20 financial year, the Management paid the same service provider Kshs.11,817,500 for submission of the 11th Quarter report for the months of December 2017, January and February, 2018. It was noted that the payment related to a period not covered in the contract signed in the financial year 2014/2015 and used as a basis of support to the payment. No evidence of contract variation or extension was provided for audit

verification. Further, the service provider signed the contract on 12 January, 2015 being the effective date (as per the special conditions to contract No.2.2) while the Accounting Officer signed the same document four (4) months later on 12 May, 2015. The time lapse between the service provider's and the Accounting Officer's endorsement was outside the tender validity period in line with Section 135 (3) and (4) of the Public Procurement and Assets Disposal Act, 2015.

5155) In addition, under Clause 6.2(b) of the special conditions to the contract, the contract price was to be paid in four (4) tranches and the payments were to be made upon submission of acceptable reports for each quarter by the consultant. The 11th Quarter report (as an agreed deliverable) for the months of December, 2017, January and February, 2018 though covering a period that was not contracted for, was paid on the strength of a memo by the Director, Communications and Public Relations at Huduma Secretariat indicating that the report demonstrated a true reflection of the work carried out by the service provider. However, there was no evidence to show that the report was taken through any process of evaluation and acceptance by any Committee including the Project Steering Committee to justify its acceptability in line with Section 48(3)(b) and (4)(b) of Public Procurement and Asset Disposal Act, 2015.

5156) Consequently, the legality, validity and authenticity of the contract and payment Kshs.11,817,500 made under the contract during the year under review could not be confirmed.

#### **Submission by the Accounting Officer**

5157) The Ministry of Devolution and Planning entered into a twelve (12) months contract for the Provision of Communication Consultancy Services for the Huduma Kenya Program payable quarterly upon submission of acceptable reports. The initial contract commenced on 12th February 2015 and was to lapse on 11th February 2016. Before the expiry of the Contract on 11th February 2016 the Accounting Officer, following a formal request for renewal of the said consultancy by the CEO Huduma Kenya Secretariat dated 2nd February 2016 approved the renewal of the contract for one year to 12th February 2017 via letter Ref. MPGY/1/108 dated 5th February 2016.

5158) Additionally, the Accounting Officer vide the letter Reference MPGY/1/1/108 and dated 8th February 2017 extended the consultancy contract with a further twelve months with effect from 12th February 2017 to 12th February 2018. The payment of the 11th quarter covering the months of December 2017, January and February of 2018 were within the contract validity period. The service provider signed the contract on 12th January 2015, the Accounting Officer signed it on 12th May 2015. The State Department has taken note to avoid such anomaly in future. The 11th quarter report was submitted, approved and accepted by the client as shown in our memo dated 8th March 2018 in which the user department confirmed that the report was true reflection of the work carried out by the

consultant during the quarter both at the Ministry and the Huduma Kenya Secretariat. An extract of the report indicating that it was checked and approved internally is also provided.

**5159) Committee observations and findings**

- (i) The Committee observed that the contract document was signed four months after award of contract contrary to Section 135 (3) and (4) of the Public Procurement and Assets Disposal Act, 2015; and
- (ii) The matter remained unresolved.

**1609. Non-Compliance with the Government Directive on Procurement and payment of Advertisement Services.**

5160) Examination of expenditure records revealed that an amount of Kshs.29,122,621 was paid to two local media houses for advertisement services without approval by the Government Advertising Agency as required under Circular No. OP/CAB.58/4A dated 8 February, 2017. No explanation has been provided for the non-compliance or failure to seek approval from Government Advertising Agency as required.

**Submission by the Accounting Officer**

5161) The State Department provided the secretariat for the recruitment of the Chairpersons and Members of the three Commissions: Commission on Administrative of Justice (CAJ), the National Gender and Equality Commission (NGEC), and the Salaries and Remuneration Commission (SRC) as mandated by the respective Acts. All these three bodies are constitutional offices, with their own respective Acts with clearly stipulated timelines on how their Chairpersons and Commissioners are recruited. In all these commissions, there is a requirement that the list of persons shortlisted to appear for the interviews shall be advertised in the two daily newspapers of wider circulation within a day of their selection. The State Department took cognizance of the sensitivity of the matter noting that it was not a normal advert but a recruitment process. The Government Advertising Agency Magazine advertises only on Tuesday of every week. This became a limitation in meeting the constitutional timelines.

**5162) Committee observations and findings**

- (i) The Committee was satisfied with the explanation offered by the Accounting Officer; and
- (ii) The matter was marked resolved.

**1610. Procurement from Un-Prequalified Firms**

5163) The expenditure of Kshs.1,368,561,573 in respect of use of goods and services further includes an amount of Kshs.101,305,022 relating to office and general supplies and services which includes an amount of Kshs.9,934,500 paid for supply of office stationery and supplies. However, the payments were made to suppliers who were not prequalified in line

with Section 106(2)(a) of the Public Procurement and Asset Disposal Act, 2015. No explanation was provided for non-compliance with the procurement law. It was not therefore, possible to confirm how the suppliers were identified and contracted for the services.

#### **Submission by the Accounting Officer**

5164) The Accounting Officer submitted that the firms listed as having not been prequalified by the State Department are those that fall under the disadvantaged group (Youth, Women and Persons with Disabilities). These firms are in the category of Preference and Reservation Schemes which provides for affirmative action. Their category is prequalified by the National Treasury and the procuring entities do not go further to pre-qualify them.

5165) According to section 71 of Public Procurement and Asset Disposal Act, 2015 a procuring entity may generate a list of suppliers by way of invitation of registration of suppliers and the same list is updated continuously. However, for greater certainty, the notice for registration of suppliers shall not apply to the youth, women and persons with disabilities registered by the National Treasury. The firms engaged are as listed:

**Table 3: Firms Engaged**

S/No.	Name of Supplier	AGPO Certificate	Category
1.	Hillama Investments	BN-8MCAA	Youth
2.	Josem Investments	BN/2015/340474	Youth
3.	Josink Enterprise's	BN-GVC5ELJ	Youth
4.	Ahoro Green General Merchants	BN/201/388542	Youth
5.	Wersey Investment Ltd.	PVT/2016/010160	Youth
6.	Fayre Venture Company	CPR/2013/113209	Youth
7.	Camar Agencies	PVT-Y2UBRMK	Women
8.	Starlite Solutions Ltd.	PVT/2016/015018	Women

#### **5166) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Procurement from Un-Prequalified Firms was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **5167) Conclusion**

**1611.** There were no material issues relating to effectiveness of internal controls, risk management and governance.



## MECHANICAL AND TRANSPORT FUND - NATIONAL YOUTH SERVICE

### REPORT ON THE FINANCIAL STATEMENTS

#### Basis for Disclaimer of Opinion

#### 1612. Errors and Inaccuracies in the Financial Statements

##### 1612.1 The Statement of Cash Flows

5168) The statement of cash flows reflects closing cash and cash equivalents balance of Kshs.614,389,563 as at 30 June, 2020. However, the statement has omitted adjusting items including changes in inventories figure of Kshs.143,106,015 and movement in China stocks figure of Kshs.463,557,263. No adjustments have been done to correct the errors.

##### Submission by the Accounting Officer

5169) The adjustments in inventories figure of Ksh.143,106,015 and movement in China stock figure of Kshs.463,557,263 has been affected in the financial year 2020/21 and submitted for audit. The letter for submission for the 2020/21 financial statements were availed for verification.

##### 5170) Committee observations and findings

- (i) The Committee was satisfied with the explanation offered by the Accounting Officer; and
- (ii) The matter was marked resolved.

##### 1612.2 Discrepancies Between Comparative Balances on Inventories

5171) The statement of financial position reflects an inventories balance of Kshs.111,921,222 (2019-Kshs.255,027,237). However, Note 17 reflects a comparative figure of Kshs.44,000,000 which is at variance with the audited balance of Kshs.255,027,237 resulting to a difference of Kshs.211,027,237 which has not been explained or reconciled.

5172) Further, no supporting documents were provided for audit verification showing the nature, name, quantities and valuation of the inventory.

##### Submission by the Accounting Officer

5173) The actual figure of inventories was Kshs.255,027,237 in the audited statement of financial position as at the year ended 30 June 2018/2019. However, the comparative figure of Kshs.44,000,000 was erroneously presented under note 17. The correct presentation under note 1 has been affected in the financial year 2020/21 and submitted for audit. The letter of submission for the 2020/21 financial statements has been attached

5174) The stock take report have been availed for auditor's verification. The report contains the nature, name, quantities and the valuation of the inventory for the financial year.



5175) **Committee observations and findings**

- (i) The Committee was satisfied with the explanation offered by the Accounting Officer; and
- (ii) The matter was marked resolved.

**1612.3 Accuracy of Stock Balance - China Stocks**

5176) The statement of financial position reflects a balance of Kshs.463,557,263 under current assets in respect to China stocks whose comparative balance of zero is indicated to be under Note 17 to the financial statements. However, Note 17 reflects a balance of Kshs.501,145,452. Further, the previous year's audited financial statements reported a balance of Kshs.220,067,066 under China stocks. The increase in China stocks balance of Kshs.281,078,386 has not been explained or supported by documents for acquisitions done during the year.

**Submission by the Accounting Officer**

5177) The china stocks figure of Kshs.220,067,066 was understated by Kshs.281,078,386 which was omitted during the stock taking exercises. The correct figure of Kshs.501,145,542 has been effected in the financial year 2020/21 and submitted for audit. The letter of submission for the 2020/21 financial statements has been attached.

5178) **Committee observations and findings**

- (i) The Committee was satisfied with the explanation offered by the Accounting Officer; and
- (ii) The matter was marked resolved.

**1612.4 Variances Between Financial Statements Figures and the General Ledger**

5179) A review of the general ledger balances as at 30 June, 2020 reveals variances between the figures reported in the financial statements and the ledger as follows:

<b>Account Description</b>	<b>Financial Statement Balance (Kshs.)</b>	<b>General Ledger Balance (Kshs.)</b>	<b>Variance (Kshs.)</b>
1. Hire of Buses	29,415,855	25,693,314	3,722,541
2. Finance Costs	154,012	111,748	42,264
3. Stationery	4,110,948.00	4,052,448.00	58,500
4. Office Expenses	4,083,120.00	4,094,014	(10,894)
5. Ruiru Prison Project	11,325,340.00	13,273,340.00	(1,948,039)

5180) No explanation or reconciliation was provided for variances between the two sets of records which ordinarily should agree.

5181) Consequently, the accuracy of the financial statements as at 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

5182) The service generates its revenue through hire of buses machinery and equipment. At this point the hire of buses worth Ksh.3,722,541 was recognized as revenue at the point of generation and at the same time recognized upon receipt of payment hence an incidence of double counting this adjustment has been effected in the financial year 2020/21 and submitted for audit.

5183) The variance in the finance costs of Ksh.42,264 was due to bank charges and commissions which were never factored in the ledger at the time of preparing the accounts. This has been effected in the financial year 2020/21 and submitted for audit. This is a casting error in the office expenses item which resulted to an understatement of Kshs.10,894. This adjustment has been effected in the financial year 2020/21 and submitted for audit

5184) The service entered in to a contract for irrigation with the prisons department worth KSH 14,000,000 which they paid in full. The service purchased materials worth ksh,13,273,340 and by the end of the financial year the project had utilised materials worth Ksh.11,325,340 as captured in the financial statements. The variance of Ksh,1,948,039 has been effected in the financial year 2020/21 and submitted for audit.

#### **5185) Committee observations and findings**

- (i) The Committee was satisfied with the explanation offered by the Accounting Officer; and
- (ii) The matter was marked resolved.

#### **1613. Long Outstanding Sundry Creditors**

5186) As disclosed under Note 21 to the financial statements, the statement of financial position as at 30 June, 2020 reflects a balance of Kshs.8,579,233 relating to sundry creditors. As reported in the prior year's report, the balance has been outstanding for over six (6) years with no explanation on why the amount has not been settled to date. Further, the balance which had been classified as a non-current liability in the financial year 2016/2017 was re-classified to current liabilities in the financial year 2017/2018 without any justification.

5187) Consequently, the authenticity of the figure for sundry creditors could not be confirmed.

**Submission by the Accounting Officer**

5188) The matter raised above was from prior years and was resolved during the twelfth parliament –fifth session (Public Service Accounts) 2017/2018 under paragraph 3246.

**5189) Committee observations and findings**

- (i) The Committee was satisfied with the explanation offered by the Accounting Officer; and
- (ii) The matter was marked resolved.

**1614. Non-Current Assets**

5190) As disclosed under Note 18 to the financial statements, the statement of financial position reflects total non-current assets balance of Kshs.4,543,212,448 which includes an amount of Kshs.2,967,257,436 relating to plant and heavy machinery. However, the Fund's Management has not valued the plant and heavy machinery for financial reporting purposes since inception.

5191) Further, as reported in the previous year, assets procured in the financial year 2018/2019 at a cost of Kshs.12,962,212 which included ten (10) motor cycles, twenty-one (21) diesel generators and ten (10) water pumps could not be verified. The distribution list for the items were not provided for audit verification. Logbooks or ownership documents for motorable assets amounting to Kshs.43,821,753 were not availed for audit verification while five (5) out of twenty-seven (27) buses used for commuter services have been grounded due to maintenance challenges.

5192) Consequently, the accuracy of the figure for net non-current assets of Kshs.4,543,212,448 could not be confirmed.

**Submission by the Accounting Officer**

5193) Management commenced the valuation of the non-current assets on July 2019 to be carried in two phases. Phase one was done conclusively and a report was produced by 31<sup>st</sup> December 2019 and availed for verifications. Phase two commenced on 1<sup>st</sup> January 2020 and is ongoing. it entails non- current assets distributed in various counties in the country. Most of the non-current assets are at Lamu west, Mandera at the Kenya-Somalia border, Boni forest and kiunga which are prone to security challenges. Hence, the service been engaging the Kenya defence forces to provide security so that the non-current assets can be ferried to nearest NYS units for valuation exercise. On completion of phase two exercises then the correct values for non-current assets will be obtained. Any variances between the current value of non-current assets and the valuation figures will be adjusted in the subsequent financial year as guided by the IPSAS section of prior year. The comprehensive list of the non-current assets deployed for securitisation was availed.

5194) The 10 motorcycles, 21 generators and 10 water pumps have been part of MTF non-current assets register since 2010 when they were bought and later distributed. Attached are copies of log books whose original log-book have been availed to auditor for verification to support the date of acquisition and schedules of distribution of the motorcycles, generators, water pumps to various NYS stations.

**Submission by the Accounting Officer**

5195) Out of the five buses reported as grounded, four have since been repaired and are currently in use. Attached are Motor vehicles pre- inspection reports and the subsequent, post mechanical inspection reports, log-books and Work tickets for the four buses for audit verification.

**5196) Committee observations and findings**

- (i) The Committee was satisfied with the explanation offered by the Accounting Officer; and
- (ii) The matter was marked resolved.

**1615. Cash and Cash Equivalents**

5197) The statement of financial position reflects a figure of Kshs.614,365,802 under cash and cash equivalents as at 30 June, 2020. However, confirmation of balances held at Kenya Commercial Bank showed that the actual closing balance was Kshs.612,442,618 leading to a variance of Kshs.2,193,184 which has not been reconciled. Further, the Board of Survey report dated 1 July, 2020 indicated a cash book balance of Kshs.774,996,551 which differs with the closing cash book balance of Kshs.614,365,802 by a variance of Kshs.160,630,749 which has not been explained or reconciled.

5198) In addition, as disclosed in Note 14 to the financial statements, the statement of financial position reflects a balance of Kshs.614,365,802. However, the bank reconciliation statement reported an amount of Kshs.4,754,539 relating to receipts in bank not in cashbook which was cleared during the month of June, 2020 with no supporting documentation. No explanation was provided detailing how the amounts were cleared from the subsequent bank reconciliations for audit verification.

5199) Consequently, the accuracy and completeness of the cash and cash equivalents balance of Kshs.614,365,802 as at 30 June, 2019 could not be confirmed.

**Submission by the Accounting Officer**

5200) The variance on the closing balance of Kshs.2,193,184 was a casting error which has since been corrected in the cash book on 31<sup>st</sup> March 2021. Which is therefore effected in the subsequent financial year 2020/21. The revised statement of financial position reflects the corrected amount under cash and cash equivalent.

5201) The Board of survey committee picked the wrong balance in the bank statement instead of the cash book balance-bank column as at 30 June 2020. The board of survey committee amended the error as shown in the board of survey report and cash book reconciliation.

5202) The NYS provides services to clients on request. Some clients deposit money prior to provision of services and we had to identify them, this translated into receipts in bank which were not recorded in the cashbook as at 30th June 2020 since MTF was trying to establish the identity of the clients who had prepaid for the services. The reconciliation has since been concluded and the amount duly captured in the cash book as reflected.

**5203) Committee observations and findings**

- (i) The Committee was satisfied with the explanation offered by the Accounting Officer; and
- (ii) The matter was marked resolved.

**1616. Service Expenses**

5204) As disclosed under Note 5 to the financial statements, the statement of financial performance reflects an amount of Kshs.16,335,340 in relation to service expenses. The amounts of service expenses include Kshs.4,781,000 paid to three hundred and ninety-three (393) cohorts and ninety (99) members of staff in the cleaning and garbage collection exercise. The listing of cohorts revealed discrepancies between the computer-generated attendance lists and the respective payrolls payout schedule for payments amounting to Kshs.2,061,000 while the payroll for last period worked, which was between 22 May, 2020 to 4 June, 2020, was completed and signed by the paying officer on 18 July, 2020, eleven (11) days after the money had been withdrawn from the bank.

5205) Further, documents in support of payment of Kshs.1,342,000 included a list of staff and their entitlements for the period worked but no corresponding list of engaged officers was included to justify the payment and confirm the accuracy of the amounts paid while payments totalling Kshs.522,500 were supported by signed payment schedules where the receivers signatures were all similar. The payout included an attendance list for one hundred and forty-three (143) cohorts purported to have worked but had not been signed for. There was no evidence to show Authority to Incur Expenditure (AIE) for the payment was granted by the Chief Accountant as required under Section 13(2)(b) National Youth Service Mechanical and Transport Fund Rules, Procedures and Guidelines for the operation of the Fund dated January, 2011.

5206) Under the circumstances, the propriety and validity of service expenditure amounting to Kshs.4,781,000 could not be confirmed.

**Submission by the Accounting Officer**

5207) The withdrawals were done by the MTF authorised cashier and the co-horts would be paid in shifts. The supervisor would sign the payroll after every co-hort had been paid hence a lapse in time between the cash withdraw date and the date the complete payroll is signed by the supervisor. This has however been resolved since all monies are paid via respective beneficiary bank accounts.

5208) A computerised list of the engaged officers has since been attached and availed for audit verification. A copy of the signatures for payments totalling Kshs.522,500 has been provided to confirm their authenticity.

5209) **Committee observations and findings**

- (i) The Committee was satisfied with the explanation offered by the Accounting Officer; and
- (ii) The matter was marked resolved.

**1617. Irregular Procurement of Motor Vehicles**

5210) During the year under review, the Fund procured fourteen (14) motor vehicles valued at Kshs.89,601,586. However, there was no evidence of minutes of a Council meeting either attached to the payment voucher or separately availed for audit review to show that the Council of the National Youth Service approved the procurement of the motor vehicles in line with the National Youth Service Act, 2018.

5211) Further, available information indicates that two (2) invoices No. VNA/4608/220 and VNA/4609 both dated 20 April, 2020 were issued by the vendor, M/s Simba Corporation Ltd demanding an amount of Kshs.8,100,000 for each Mitsubishi Pajero (Automatic) with Japan as the country of origin. However, Management made payment using the quoted price of Kshs.8,242,000 per unit through their Local Purchase Order (LPO) No.3165397 which had earlier been raised on 30 March, 2020. The payment resulted to an overpayment of Kshs.284,000 for the two (2) motor vehicles. No explanation has been provided for the additional cost over and above the invoiced amount.

5212) Consequently, the propriety of the expenditure of Kshs.89,601,586 incurred on the purchase of motor vehicles could not be confirmed.

**Submission by the Accounting Officer**

5213) The Accounting Officer submitted as follows:

- i. The purchase of the 14 motor vehicles was included in the annual procurement plan. We complied with the law because as per the NYS act the council was supposed to approve the procurement plan for the FY 2019/2020 which was approved in the 6<sup>th</sup> council meeting held on 14<sup>th</sup> October 2019 vide minute No. 06/14/10/2019. Attached is a copy the minutes for audit verification and an extract of the approved procurement plan.



- ii. The process of procuring the vehicles commenced when V.A.T was at 16% and the unit price was Kshs.8,242,000 as per the contracted price in the supplies branch contract. However, on the advent of COVID-19, VAT was reduced to 14%. The difference of 2% resulted to overpayment of Kshs.284,000. However, the fund management has written a letter to M/S Simba corporation Ltd requesting for the refund of Kshs.284,000 and remind letter has been done. Both Letters were availed.

**5214) Committee observations and findings**

- (i) The Committee was satisfied with the explanation offered by the Accounting Officer; and
- (ii) The matter was marked resolved.

**1618. Unsupported Figures for Receivables from Commercial Clients**

5215) As disclosed under Note 16 to the financial statements, the statement of financial position reflects a balance of Kshs.178,809,794 as receivables from external operations. However, no supporting schedules have been provided for audit verification.

5216) Consequently, the accuracy, completeness and existence of the receivables from commercial client's balance of Kshs.178,809,794 as at 30 June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

5217) The fund management has provided a schedule of restatement receivable from commercial debt of Kshs.178,809,794 for audit verification.

**5218) Committee observations and findings**

- (i) The Committee was satisfied with the explanation offered by the Accounting Officer; and
- (ii) The matter was marked resolved.

**1619. Expired Items in Stores**

5219) A physical inspection on stores on motor vehicle spare parts carried out during the audit revealed that a total of 157.9 litres of assorted paints with a cost value of Kshs.158,830 had expired as per the labels attached while others did have labels at all. Interviews with Management of the stores revealed that the expiry of the items was mainly attributed to change in technology and low demand. No reason was however provided for failure by the Management to take necessary action to dispose the paints.

5220) Consequently, the Fund did not receive value for money on the expenditure of Kshs.158,830 on expired items.

**5221) Submission by the Accounting Officer**



The paints were procured in the past in bulk for students practicals and for examination purposes. Out of this consignment a significant amount has been consumed for the intended purpose. Due the advent of the COVID-19 pandemic which saw the disruption of our learning programmes as a result of the Ministry of Health protocols, our trainees were sent home thus resulting to the balance of 157.9 liters worth Ksh.158,830 not being utilised. The paints have been earmarked for disposal this financial year.

**5222) Committee observations and findings**

- (i) The Committee was satisfied with the explanation offered by the Accounting Officer; and
- (ii) The matter was marked resolved.

**1620. Non-compliance with the Public Procurement and Asset Disposal Act, 2015**

5223) The statement of financial position reflects total current assets figure of Kshs.2,198,429,316 as at 30 June, 2020. The figure includes Kshs.111,921,222 and Kshs.463,557,263 relating to inventories and China stocks respectively. However, no evidence was provided for audit verification to show that the Fund's Management conducted quarterly and annual inventory and stock taking as required under Section 162(2) of the Public Procurement and Asset Disposal Act, 2015 which states that the Head of Procurement function shall arrange for occasional visits of inspection to the stores, at least quarterly in each calendar year, and conduct quarterly and annual inventory and stock taking in order to ensure compliance with all respective governing laws and submit the report to the Accounting Officer.

5224) In the circumstances, Management is in breach of law.

**Submission by the Accounting Officer**

5225) The fund management acknowledges that during the period under review the fund conducted only annual stock taking exercises but the quarterly reports were done using the stores ledger and control cards. However, accurate stock taking figures were provided for the purposes of preparing quarterly financial statements. Currently the service has complied with the law by conducting quarterly and annual inventory and stock taking as required under section 162(2) of the public procurement and asset disposal act 2015.

**5226) Committee observations and findings**

- (i) The Committee was satisfied with the explanation offered by the Accounting Officer; and
- (ii) The matter was marked resolved.

**1621. Supply of Booster Pump for Water Treatment at National Youth Service at Gilgil**

5227) The statement of financial position reflects a figure of Kshs.4,543,212,448 under small vehicles, commercial trucks and plant and equipment. The figure includes Kshs.3,138,480 paid to a supplier for supply and delivery of a booster pump for water treatment at National

Youth Service College, Gilgil. Review of the procurement revealed the following anomalies;

- 5228) The Management issued quotations, which were dated 10 June, 2020 whereas those invited to quote were under instructions that they submit or place them in the quotation/tender box not later than 9.30 am on 9 June, 2020, notably a day before the quotations were issued.
- 5229) One of the responsive quotations used to invite bidder No. 3 showed that it was filled and completed for submission on 10 June, 2020 a day after 9 June, 2020 indicated as the date when three (3) quotations were opened by a three (3) member tender opening committee.
- 5230) Quotation for bidder No.2 and the lowest bidder showed it was completed, signed and stamped on 9 June, 2020, the same day the three (3) quotations are purported to have been opened and a day earlier than the date the quotations were issued to the bidders.
- 5231) In the circumstances, Management is in breach of law.

**Submission by the Accounting Officer**

- 5232) The Management acknowledges the mix up of the dates and confirm that the fund scheme has strengthened the internal control systems which will ensure non-recurrence of such an anomaly. This includes the use of online sourcing and capacity building of procurement staff.
- 5233) **Committee observations and findings**
- (i) The Committee was satisfied with the explanation offered by the Accounting Officer; and
  - (ii) The matter was marked resolved.

**1622. Delayed Approval of the Annual Programmes and Cost Estimates**

- 5234) The Annual Programmes and Cost Estimates for the financial year 2019/2020 for the Mechanical and Transport Fund showed that the projected expenditure for the financial year was Kshs.449,079,768 against a projected income estimate of Kshs.415,370,000 resulting to a shortfall of approximately Kshs.33,709,768. Management observed that the shortfall was to be catered for by the balance brought forward from previous years of Kshs.158,000,000. However, the following anomalies were observed;
- 5235) Legal notice No.15 of 30 January, 2011, shows that Government Financial Management Act (National Youth Service Mechanical Transport Fund) Regulations, 2011 Section 6 gives the Minister for Public Service the mandate to approve the annual work

programmes and cost estimates of the Fund for the financial year 2019/2020. However, the approval was granted on 13 January, 2020, midway through the financial year thus affecting implementation of planned activities and service delivery.

5236) The approved annual work programmes and cost estimates stated that the difference of expenditure of Kshs.33,709,768 between expenditure and projected income estimates would be catered for from the previous year's balance brought forward of Kshs.158,000,000 which differs with Kshs.13,307,759 reflected in the Audited Financial Statements for the same period. No adequate explanation has been provided on why the Management approved a deficit budget and for the contradicting information that may have informed the approval of a budget without corresponding funds for execution of intended activities.

#### **Submission by the Accounting Officer**

The Accounting Officer submitted as follows:

- i. This delay was occasioned by the enactment of the NYS act 2018 that gave the council powers to approve the work plans this took time since they were new and the members took time to understand the processes.
- ii. The Kshs.158,000,000 was the bank statement bank balance as at 30<sup>th</sup> June 2020 while 13,307,759 was the cash and cash equivalent as at 30<sup>th</sup> June 2020. The approval annual work programmes and cost estimate expenditure differences of Kshs.33,709,768 was to be financed by funds from commercial and domestic debtors and disposal of obsolete items. Cash book bank statement and bank statement as 30<sup>th</sup> June 20 for audit verification.

#### **5237) Committee observations and findings**

- (i) The Committee was satisfied with the explanation offered by the Accounting Officer; and
- (ii) The matter was marked resolved.

### **1623. Unresolved Prior Year Matters**

5238) In the audit report of the previous year, a number of issues were raised under the Report on Financial Statements. However, Management has not resolved the issues nor disclosed all the prior year matter as provided by the Public Sector Accounting Standards Board templates and The National Treasury's Circular Ref: PSASB/1/12 Vol.1(44) of 25 June, 2019.

#### **Submission by the Accounting Officer**

5239) Management have disclosed the progress on the implementation of the public accounts committee recommendations for the financial year 2017/2018 and waiting for public accounts committee recommendation for the financial year 2019/2020.

5240) **Committee observations and findings**

- (i) The Committee was satisfied with the explanation offered by the Accounting Officer; and
- (ii) The matter was marked resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5241) **Conclusion**

**1624.** Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5242) **Conclusion**

**1625.** Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

## 47. STATE DEPARTEMENT FOR YOUTH

### REPORT ON THE FINANCIAL STATEMENTS – VOTE 1214

5243) *Due to re-organization of government and reassignment of departments affecting the State Department for Public Service and State Department for Youth, the Committee inadvertently did not invite the Accounting Officer for State Department for Youth Affairs to make submissions on the issues listed below.*

5244) *These matters shall therefore be examined during the examination of the Report of the Auditor General for the Accounts of the National Government for the year 2020/2021.*

#### **Basis for Qualified Opinion**

##### **1626. Transfers to Other Government Units**

5245) As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.18,488,426,551 under transfers to other government units. Included in the amount are current grants of Kshs.11,792,826,551 of which Kshs.10,280,251 is reported as transferred to the International Conference for Great Lakes Regions (ICGLR). However, the entity has not been defined in the Executive Order No.1 of 2020 of 14 January, 2020 nor has the transfer been supported by payment vouchers. Under the circumstances, the propriety and correct classification of transfers of Kshs.10,280,251 to International Conference for Great Lakes Regions (ICGLR) could not be confirmed.

##### **1627. Unauthorized and Unsupported Expenditure**

5246) The State Department paid Kshs.660,000 for cleaning services rendered on 12th floor Barclays Plaza. However, no evidence in form of a lease agreement or rental payments was provided to show that the State Department had leased the office space in the building. Further, the State Department made a payment of Kshs.564,250 on behalf of the National Youth Council for cleaning services provided in their premises despite the Council being an independent entity with its own budget. There was no evidence of requests for support from the National Youth Council and approval of reallocation to transfers to other government entities. No satisfactory explanation has been provided for the inconsistencies. Under the circumstances, the validity and propriety of the expenditure totalling to Kshs.1,224,250 on cleaning services could not be confirmed.

#### **Other matter**

##### **1628. Pending Bills**

5247) As disclosed under Note 16 to the financial statements, the State Department had pending bills totalling to Kshs.16,921,561 relating to construction of civil works and supply of services as at 30 June, 2020. Failure to settle bills during the year in which they relate to

distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

### **1629. Unresolved Prior Year Audit Matters**

5248) As disclosed under progress on follow up of prior years auditor's recommendation section, audit matters reported in the previous financial years remained unresolved as at 30 June, 2020.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for conclusion**

#### **1630. Other Operating Expenses**

5249) As disclosed under Note 4 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.1,222,674,348 under use of goods and services which includes an amount of Kshs.636,706,253 under other operating expenditure. The following matters were noted: -

##### **1630.1 Provision of Fumigation Services**

5250) Included under the other operating expenditure is an amount of Kshs.459,230 paid to a service provider for provision of fumigation services at 3rd Floor Kencom House and 5th Floor Harambee House. The quotation forms (S.10) and the approved professional opinion indicated that the services were procured through request for quotations method. However, the quotations were opened by a Tender Opening Committee comprising of two (2) members instead of the requisite three (3) members provided for under Section 78(1)(a) of the Public Procurement and Asset Disposal Act, 2015.

##### **1630.2 Cleaning Services**

5251) Included in the other operating expenditure are payments for provision of cleaning services totaling to Kshs.2,049,250 for which the following anomalies were noted:

###### **1630.2.1 Use of Expired Contract to Procure Cleaning Services for the State Department's Headquarters at Kencom House**

5252) The expenditure includes Kshs.905,550 paid to a service provider for provision of cleaning services at Kencom House for the months of September, October and November, 2019 at a monthly rate of Kshs.301,850 although the contract period had lapsed.

###### **1630.2.2 Non-Compliance with the Law on Contract Extension**

5253) The expenditure includes payments amounting to Kshs.894,250 relating to cleaning services rendered at Bruce House offices after extension of the contract period. However, no evidence was provided for audit verification to show that the contract extension was executed in accordance with the provisions of Section 135(1) of the Public Procurement and Asset Disposal Act, 2015 that requires such contract extensions be subjected to an Evaluation Committee whose recommendations are communicated to the Accounting

Officer through a professional opinion for approval. To this extent, the State department was in breach of the Law.

### **1630.3 Event Management Expenditure**

5254) The other operating expenses expenditure included Kshs.6,619,772 paid for provision of tents, decoration, event management and accessories, However, the procedure for identification of the service provider was not established as evidence for use of open tender procurement method in accordance with Section 91 of the Public Procurement and Asset Disposal Act, 2015 was not provided. Further, the contract for the provision of the services was not availed for audit review. Documentary evidence to confirm receipt of goods and services including the inspection and acceptance report in accordance with Section 48 of the Public Procurement and Assets Disposal Act, 2015 was also not provided. Consequently, the validity and value for money for provision of tents, decoration, event management and accessories of Kshs.6,619,772 could not be confirmed.

### **1631. Routine Maintenance - Other Assets**

5255) Note 4 to the financial statements discloses routine maintenance - other assets expenditure of Kshs.17,337,731 which includes an amount of Kshs.5,057,732 relating to renovation of the Principal Secretary's office. The renovation works were procured using restricted tendering method. However, Management did not provide evidence that conditions for use of the method as provided under Section 102 of the Public Procurement and Asset Disposal Act, 2015 had been met. Consequently, the Department was in breach of law and value for money on the renovation expenditure of Kshs.5,057,732 could not be confirmed.

### **1632. Procurement of Ground Preparation Services**

5256) The statement of receipts and payments reflects an amount of Kshs.274,262,515 under acquisition of assets. As disclosed under Note 7 to the financial statements, an amount of Kshs.26,982,277 was paid out in respect of purchase of office furniture and general equipment out of which an amount of Kshs.1,305,900 was paid to a contractor for preparation of the ground for Agricultural Society of Kenya- Mombasa International Trade Fair in 2019. However, the following anomalies were noted in relation to the payment:

- i. The event took place from 4 September, 2019 to 8 September, 2019 indicating that the services of ground preparation were offered earlier than 4 September, 2019 a period which does not coincide with the date of certification on the Job card which shows that the job was done on 18 June, 2020 which was almost ten (10) months after the event took place. Further, even though the Job card was evidently raised on 18 June 2020, it was certified on 8 September, 2019.
- ii. Commitment letter Ref: MPYG/SCM/2/31 dated 27 August, 2019 to the service provider by the Departmental Director of Administration, indicated the quotation as having been favorably considered and undertook to pay an amount of Kshs.1,731,500 being the total costs for the ground preparation for the event.



However, the professional opinion had an approval of Kshs.1,305,900 which was at variance with the commitment letter. No explanation has been provided for the discrepancies.

- iii. According to the professional opinion, the submitted quotations were closed and opened on 28 August, 2019 by a committee consisting of three (3) officers. However, no evidence was provided in support of the five (5) days extension after the lapse of the period indicated in the request for quotation.
- iv. The date and time of opening of all the four (4) quotations were manually altered with no explanations being rendered for the alterations.

5257) Consequently, the accuracy and authenticity of the expenditure amount of Kshs.1,305,900 on purchase of office furniture and general equipment could not be confirmed.

#### REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

##### 5258) **Conclusion**

**1633.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

#### DONOR FUNDED PROJECT KENYA YOUTH EMPLOYMENT AND OPPORTUNITIES PROJECT (IDA CREDIT NO. 5812-KE)

#### REPORT ON THE FINANCIAL STATEMENTS

##### **Basis for Qualified Opinion**

##### **1647. Purchase of Goods and Services - Misclassifications**

5259) As disclosed in Note 9.4 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.873,068,576 under purchase of goods and services which includes an amount of Kshs.20,283,068 relating to hospitality supplies and services. However, the ledger provided in support of the balances reflected various payments totalling Kshs.15,914,692, or 78% which do not relate to the hospitality supplies and services account, but relates to domestic travel and subsistence and other operating expenses. Adjustments necessary to reclassify the expenditures to the relevant expenditure heads have not been effected.

5260) Under the circumstances, the accuracy of the balance of Kshs.873,068,576 reported under purchase of goods and services could not be confirmed.

##### **Other Matter**

##### **1648. Budgetary Control and Performance**

5261) The statement of comparative budget and actual amounts for the year ended 30 June, 2020 reflects budgeted receipts and actual on comparable basis amounting to Kshs.1,100,000,000 and Kshs.732,301,848 respectively resulting to a shortfall of Kshs.367,698,152 or 33% of the budget. Similarly, the Project's approved expenditure budget was Kshs.1,100,000,000 while the actual expenditure was Kshs.937,481,186 resulting to under-expenditure of Kshs.162,518,815 or 15% of the budget. Consequently, planned activities of the Project may not have been implemented, thereby affecting achievement of the intended goals of the Project.

#### **1649. Pending Bills**

5262) Note 9.1 to financial statements reflects pending bills of Kshs.13,482,306 as at 30 June, 2020. Management has not provided reasons for non-payment of the bills even though the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments. Further, failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

#### **1650. Unresolved Prior Year Issues**

5263) The following prior year issues remained unresolved as at 30 June, 2020:

##### **1650.1 Unsupported Consultancy Services and Training Expenditures**

5264) As reported in 2017/18, a consultant was paid Kshs.27,461,500 to provide life skills training to youths in several Counties at a cost of Kshs.8,500 per participant. The payment included Kshs.1,800,000 for supply of computers for use by the trainers. However, available records indicated that only 2,584 youths were trained at an aggregate cost of Kshs.21,964,000 against Kshs.25,461,500 paid to the consultant. No explanation has been provided for the over-payment amounting to Kshs.3,697,500 made to the consultant. Other records indicated that the Project paid stipends totalling Kshs.16,120,450 to the training course participants. However, only 2,584 youths were trained and paid Kshs.6,000 each resulting in expenditure totaling Kshs.15,504,000. The variance amounting to Kshs.620,450 between the expenditures shown in the two sets of records has not been explained.

##### **1650.2 Unconfirmed Youth Training Program Expenditure**

5265) In 2017/18 financial year, Management paid Kshs.16,120,450 in stipends to trainee youths who participated in the life skills training course, and Kshs.27,461,500 to the consultants that provided the training. However, there was no evidence showing that the training curriculum was approved by Management. In addition, the contract did not indicate the Project outcomes targeted by the course. Consequently, it was not possible to confirm whether the Project received value for money on the expenditure totalling Kshs.43,581,900 incurred on the training.

##### **1650.3 High Administration Expenses**

5266) Review of 2017/18 financial year expenditure indicated that Kshs.253,104,269 was incurred on administrative and youth training activities during the year. However, analysis of the respective payment vouchers indicated that only 21% of the total expenditure incurred on the items was related to youth activities and programs whereas the balance (79%), was incurred on administrative activities.

#### **1650.4 Irregular Appointment of a Training Consultant**

5267) The statement of receipts and payments for the year ended 30 June, 2018 reflected expenditure totalling Kshs.188,740,710 incurred on purchase of goods and services which included operating expenses amounting to Kshs.56,090,096. The later balance included Kshs.27,461,500 paid in June, 2018 to a consultant to provide life skills training. The following anomalies were observed in respect of this payment: (a) The certificate of incorporation indicated that the bidder was a Limited Liability Company incorporated on 24 May, 2007 whereas the confidential business questionnaire attached in support of the payment indicated that the service provider was a Non-Governmental Organization. However, the Firm's certificate of registration from the Non-Governmental Organization Board was not disclosed. As a result, the status and authenticity of the Firm engaged to offer the training services could not be verified. (b) Minutes of meetings held between the bidder and Management in October, 2017 revealed that the consultant agreed with the State Department to abandon the original financial proposal and present a new one with trainee charge-rates that tallied with those prescribed in the terms of reference. This implied that the original bid was not responsive and should instead have been cancelled and a new tendering process initiated. Reconfiguring the proposal amounted to amendment of the tender contrary to Section 75(1) of the Public Procurement and Asset Disposal Act, 2015. The bid documents, tender opening and evaluation and minutes of the Committee meeting that shortlisted the bidders were not provided for audit verification.

#### **1650.5 Unsupported Consultancy Services Expenditure**

5268) The Management entered into a framework contract with a consultant to offer Life Skills Training to Youths in seventeen (17) Counties in 2018. As at 30 June, 2019, the consultant had received payments totaling Kshs.44,128,350. However, the certificate of inspection and acceptance of the contract's deliverables was not availed for audit review. Further, the contract was signed seven (7) days after the award, contrary to Section 135 (3) of Public Procurement and Asset Disposal Act (PPDA), 2015 which requires public procurement contracts to be signed fourteen (14) days after award of a contract to allow for appeals by unsuccessful bidders, if any. As a result, the regularity of the expenditure amounting to Kshs.44,128,350 incurred on the consultant and the value obtained thereof has not been confirmed.

#### **1650.6 Irregular Consultancy Services Contract**

5269) The Project paid Kshs.8,240,000 to a consultant to design and implement a management system referred to as Interim Information Management System (IIMS) in 2017/18 financial

year. However, documents presented for audit in support of the payment reflected several anomalies:

- i. The contract was for a period of ninety (90) days from 28 July, 2017 to 31 March, 2018 and was priced at Kshs.16,000,000. However, the consultant's proposal was approved on 17 April, 2019 and the contract signed on 17 May, 2019. It was backdated to 01 April, 2018 and set to end after 32 months on 31 December, 2020, or any other period as would be subsequently agreed to by the parties in writing.
- ii. Documents attached to the Kshs.8,240,000 payment voucher indicated that the payment was for services rendered from 03 April, 2018 to January, 2019. However, in this period, there was no contract or agreed output. The anomaly implied that the services were offered without a contract contrary to Section 135(1) of the Public Procurement and Asset Disposal Act, 2015. Management has not explained why the law was flouted in procuring the consultancy services.
- iii. The annexure to the contract template included conditions to be fulfilled before payments were made to the contractor. However, in the actual contract signed with the consultant, the conditions were labeled as 'not applicable' and ignored.

5270) In view of these matters, the legality of the contract valued at Kshs.16,000,000 and value-for-money on expenditure amounting to Kshs.8,240,000 incurred on the contract during the year under review has not been confirmed.

#### **1650.7 Irregular Contract on Provision of Communication Specialist Services**

5271) The statement of receipts and payments for the year ended 30 June, 2019, reflects use of goods and services totaling Kshs.523,239,782, as disclosed under Note 8.8 to the financial statements. The expenditure includes Kshs.4,800,000 paid to a consultant for provision of communication services at a monthly fee of Kshs.600,000 for a period of eight (8) months commencing May through to December, 2018, as specified in an unreferenced contract document dated November 8, 2017.

5272) However, examination of records revealed the following anomalies which were not explained:

- i. Before signing the contract on 8 November, 2017, Management had notified the consultant of the offer for the services through a letter dated 2 November, 2017, which the consultant accepted two (2) days later on 4 November, 2017. That was contrary to provisions of Section 135 (3) of the Public Procurement and Asset Disposal Act, 2015 that prescribes a 14-day window for appeals by unsuccessful bidders before contracts are signed.
- ii. The conditions of the contract cited in the annexure to the contract document required several conditions to be fulfilled before any payments were made. However, these were not observed as they were termed 'not applicable' and ignored.
- iii. In all the payment vouchers examined, there was no evidence that the outputs agreed in the contract were attained before the respective payments were made. Furthermore, no

certificate of inspection and acceptance of outputs was presented for audit review, and therefore its existence could not be confirmed.

5273) In the view of these anomalies, the legality and value-for-money on the expenditure amounting to Kshs.4,800,000 incurred on provision of communication specialist services could not be confirmed.

#### **1650.8 Non-Compliant Capacity-Building Consultancy Services Contract**

5274) During the year ended 30 June, 2019, the Project spent Kshs.4,290,000 on a consultant hired to build capacity for technical assistance support. However, the following anomalies were noted in respect to the expenditure:

- i. Signed and verified time sheets indicated that the consultant worked for a total of one hundred and fifty-four (154) days. However, invoice No. KYEOP-04 dated 20 May, 2019 issued by the consultant indicated that the work done covered one hundred and twenty-eight (128) days. No reason was provided for the anomaly.
- ii. The certificate of inspection and acceptance of the contract outputs was not presented for audit and its existence could therefore not be confirmed. In the circumstances, Management paid the consultant Kshs.4,290,000 without confirming that the contracted services were delivered as expected. Therefore, the payment contradicted the requirements of Section 48(3) of the Public Procurement and Asset Disposal Act, 2015

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **Basis for Conclusion**

#### **1651. Delay in Inspection and Acceptance of Goods and Services**

5275) Note 9.4 to the financial statements reflects office and general supplies expenditure of Kshs.10,173,100. Included in the amount is Kshs.1,594,800 being payments for supply and delivery of flash disks, refrigerator and hp toner cartridges. However, inspection and acceptance certificate in relation to the goods was issued 19 days after delivery contrary to Section 48(3) of the Public Procurement and Asset Disposal Act, 2015 that require immediate inspection and testing of goods supplied. No explanation has been provided for the delay.

#### **1652. Validity of Contract for Consultancy Services- Design and Implementation of Innovation Challenge**

5276) The Management entered into a contract for provision of consultancy services to design and implement an innovation challenge on 31 March, 2020. The contract duration was for nineteen (19) months and at a contract sum of Kshs.48,889,293. However, the contract was signed by a person other than a director with no documentary evidence conferring authority to the person to sign on behalf of the consultant. Further, correspondence letter Ref: CF/2015/186892 dated 11/07/2017 from the Registrar of Companies attached in support of the payment voucher, shows that the consulting firm had five (5) directors of whom four (4) were foreigners of Indian nationality and one (1) Kenyan. The letter from the consulting

firm states that the Kenyan Director is the authorized person to transact on behalf of the Company. Consequently, the person who executed the contract on behalf of the Consultancy was neither a director nor its authorized agent. Subsequently, the Consultant was paid ten percent (10%) of the contract sum upon submission of an inception report of Kshs.4,804,637 on 25 June, 2020. This should not have been payable until the contract was duly executed in line with its mandate. From the foregoing, the validity and enforceability of the contract and related transactions cannot be confirmed and it exposes the Project to the risk of loss of public resources.

## **1653. Consultancy Services**

### **1653.1 Contract for Delivery of Life Skills Training**

5277) The Management entered into contract with a life skills training consultant on 30 October, 2018 for delivery of training. The special condition to the contract under Section 41.2 provided that the procuring entity would make the 1st payment of 10% of eligible sum based on confirmed placement instructions and contracted cost per trainee upon completion of Training of Trainers (TOT) as per the deliverables in the terms of reference deliverables. The 2<sup>nd</sup> payment was to be paid after confirmation of placement instructions and contracted cost per trainee and upon delivery and completion of training and satisfactory reports specified in the deliverables in the terms of reference. However, examination of sampled payment vouchers revealed the following anomalies:

- i. The initial payment made of Kshs.13,218,400 represented 20% of the projected 6,890 youths spread over 16 Counties instead of the 13 stated in the contract. The basis of adding three additional Counties and replacing one with another one not in the contract has not been explained. There was also no contract amendment or addendum subsequently to cover for the variation. This led to an unauthorized expenditure of Kshs.3,733,600 ;
- ii. Although the payment of Kshs.13,218,400 related to the life skills training contract, the description on the payment voucher is misleading as it is indicated as core business skills training which is on a separate contract;
- iii. The consultant was paid an amount of Kshs.46,214,400 on 26 November, 2019 in respect of training 5980 youth in ten (10) Counties instead of the thirteen Counties in the contract. The amount was to cover the balance of 80% of the amounts payable per each youth trained. However, the number of youths trained and included in the final billed was higher in each of the ten Counties than the number projected and agreed upon in the initial billing. This led to an overstatement of expenditure by Kshs.17,889,000;
- iv. Seven of the contracted Counties covered in the 20% advance payment amounting to Kshs.5,242,600 had no training activities but there is no evidence of recovery or actions being taken to recover the over-payment;
- v. The contract specifically stipulated payment terms as 10 % advance and 90% final payment. However, the management varied and paid in two instalments of 20% advance and 80% final payment contrary to the provisions of the contract.



### **1653.2 Contract for Delivery of Core Business Skills Training**

5278) The Management entered into contract with a consultant for delivery of Core Business Skills Training on 31 October, 2018. The special condition to the contract under Section 4.2 provided that the procuring entity would make the 1st payment of 10% of eligible sum based on confirmed placement instructions and contracted cost per trainee upon completion of Training of Trainers (TOT) as per the deliverables in the terms of reference. The 2nd payment was to be paid after confirmation of placement instructions and contracted cost per trainee and upon delivery and completion of training and satisfactory reports specified in the deliverables in the terms of reference.

5279) The consultant was subsequently paid Kshs.39,272,800 for delivering Cycle IV life skills training to five thousand and ninety-nine (5,099) youth from thirteen (13) Counties which took place between 14 and 25 October, 2019. However, the following inconsistencies were observed:

- i. The contract in support of the payment related to core business skills training instead of the life skills training cycle IV;
- ii. The terms of reference to the framework agreement condition No.8 states that the final training report be submitted within fourteen (14) days after the end of the training of each cycle. However, the life skills report for cycle IV together with the forwarding letter attached to the payment voucher were received after more than two (2) months in January, 2020;
- iii. Management paid the consultant a sum of Kshs.39,272,800 based on a 20% advance payment and 80% final payment contrary to the provisions of the contract. No explanations have been provided for the anomalies.

### **1654. Breaches to Public Procurement and Asset Disposal Act, 2015**

#### **1654.1 Consultancy Services for Interim Management Information System (MIS) Consultant**

5280) The Management sought for a no objection from the World Bank for amendments to the contract terms (timelines and costs) for the contracts of individual consultants working on development of interim MIS system and roll out and capacity support technical assistant for KYEOP through letter Ref: MPYG/KYEOP/04 dated 28 February, 2020. The no objection was granted on 16 March, 2020. However, the following observations were made:

- i. Contract Addendum No.1 (Contract No.KE-MPYG-104837-CS-CDS) signed on 27 March, 2020, was for a period longer than the initial contract which was scheduled to expire on 31 December, 2020;
- ii. Although the Accounting Officer duly signed the extension to the Contract, there was no evidence provided to show that there was need to amend the contract terms and the required consultation between the parties to warrant the proposed contract modifications. In addition, the contract variation never went through an evaluation committee as required under Section 139 (2) of Public Procurement and Asset Disposal Act, 2015.
- iii. Analysis of the payment voucher No.158 dated 19 December, 2019 revealed that Management paid the Consultant Kshs.3,000,000 out of which Kshs.600,000 was



unsupported by proof of deliverables achieved. Although the payment was to cover areas that were previously delivered by other implementing agencies, no confirmations from the other respective Agencies were attached in support despite respective approval by the national project coordinators.

#### **1654.2 Provision of Communication Specialist Services**

5281) Available information indicates that a consultant was hired for a period of three (3) months vide contract dated 8 November, 2017 to provide communication services to the Project at a monthly cost of Kshs.600,000 and paid Kshs.1,800,000. The following unsatisfactory issues were observed in relation to the payment:

- i. The contract was signed on 8 November, 2017 before expiry of the appeals period of 14 days as prescribed under Section 135(3) of the Public Procurement and Asset Disposal Act, 2015; and
- ii. The contract omitted general and special conditions which forms part of a standard contract as specified under Section 135(6) of Public Procurement and Asset Disposal Act, 2015.

#### **1654.3 Procurement of Cleaning Services Without Contract**

5282) Contrary to the provisions of Section 104(1) of the Public Finance Management (National Government) Regulations, 2015, the Project's Management procured cleaning services and incurred an expenditure of Kshs.1,222,650 without entering into contract with the service provider. Further, quotations for the procurement of the Services were floated to three (3) firms which were not prequalified as per the then annual list of prequalified suppliers contrary to Section 95(3) of Public Procurement and Asset Disposal Act, 2015. In the circumstance the Project is in breach of the law, while the propriety of expenditure of Kshs.1,222,650 on cleaning services could not be confirmed.

#### **1654.4 Procurement of Non-Requisitioned Goods and Services**

5283) Accounting records maintained by the Project Management in relation to office and general supplies shows that a supplier was paid Kshs.1,026,500 for supply and delivery of assorted items which included five (5) pieces of cupboard with adjustable shelves, ten (10) reams of printing papers, ten (10) pieces of extension cables among other items. Scrutiny of the documentation in support of the payment voucher revealed the following inconsistencies:

- i. Of the eight (8) items procured and paid for, four (4), costing Kshs.810,500 were not requisitioned contrary to Section 162 (4) of Public Procurement and Asset Disposal Act, 2015; and
- ii. The goods purchased and supplied were inspected thirteen (13) days after delivery, contrary to Section 48(3) of the Public Procurement and Assets Disposal Act, 2015. The Project Management is in breach of the Law to this extent.

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT SYSTEMS AND GOVERNANCE**

5284) **Conclusion**

**1655.** There were no material issues relating to effectiveness of internal controls, risk management and governance

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FINAL REPORT 2019/2020

## 48. STATE DEPARTMENT FOR EAST AFRICAN COMMUNITY

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1221

**Mr. Kevit Desai, the Principal Secretary and Accounting Officer for State Department for East Africa Community (Vote 1221), appeared before the Committee on 22<sup>nd</sup> February to adduce evidence on the audited financial statement for the State Department for East Africa Community (Vote 1221) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                        |   |                              |
|------------------------|---|------------------------------|
| 1. Ms. Maureen Oganya  | - | Deputy Accountant General    |
| 2. Mr. Joseph K. Nguyo | - | Senior Chief Finance Officer |
| 3. Mr. Joseph Maina    | - | Chief Finance Officer        |

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **1656. Payment of Unlawful Employment**

5283) The statement of receipts and payments reflects an expenditure balance of Kshs.280,421,606 under use of goods and services which, as disclosed in Note 4 to the financial statements, includes an amount of Kshs.25,219,723 incurred on other operating expenses. The latter balance includes an amount of Kshs.4,400,000 spent on an officer who was retained on short-term contract as a financial advisor under the Ministry's Programme with the Department for International Development (DFID) after retirement as per a letter from Permanent Secretary dated 3<sup>rd</sup> March, 2009. The details of the contract regarding payment, duration and conditions were not agreed upon due to delays in the conclusion of a memorandum of Understanding between the Ministry and DFID.

5284) The officer instituted a suit against the Government on 5th November, 2012 in the Employment and Labor relations Court seeking Kshs.4,000,000 as unpaid salary for ten (10) months, general damages for unlawful termination and cost of the suit. Judgment was delivered on 18th May, 2018 and the State Department was ordered to pay Kshs.4,000,000 as unpaid salary subject to statutory deductions for ten (10) months and Kshs.400,000 as compensation and costs of the law suits.

5285) Further, the Attorney General on 18th July, indicated that the decretal sum was Kshs.3,935,132 including costs and interest. However, actual payment amounted to Kshs.4,400,000 resulting into an unexplained overpayment of Ks.464,868. In addition, the State Department did not avail evidence showing that the statutory deductions totaling to Kshs.1,192,656 were remitted to the Kenya Revenue Authority and approval by the Public

Service Commission to retain the Officer in the Service beyond the mandatory retirement age.

5286) In the circumstances, it was not possible to confirm validity and regularity of the payment of Kshs.4,400,000.

#### **Submission by the Accounting Officers**

5287) The Accounting Officer submitted as follows:

**5288) The State Department did not provide evidence showing that the statutory deductions totaling to Kshs.1,192,656.**

- The payment of KSh.4,400,000 was based on the guidance and interpretation by the Senior State Counsel based on the judgment dated 18<sup>th</sup> May, 2018 and correspondence from the Attorney General and Department of Justice dated 18<sup>th</sup> July, 2019.
- The Principal Secretary vide letter reference 75077496 dated 24<sup>th</sup> July, 2020 and 9<sup>th</sup> December, 2020 requested the Solicitor General to acknowledge receipt of the said amount, furnish this State Department with an official receipt and ensure that the matter is closed and marked as fully settled in Court.
- The State Department was not paying the claimant directly hence transferred KSh.4,400,000 on 26<sup>th</sup> June, 2020, TFSR Ref 70009063, being the gross amount, to Office of the Attorney General and Department of Justice for onward payment of the claimant after deduction and remittance of the statutory obligations.
- The Attorney General's letter dated 18<sup>th</sup> July, 2019 to Principal Secretary EAC provides a detailed account on the decretal amount payable claim, explaining the tax element, damages and costs among others. A follow up on the same vide Principal Secretary's letter dated 4<sup>th</sup> August, 2021 is awaiting the breakdown and proof receipt of payment.
- The State Department wrote to the Attorney General on 9<sup>th</sup> December, 2020 requesting for information as required by the Auditor on remittance. The Attorney General has not responded.
- The Employment and Labour Relations Court Certificate of Order specified Cause No.2289 of 2012 certified the amount payable as Kshs.4,400,000. The State Department remitted the funds to the AG via EFT to interpret and remit as per the Court Order.

**5289) The State Department did not provide evidence of approval by the Public Service Commission to retain the Officer in the Service beyond the mandatory retirement age**

- Human Resource Management observation is that the extension was not approved by the Public Service Commission.

#### 5290) **Committee Observations and Findings**

- (i) The Committee observed that the Accounting Officer illegally extended the service of a retiree without Public service Commission approval. As a result, the State Department incurred a wasteful expenditure of Kshs. 4,400,000.
- (ii) The State Department did not provide evidence of approval by the Public Service Commission to retain the Officer in the Service beyond the mandatory retirement age
- (iii) The State Department did not avail evidence showing that the statutory deductions totaling to Kshs.1,192,656 was remitted to the Kenya Revenue Authority.

#### 5291) **Committee Recommendations**

- 1) **Within sixty days upon adoption of this report, the Accounting Officer should provide evidence of approval by the Public Service Commission to retain the Officer in the Service beyond the mandatory retirement age and evidence showing that the statutory deductions totaling Kshs.1,192,656 was remitted to the Kenya Revenue Authority to the Auditor-General for audit review and reporting to the National Assembly.**
- 2) **The Committee reprimands the Accounting Officers for illegally extending the service of a retiree without Public service Commission approval resulting wasteful expenditure of Kshs.4,400,000.**

#### **1657. Long Outstanding Imprests**

5292) The statement of assets and liabilities reflects accounts received-outstanding imprests of Kshs.262,362. However, as disclosed in Note 7 to the financial statements, the balance includes outstanding imprests of Kshs.174,836 relating to the financial year, 2015/2016. No explanation was given for failure to recover the whole amount required under Regulation 93(6) of the Public Finance management (National Government) Regulations, 2015 which requires an Accounting Officer to take immediate action to recover the full amount from the salary of the defaulting Officer with interest charged at the prevailing Central Bank Rate.

5293) In the Circumstances, the recoverability of the receivables balance of Kshs.174,836 could not be confirmed.

#### **Submission by the Accounting Officers**

5294) The Accounting Officer submitted that the receivables of Kshs.174,836 has been remitted to the State Department vide EFT dated 18<sup>th</sup> August, 2021.

5295) **The Committee deliberated on the issue in 2018/2019, Observed and Found that;** The Committee observed that a balance of Kshs.174,836 not yet recovered in 2018/2019 had been remitted to the State Department vide EFT dated 18th August, 2021. However, there was no documentary evidence for the transfer and no explanation as to why the amount had remained outstanding since 2015/2016.

**5296) Committee Recommendations**

- 1) **The Cabinet Secretary for the National Treasury & Planning should, within three (3) months of tabling and adoption of this report, issue a written reprimand to the Accounting Officer and the Officer who failed to ensure that outstanding imprest was surrendered in time. This was in contravention of the provisions of the PFM Act 2012 and Regulation 93 of the PFM (National Government) Regulations 2015.**
- 2) **Further, the committee recommends that the officer who overstayed with the Kshs.174,836 and the Accounting Officer serving at the material time pay interest on the amount from the time it fell due to the time of repayment at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(26) of the Public Finance Management (National Government) Regulations, 2015;**

**1658. Pending Bills**

5297) Note 15 to the financial statements reflects pending bills amounting to Kshs.5,010,015 which were not settled in 2019/2020 financial year but were instead carried forward to 2020/2021. Management has not provided an explanation for non-payment of the pending bills. Failure to settle bills during the year to which they relate adversely affects the provision of the subsequent year to which they are charged.

**Submission by the Accounting Officers**

5298) The Accounting Officer submitted that it was true that the State Department had pending bills totaling to Kshs.5,010,015.20 for 2019/2020 Financial Year. Included in the pending bills are historical amounting to Ksh.4,453,133 and salary deductions of Kshs.556,752.20 which have since been cleared. For the historical Pending Bills, Accounting Officer had appointed committees to resolve the matter. The reports of two committees appointed i.e The Interdisciplinary Pending Bills Committee and Documents Retrieval Taskforce, made recommendations on the way forward and part of the pending bills will be paid when funds are available.

**5299) Committee Observations and Findings**

The Committee observed that pending bills amounting to Ksh.4,453,133 were historical and the Accounting Officer had appointed the Interdisciplinary Pending Bills Committee and Documents Retrieval Taskforce. The two committees made recommendations on the way forward and part of the pending bills will be paid when funds are available.

**5300) Committee Recommendation**

**The Committee recommends that the Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills exist, they should form a first charge in the subsequent year's budget thereby impeding smooth implementation of the subsequent budget.**

**1659. UNRESOLVED PRIOR YEAR MATTERS**

5301) Various prior year audit issues remained unresolved as at 30<sup>th</sup> June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues. Further, some unresolved prior year issues are not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

**Submission by the Accounting Officers**

5302) The Accounting Officer submitted that the State Department has resolved some prior year issues for 2017/2018 and 2018/19. The unresolved issues for 2018/19 are awaiting PAC Report.

**5303) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Unresolved Prior Year Issues was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1660. Non- Maintenance of Assets Register**

5304) The summary of fixed assets register under Annex 4 to the financial statements reflects Kshs.49,789,2016 being the cumulative costs of all assets owned by the State Department. However, the Management did not maintain an assets register contrary to Regulation 143 of the Public Finance management (National Government) Regulations, 2015 which requires an Accounting Officer to maintain a register of assets under his or her control or possession as prescribed by the relevant laws.

**Submission by the Accounting Officers**

5305) The Accounting Officer submitted that the State Department has constructed a Comprehensive Asset Register which is updated and maintained in accordance with Regulation 143 of the Public finance management (National Government) Regulations 2015.

**5306) Committee Observations and Findings**



The Committee observed that the State Department had reportedly developed a Comprehensive Asset Register which is updated and maintained in accordance with Regulation 143 of the Public Finance Management (National Government) Regulations 2015.

**5307) Committee Recommendations**

**Within sixty days upon adoption of this report, the Accounting Officer should present the Comprehensive Asset Register to the Auditor-General for further review and reporting to the National Assembly.**

**1661. Lack of Audit Committee**

5308) As reported in the previous year and as disclosed under Key Entity Information and Management Section, the State Department did not have an independent Audit Committee as required by Section 73(5) of the Public Finance Management Act, 2012, which provides that every national government public entity shall establish an Audit Committee whose composition and functions shall be as prescribed by the regulations.

5309) In the absence of a functioning Audit Committee, monitoring and review of the effectiveness of the internal audit process, review of internal control, risks management systems and financial statements among other functions of an Audit Committee were not executed thus hindering good corporate governance at the State Department.

**Submission by the Accounting Officers**

5310) The Accounting Officer submitted that during the year under review, the State Department operated without an Audit Committee hence, its activities were not appraised, contrary to the Public Finance Management Act 174(1). The audit committee is now in place and fully constituted with a Chair and Committee members vide appointment letters dated 15th July, 2020, Ref. SDRNCD/ADM/1/3 VOL.1(9, 10, 11, 12 &13).

**5311) Committee Observations and Findings**

- (i) The Committee observed that the audit committee is now in place and fully constituted with a Chair and Committee members
- (ii) The Committee marked the matter as resolved.

## 49. STATE DEPARTMENT FOR REGIONAL AND NORTHERN CORRIDOR DEVELOPMENT

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1222

**Dr. Belio R. Kipsang, CBS, the Principal Secretary and Accounting Officer the State Department for Regional and Northern Corridor Development (Vote 1222) appeared before the Committee 10<sup>th</sup> February, 2022, to adduce evidence on the audited financial statement for the State Department for Regional and Northern Corridor Development (Vote 1222) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                            |   |                           |
|----------------------------|---|---------------------------|
| 1. Mr. Tom M. Odundo       | - | Deputy Accountant General |
| 2. Mr. Sammy Naporos       | - | Managing Director -KVDA   |
| 3. Mr. Christopher Musumbu | - | Secretary Administration  |
| 4. Mr. Beldine Omolo       | - | Chief Finance Officer     |

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **1662. Pending Bills**

5312) Annex 1 to the financial statements reflects pending bills amounting to Kshs.2,439,340,189 chargeable to both the recurrent and development votes that were not settled during the year under review but were instead carried forward to 2020/2021 financial year. The pending bills balance includes an amount of Kshs.2,438,725,299 which, as reported in the previous year, had no supporting documents.

5313) In the absence of supporting documents, it was not possible to confirm the authenticity of the pending bills amounting to Kshs.2,438,725,299 and whether the bills are a proper charge to public funds.

#### **Submission by the Accounting Officer**

5314) The Accounting Officer submitted that the pending bills as reflected in the report amounted to Kshs.2,439,340,189.00 and comprised of two items as follows:

- a) Pending bills pertaining to Kimira Oluch smallholder Improvement Project amounts to Kshs.867,449,206
- b) Pending bills pertaining to consultancy services on the 5 multipurpose dams amounts to Kshs.1,571,890,983.

5315) The above pending bills are historical in nature having been incurred in the financial years 2010/2011 and 2011/2012 respectively when the State Department was then Ministry of Regional Development. Following the establishment of the State Department for Regional and Northern Corridor Development via the Executive Order No 1 of June 2018, the pending bills were handed to the State Department in the FY 2018/2019.

5316) The State Department has in the period under consideration carried out verification of the pending bills in question and having satisfied itself on their eligibility for payment, a request for budgetary support for settling pending bills was placed with the National Treasury and Planning for consideration for a budget provision.

**5317) Committee Observation and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to pending Bills was satisfactory;
- (ii) However, the Committee further observed that only bills amounting to Kshs.7,276,946.00 (0.03%) out of the total pending bills of Kshs.2,438,725,299 as at 30<sup>th</sup> June 2019 have been paid.

**5318) Committee Recommendations**

**Within sixty days of adoption of this report, the Accounting Officer to engage National Treasury and report to the National Assembly on how the pending bills of Kshs. 2,438,725,299 is to be settled to avoid penalties and interests.**

**Other Matter**

**1663. Budget Performance and Control**

5319) The State Department received Exchequer receipts totaling Kshs.5,224,758,438 against an approved budget of Kshs.5,884,758,438 resulting to a shortfall of Kshs.660,000,000 or 11%. Similarly actual expenditure amounted to Kshs.5,224,718,525 against the approved budget of Kshs.5,884,758,438 resulting to under absorption of Kshs.600,039,913 or 11.2% which occurred mainly under transfers to other Government entities. The shortfall in budgeted receipts and under-absorption implies that the overall goals and objectives of the State Department were not achieved as planned.

**Submission by the Accounting Officer**

5320) The Accounting Officer submitted as follow:

**Receipts**

**5321) Shortfall in receipts was occasioned by the following:**

- i) Proceeds from foreign borrowing Kshs.200,000,000 – These were funds meant for the Wei Wei phase III integrated irrigation project which was being implemented by

KVDA. These proceeds were not realized because the financing bank delayed in confirming declaration of the contract component as effective and the contractor delayed in taking the site. However, the same funds were budgeted in the subsequent financial years for the same project.

ii) Proceeds from sale of assets and other receipts (Kshs.460,000,000) –These were AIA budgeted under RDAs and was therefore collected as analyzed in the table below. The respective RDA collects and accounts for the same directly to The National Treasury.

### Receipts Analysis Table

<b>Receipts Analysis per RDA</b>				
<b>Regional Development Authorities (RDA)</b>	<b>Proceed from sale of Assets Kshs</b>	<b>Other Receipts Kshs</b>	<b>Proceeds From Foreign Borrowing Kshs</b>	<b>Totals Kshs</b>
KVDA	195,000,000	0	200,000,000	395,000,000
TARDA	157,000,000	0	0	157,000,000
LBDA	72,000,000	0	0	72,000,000
ENSDA	0	16,000,000	0	16,000,000
CDA	5,000,000	0	0	5,000,000
ENNDA	15,000,000	0	0	15,000,000
<b>TOTALS</b>	<b>444,000,000</b>	<b>16,000,000</b>	<b>200,000,000</b>	<b>660,000,000</b>

5322) The above RDAs have confirmed realization of receipts as tabulated below thus explaining the shortfall in budgeted receipts:

<b>RDA Name</b>	<b>Recurrent/ Development</b>	<b>Budgeted AIA</b>	<b>Actual AIA (Realised)</b>	<b>Surplus (Deficit)</b>	<b>Realisation %</b>
KVDA	Foreign Borrowing	200,000,000	0	(200,000,000)	<b>0</b>
KVDA	Recurrent	195,000,000	171,134,568	(23,865,432)	<b>88</b>
TARDA	Recurrent	157,000,000	104,359,414	(22,640,586)	<b>66</b>
LBDA	Recurrent	72,000,000	69,767,337	(2,232,663)	<b>97</b>
ENSDA	Recurrent	16,000,000	22,413,761	6,413,761	<b>140</b>
CDA	Recurrent	5,000,000	10,785,482	5,785,482	<b>216</b>
ENNDA	Recurrent	15,000,000	6,406,820	(8,593,180)	<b>42</b>
<b>TOTALS</b>		<b>660,000,000</b>	<b>384,867,382</b>		

### Payments

5323) The under expenditure of Kshs.660,039,913 by the State Department was occasioned by the following:

- i) Transfer to other Government units Kshs.660,000,000. These include proceeds from foreign borrowing of Kshs.200,000,000 and the proceeds from sale of assets and other receipts (AIA) of Kshs.460,000,000. The proceeds from foreign borrowing were meant for Wei Wei Phase III Irrigation project. The same could not be utilized by the KVDA due to the financing bank delay in confirming declaration of the contract component as effective and also delay by the Contractor in taking the site. The proceeds from sale of assets and other receipts (AIA) are collected, utilized and accounted directly by the respective RDA.

**5324) Committee Observation and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to Budgetary Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1664. Unresolved Prior Year Matters**

**1664.1 Irregular Advance Payment for Kimwarer Multipurpose Dam Development Project**

5325) As previously reported, the statement of receipts and payments for the year ended 30 June, 2019, reflected proceeds from foreign borrowing of Kshs.3,666,495,236 out of which Kshs.3,485,500,628 was paid to International Joint Venture firm on 27 September, 2018. The payment, which was affected in the books of the State Department on 2 November, 2018 through journal entries, was an advance payment for designing, building, and transfer of the proposed Kimwarer Multipurpose Dam Development Project. Available information indicates that this matter is under investigations by the relevant authorities.

**Submission by the Accounting Officer**

5326) The Accounting Officer submitted that this matter that was under investigations by the relevant authorities is currently before court and relevant documents have been forwarded to the investigative authorities.

**5327) Committee Observation and Findings**

- (i) The Committee observed that the matter was discussed in its report for the year 2018/2019. The matter was before the court and all the relevant documents had been forwarded to the investigative authorities.
- (ii) The matter was active in Court and, therefore, stayed under *sub judice rule*.

**1664.2 Unreconciled Grants and Transfers to Other Government Entities**

5328) As previously reported, the statement of receipts and payments for the year ended 30 June 2019 reflected transfers to eight (8) other Government entities amounting to Kshs.8,138,743,577. However, confirmation from two Agencies revealed variances as follows:

<b>SAGA</b>	<b>Amount disbursed by the State Department Kshs.</b>	<b>Amount received by the SAGA Kshs.</b>	<b>Variance</b>
Ewaso Nyiro North River Development Authority Development (ENNDA)	338,129,280	339,535,887	(1,406,607)
Kerio Valley Development Authority (KVDA)-Direct Payment	3,666,495,236	Nil	3,666,495,236

5329) In the circumstances, the accuracy and completeness of the grants and transfer to other Government entities balance of Kshs.8,138,743,577 for the year ended 30 June, 2019, could not be confirmed. A review of the matter in the financial year 2019/2020 revealed that no reconciliation has been done.

#### **Submission by the Accounting Officer**

5330) The Accounting Officer submitted as follows:

#### **i) Grants to ENNDA**

5331) It was true that the statement of receipts and payments for the year ended 30th June, 2019 reflected transfers to eight other government entities amounting to Kshs.8,138,743,577. Out of this amount Kshs.4,671,815,790 was funded by exchequer and Kshs.3,666,495,236 was funded through foreign borrowing and therefore did not constitute transfer to any SAGAs as it was a direct payment.

<b>Transfers to SAGAs</b>	<b>Recurrent</b>	<b>Development</b>	<b>Total</b>
Lake Basin Development Authority	206,841,717	344,500,000	551,341,717
LAPSET corridor Development Authority	248,310,000	0	248,310,000
Tana and Athi Rivers Development Authority	345,808,409	314,200,000	660,008,409
Coast Development Authority	244,442,460	264,750,000	509,192,460
<b>Ewaso Ngiro North Development Authority</b>	<b>193,879,280</b>	<b>144,250,000</b>	<b>338,129,280</b>
Ewaso Ngiro South Development Authority	278,691,291	679,000,000	957,691,291
Kerio Valley Development Authority	136,575,184	384,000,000	520,575,184
Kerio Valley Development Authority- Direct Payments made by the national Treasury from Foreign Borrowings	0	3,666,495,236	3,666,495,236
<b>Transfers to Project-GoK counterpart funding</b>			

Kimira Oluch Small Holder Farm Improvement Project in Homa Bay	0	687,000,000	687,000,000
<b>TOTAL</b>	<b>1,654,548,341</b>	<b>6,484,195,236</b>	<b>8,138,743,577</b>

5332) The State Department transferred/disbursed Kshs.338,129,280 to Ewaso Ngiro North Development Authority (ENNDA) and confirmation by the authority vide the appended certified true copy of inter entity transfers confirmation letter.

5333) Ewaso Ngiro North Development Authority received disbursements relating to financial year 2018-2019. A disbursement dated 6th July, 2018 from the State Department for Planning amounting to Kshs.13,156,607 was for the financial year 2017-2018 but was reflected in the financial year under review. A disbursement dated 15th July, 2019 amounting to Kshs.11,750,000 was budgeted for financial year 2018-2019 but was received past 30th June, 2019 deadline. This explains the discrepancies amounting to Kshs.(1,406,607) i.e. (Kshs.11,750,000.00- Kshs.13,156,607) between the Financial Statements of the State Department for Regional and Northern Corridor Development and the Ewaso Ngiro North Development Authority.

#### **ENNDA Reconciliation**

State Department transferred amount	Kshs. 338,129,280.00
LESS:	
Amount transferred past 30.06.2019 by State Department for Regional development. (Transferred on 15.07.2019)	<u>Kshs. 11,750,000.00</u>
	Kshs 326,379,280.00
ADD:	
Amount transferred by State department of planning On 06.07.2018 being funding for financial year 2017/2018	<u>Kshs. 13,156,607.00</u>
	<u>Kshs. 339,535,887.00</u>

**Therefore**  $11,750,000 - 13,156,607 = (1,406,607)$

#### **ii) Grants and transfer of funds to Kerio Valley Development Authority**

5334) The amount of Kshs.3,666,495,236.00 were not transferred to Kerio Valley Development Authority by the State Department but rather a direct payment made by The National Treasury out of the proceeds from foreign borrowing for Kimwarer Multipurpose dam and Sigor Wei Wei Integrated Development Projects both under Kerio Valley Development Authority (KVDA).

#### **5335) Committee Observation and Findings**



The Committee observed that the matter was discussed in its report of the year 2018/2019 and recommended follows:

- 1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012;**
- 2) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

#### REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

##### 5336) **Conclusion**

**1665.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

#### REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

##### 5337) **Conclusion**

**1666.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

#### DONOR FUNDED PROJECT

#### **KIMIRA OLUCH SMALLHOLDER FARM IMPROVEMENT PROJECT (ADF LOAN NO. 2100150012296)**

#### REPORT ON THE FINANCIAL STATEMENTS

##### 5338) **Unqualified Opinion**

**1667.** There were no material issues noted during the audit of the financial statements of the Project.

#### **Emphasis of Matter**

##### **1668. Unsupported Pending Bills**

5339) Annex 2A to the financial statements reflects pending bills of Kshs.700,656,527 out of which bills totaling Kshs.198,472,177 are not supported with relevant and reliable records such as invoices and certificates of work done.

#### **Submission by the Accounting Officer**

5340) The Accounting Officer submitted that in 2013, while still under the Ministry of Regional Development Authority (MoRDA), interim payment certificate no. 18 of lot 1 amounting to

Kshs.96,824,111.54 (USD 1,154,274.36) and Certificate no. 19 of Lot. 2 amounting to Kshs.101,648,068 (EUR. 858,001.74) were processed and taken to the head office for direct payment. Before the direct payment was done, MoRDA got merged to become a department in the Ministry of Environment, Water and Natural Resources.

5341) Unfortunately, the two vouchers bearing the certificates were misplaced in the office of the Director in the mix-up of shifting from NSSF building office to a new office at the new mother Ministry.

**5342) Committee Observation and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to Unsupported Pending Bills was not satisfactory;
- (ii) The Committee further submitted that the Accounting Officer did not provide the relevant and reliable records such as invoices and certificates of work done for bills totaling Kshs.198,472,177; and
- (iii) The matter remained unresolved.

**5343) Committee Recommendations**

**The Committee recommended that within sixty days upon adoption of the report, the Accounting Officer to present the support documents for Kshs.198,472,177 to the National Assembly and Auditor General for verification. Further, the Accounting Officer to ensure pending bills verified and found eligible to form first charge in subsequent financial year.**

**Other Matter**

**1669. Budgetary Control and Performance**

5344) The statement of comparative budget and actual amounts for the year under review reflects aggregate budgeted receipts amounting to Kshs.450,000,000 and actual receipts totalling Kshs.398,408,500 resulting to a shortfall of receipts amounting to Kshs.51,591,500 or 10% of the year's budget. Further, the statement reflects approved final budgeted expenditure amounting to Kshs.450,000,000 and actual expenditures amounting to Kshs.466,089,116 resulting to over-expenditure of Kshs.16,089,116 or 4% of the budget.

5345) Further, approval of the over-expenditure amounting to Kshs.18,095,516 was not availed for audit review and as a result, its validity could not be confirmed.

**Submission by the Accounting Officer**

5346) The Accounting Officer submitted that at end of the FY2019/2020, the construction of minor civil works was in progress with some of the works having been certified and certificates raised were undergoing processing for payment. In order to avoid interest charges for late payment, the project committed cash and cash equivalent at end of the financial year towards settlement of the said certificates together with the ones that were expected to be raised by

contractors whose works were in progress. The said amount committed crossed into the new financial as a balance brought forward whose expenditure reflected as money overspent over and above the then budget.

**5347) Committee Observation and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to Budgetary Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**Basis for Conclusion**

**1670. Irregular Payment of Personal Allowances**

5348) Records on compensation of employee's expenditures for the year under review indicated that personal allowance payments totalling Kshs.24,637,311 were made to seventeen (17) staff seconded to the Project. The payments were designated as salary - hardship allowances- and were paid at rates ranging from Kshs.31,000 to Kshs.77,500 per month. Although the Management explained that the allowances were approved by the Project Steering Committee on 23 February, 2012, authority for the payments from the Salaries and Remuneration Commission (SRC) was not presented for audit. As a result, the validity of the allowances totalling Kshs.24,637,311 could not be confirmed.

**Submission by the Accounting Officer**

5349) The Accounting Officer submitted that the payment of allowances on monthly basis to KOSFIP staff was done after a recommendation by ADB Mission through an Aid Memoir and subsequent approval by Project Steering Committee (PSC). They saw the need to make such approval after noting the nature of work performed by the project staff, who discharge their duties past the official working hours including public holidays and weekends.

**5350) Committee Observation and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to Irregular Payment of Personal Allowances was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**1671. Purchase of Goods and Services**

**1671.1 Procurement of Computers and Stationery**

**Procurement of Computers**

5351) Procurement records examined indicated that Kshs.1,436,940 was spent on purchase of computers and accessories. However, no evidence was availed for audit review to show that

the procurement was done competitively as provided for in Section 105 of the Public Procurement and Asset Disposal Act, 2015.

5352) Similarly, no evidence was availed for audit review to confirm whether procurement of stationary costing Kshs.420,720 was done competitively as provided for in the Public Procurement and Asset Disposal Act, 2015.

As a result, the regularity and value for money on the expenditure totalling Kshs.1,857,660 spent on the two items could not be confirmed.

#### **Submission by the Accounting Officer**

5353) The Accounting Officer submitted that the project used the framework agreement from the County Commissioner's office, Homa Bay. It is from this agreement where the project got the suppliers for computer accessories totaling Kshs.1,436,940. The suppliers were sourced competitively by the head of supply chain management in the County Commissioner's office. The figure of Kshs.1,436,940 is as follows:

M/S Benado General Supplies Ltd	Kshs	633,000
M/S Hopeleze Systems	Kshs	599,440
M/S Mepak Enterprises	Kshs	204,500
<b>Total</b>	<b>Kshs</b>	<b>1,436,940</b>

5354) The project used the framework agreement from the County Commissioner's office, Homa Bay. It is from this agreement where the project got the suppliers for stationery totaling Kshs.420,720. The suppliers were sourced competitively by the head of supply chain management in the County Commissioner's office.

5355) The figure of Kshs.420,720 is as follows:

Kshs.239,820 paid to Lumazi Enterprises

Kshs.180,900 paid to Cappadocia Industries Ltd

#### **5356) Committee Observation and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to Procurement of Computers and Stationery was not satisfactory;
- (ii) The Committee further observed that Accounting Officer did not provide correspondences to confirm that the project used suppliers from another entity as required under section 39(4) of the PPAD regulations, 2020; and
- (iii) The Committee marked the matter as resolved.

#### **5357) Committee Recommendations**

- 3) The Committee reprimands the Accounting Officer for failing ensure the procurement was competitive; and,**
- 4) The Accounting Officer should ensure compliance with Public Procurement and Asset Disposal Act, 2015 and its regulations in all procurement processes.**

## **1671.2 Repair of Motor Vehicle**

5358) Records on repair of motor vehicles indicated that a sum of Kshs.1,288,204 was spent on repair of one of the Project's motor vehicles - GK 784Q - at the Dealer's garage. However, the pre-repair report prepared by the Ministry of Infrastructure, Housing and Urban Development had estimated that the repairs would cost Kshs.750,000 and therefore the payment resulted in the over-expenditure of Kshs.538,204. Further, no post-repair inspection report was prepared to confirm that the vehicle was repaired as contracted or paid for.

Consequently, the regularity and value for money on payments totaling Kshs.1,288,204 incurred on repair of the vehicle could not be confirmed.

### **Submission by the Accounting Officer**

5359) The Accounting Officer submitted that it was important to note that the government mechanical inspection team's estimated cost of repair of GK 784Q of Kshs.750,000 was arrived at without opening the engine to assess the actual extent of damage to the components like engine block, pistons, cone rods, rings, cone bearings, main bearings and crankshaft among others. The cost was therefore an estimation and not actual. Furthermore, the Government Mechanical Inspection Team drew the repair cost estimation using the low priced none durable and unreliable counterfeit parts from Taiwan, locally available in spare shops and garages. It also never considered VAT.

5360) On the other hand, the quotation of Kshs.1,288,204 (VAT inclusive) and Kshs.833,185.87 (VAT exclusive) was drawn by Toyota Kenya, a reputed dealer in genuine Toyota Parts, after dismantling the engine and assessing to evaluate every engine component mentioned above with defect that needed replacement. Their assessment of cost in this case was actual, not an estimation as in the above case.

5361) It was therefore important to further note that Toyota Kenya drew its quotation for the repair using the actual assessment list of damaged parts replaceable with Genuine Toyota Japan Parts, which are of high quality, durable and reliable, but more expensive compared to counterfeit Taiwan parts. Such genuine Toyota parts are only stocked by authorized dealers like Toyota Kenya that did the repair of the car. They also charged VAT which was ignored in the Government mechanic's quotation.

5362) No post repair inspection was done due to government inspection team being non-committal after being approached.

### **5363) Committee Observation and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to Repair of Motor Vehicle was not satisfactory;
- (ii) The Committee further observed that Accounting Officer has confirmed that they went against the advice of the Government Mechanical Inspection Team.

**5364) Committee Recommendations**

- 1) **The Committee reprimands the Accounting Officer for failing to comply with the advice of the Government Mechanical Inspection Team; and,**
- 2) **Within sixty days upon adoption of the report, the Accounting Officer to present documents supporting the extra costs of Kshs.538,204 to the National Assembly the and Auditor General for verification failure to which the Accounting Officer should be surcharged for the same.**

**1671.3 Travel Costs and Accommodation Expenses**

5365) Examination of records on travel and accommodation costs totaling Kshs.25,563,305 incurred in the year under review highlighted the following anomalies:

- i. Two (2) officers travelled to collect laptops from a supplier in Nairobi where they stayed for five days while, reportedly, awaiting the payment cheque to mature. Their stay in the City cost taxpayers Kshs.199,250 which sum amounted to wasteful expenditure.
- ii. Several Officers attended a sector working group retreat held in Mombasa and incurred Kshs.834,310 in travel and accommodation. However, evidence of their presence at the retreat and the reports, if any, submitted on return were not availed for audit. As a result, validity and value for money on this expenditure could not be confirmed.

**Submission by the Accounting Officer**

5366) The Accounting Officer submitted that one of the conditions set out by the laptop dealer was that you have to pay before they release the laptop to you. As we left the office in Homa Bay, we carried a cheque worth the value of the laptops hoping to get the laptops in exchange. Unfortunately, the dealer received the cheque and insisted to have it cleared and the money be reflected in his bank account before he releases the laptops to the officers. Owing to the distance and convenience, the officers were left with no option but to wait for the four days:

5367) The Accounting Officer further submitted that the attendance registers and back to office report fell off during handling of the voucher as it was bulky. However, the same were traced and replaced back to the voucher of which a copy is here attached for your kind perusal.

**5368) Committee Observation and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to Travel Costs and Accommodation Expenses was not satisfactory; and
- (ii) The Committee further observed that there was no reason given why the officers would not have travelled back after five (5) days to collect the laptops.

**5369) Committee recommendation**



**Within sixty days of adoption of this report, the Accounting Officer should recover the wasteful expenditure of Kshs.199,250 and provide evidence to the Auditor General for further review.**

**1672. Construction of Resettlement Houses and Chain-Link Fencing of Water Storage Reservoir**

5370) During the year under review, the Management awarded contracts to various contactors for construction of sixteen (16) lots of resettlement houses and chain-link fencing for water storage reservoirs. The contracts had an aggregate value of Kshs.125,262,400. However, Management applied restricted tendering instead of open tendering to procure the contractors' services. This was contrary to Section 91 of Public Procurement and Asset Disposal Act, 2015 which provides open tendering as the conventional way to procure common-user goods, works and services. No plausible explanation was provided by Management for the failure to follow the Procurement Law. As a result, the contracts worth Kshs.125,262,400 were irregular and there was no confirmation that value for money was attained on the contracts.

**Submission by the Accounting Officer**

5371) The Accounting Officer submitted that the project procured works of resettlement houses and fencing of water storage reservoirs through restricted tendering based on section 102(a) of the Act 2015. The contractors were prequalified and subjected to compete as stated in the regulation 2020. The bids were opened and evaluated then followed with award of tender of Kshs.74,487,722.10. This was because the budget provision could not allow the project to award all the tenders totaling Kshs.125,263,007.98. The list of prequalified contractors is here attached for your kind perusal (appendix 6).

**5372) Committee Observation and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to Construction of Resettlement Houses and Chain-Link Fencing of Water Storage Reservoir was not satisfactory;
- (ii) The Committee further observed that the prevailing circumstances with regard to the procurement of the Contractor for Construction of Resettlement Houses and Chain-Link Fencing of Water Storage Reservoir did not meet the requirements of Section 102 (1) (a) of the PPDA Act; and
- (iii) The matter remained unresolved.

**5373) Committee recommendations**

**Within three (3) months upon the adoption of this report, the EACC to initiate an investigation into the irregular procurement worth Kshs.125,263,007.98.**

**1673. Ethnic Composition of Staff**

5374) During the year under review, the total number of employees was thirty two (32) out of which twenty four (24) representing 75% were from the dominant community in the project



contrary to requirement of Article 232(1)(h) of the Constitution and Section 7(1) and (2) of the National Cohesion and Integration Act, 2008. Consequently, the project is in breach of the law.

#### **Submission by the Accounting Officer**

- 5375) The Accounting Officer submitted that the project has two categories of staff;
- Seconded staff ; from Lake Basin, Homa Bay County and National Government- The project management did not have control over the ethnic composition of staff members who were seconded from the sources mentioned above
  - Contracted Staff- By the Parent Ministry- Jobs were officially advertised on the daily newspapers, copy attached and applicants were shortlisted and underwent a competitive interview after which jobs were awarded on merit.

#### **5376) Committee Observation and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to Ethnic Composition of Staff was not satisfactory;
- (ii) The Committee, however, further observed that the Accounting Officer had advertised for jobs and interviews held to employ more employees to meet the requirement of Article 232(1)(h) of the Constitution and Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 ; and
- (iii) The matter remained unresolved.

#### **5377) Committee Recommendations**

**Within sixty (60) days upon the adoption of this report, the Accounting Officer to provide information to the National Assembly on measures taken to address the non-compliance with Article 232(1)(h) of the Constitution and Section 7(1) and (2) of the National Cohesion and Integration Act, 2008.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

#### **Basis for Conclusion**

##### **1674. Lack of Risk and Disaster Management Policies**

- 5378) The Project does not have risk and disaster management policies which include fraud prevention mechanism. Failure to develop a risk management policy meant that the entity do not have a framework for management of risks and hence it was not possible to identify, assess and control risks.

#### **Submission by the Accounting Officer**

5379) The Accounting Officer submitted that a risk management policy is being developed soonest possible to divert the possibility of exposure to the risks mentioned among other unforeseen dangers arising from unpreparedness.

**5380) Committee Observation and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to Lack of Risk and Disaster Management Policies was not satisfactory;
- (ii) The Committee further observed that the Accounting Officer had not established a Risk and Disaster Management Policy as yet; and
- (iii) The matter remained unresolved.

**5381) Committee Recommendations**

**Within three (3) months upon adoption of this report, the Accounting Officer to ensure a Risk and Disaster Management Policy is in place.**

**1675. Lack of Audit Committee**

5382) Available information indicates that the Project has not established an Audit Committee contrary to Section 73(5) of the Public Finance Management Act, 2012 which states that every public entity shall establish an Internal Audit Committee whose composition and functions are prescribed in Regulations.

Consequently, Management has contravened the law on internal control and as a result, oversight on the Project is weak.

**Submission by the Accounting Officer**

5383) The Accounting Officer submitted that the Project does not have an Audit Committee in place, instead the internal auditor, whose function was added later as partial to support the internal controls as part of GoK human resource contribution, reports to the Project Manager directly both administratively and functionally GoK and ADF in the appraisal report envisaged that the Project was to be audited annually by independent consultants supervised by Office of the Auditor General. However, the budget line for the consultants was not provided resulting to audit by Office of the Auditor General (OAG).

5384) As a way forward the Project Management will submit as an agenda to the Project Steering Committee (PSC) to consider having an Audit Committee to enhance internal control.

**5385) Committee Observation and Findings**

- (i) The Committee observed that the explanation and documents given by the Accounting Officer with regard to Lack of Audit Committee was not satisfactory;
- (ii) The Committee further observed that the Accounting Officer had not constituted the Audit Committee as yet; and
- (iii) The matter remained unresolved.

**5386) Committee Recommendations**

**Within sixty days upon adoption of this report, the Accounting Officer to take measures to ensure an Audit Committee is in place in accordance Section 73(5) of the Public Finance Management Act, 2012.**

FINAL REPORT 2019/2020

## 50. STATE LAW OFFICE AND DEPARTMENT OF JUSTICE

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1252

Mr. Kennedy Ogeto, the Solicitor General and the Accounting Officer for State Law Office & Department of Justice (Vote 1252), appeared before the Committee on 21<sup>st</sup> February, 2022 to adduce evidence on the audited financial statement for the State Law Office & Department of Justice (Vote 1252) for the Financial Year 2019/2020. He was accompanied by the following officers:

- |                                |   |  |
|--------------------------------|---|--|
| 1. Mr. Elija Kabiru            | - | Senior Deputy Accountant                     |
| 2. Ms. Lucy Mugo               | - | Chief State Counsel.                         |
| 3. Mr. Hillary N. Kyengo       | - | Senior Deputy Secretary.                     |
| 4. Mr. Benard M. Sabwami       | - | Deputy Accountant General.                   |
| 5. Mr. Robert Osamo Osamo      | - | Chief Finance Officer.                       |
| 6. Mr. Keneth Gathuma          | - | Director General Business Reg. Services      |
| 7. Ms. Wanja Kamau<br>Services | - | Snr. Administrator Business Reg.<br>Services |

And submitted as follows:

#### Basis for Qualified Opinion

#### 1676. Variances Between Balances in the Financial Statements and the Integrated Financial Management Information System

5387) The following discrepancies were noted between balances in the financial statements and balances generated by IFMIS:

Item Description	Financial Statements Balance (Kshs.)	IFMIS Balance (Kshs.)	Variance (Kshs.)
Cash and Cash Equivalents	802,082,160	7,248,047,712	(6,445,965,552)
Outstanding Imprest and Clearance Accounts	0	(723,554)	723,554
Accounts Payables- deposits	801,455,929	3,013,471,814	(2,212,015,885)
Prior Year Adjustment on Bank Balances	10,287,002	0	10,287,002

5388) The resultant variances between the two sets of records have not been reconciled or explained.

5389) In the circumstances, the accuracy of the financial statements for the year ended 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

5390) The Accounting Officer admitted that there are differences between the reported figures and figures in the IFMIS. The figures in the Financial Statement are actual amounts for the year under review. The IFMIS figures are accumulated historical balances spread over a number of previous years. The balances were for FY2013/2014 up to FY2017/2018. The detailed analysis was availed for perusal by the Committee. The Department is consulting with the National Treasury and all efforts are being done to clear these old balances.

#### **5391) Committee Observations and Findings**

- (ix) The Committee observed that difference arose due to accumulated historical balances since FY 2013/2014 of which National Treasury has been consulted with a view of clearing these old balances;
- (x) The matter remained unresolved.

#### **5392) Committee Recommendation**

**Within three (3) months upon adoption of this report, the Accounting Officer ensure that reconciliations is done and the complete financial statements submitted to the Auditor General for review and reporting in the subsequent audit cycle.**

#### **Other Matter**

#### **1677. Budgetary Control and Performance**

5393) The statement of appropriation - recurrent and development combined as at 30 June, 2020 reflects that The State Law Office and Department of Justice had actual receipts totalling to Kshs.4,343,454,283 against estimated receipts of Kshs.4,948,318,221 resulting in a shortfall of Kshs.604,863,938 or 12% of the budgeted receipts. Further, actual expenditure for the year amounted to Kshs.4,342,828,052 against a budget of Kshs.4,843,236,221 resulting in an under expenditure of Kshs.500,408,169 or 10% of the budgeted expenditure. Management attributed the under expenditure to non-release of Exchequer issues by The National Treasury and the effects of the Covid-19 pandemic which impacted negatively on service delivery to the citizens of Kenya.

#### **Submission by the Accounting Officer**

5394) The Accounting Officer admitted that Kes.500,408,169 or 10% of our budget remained unexpended. The under expenditure was caused by lack of exchequer releases by the National Treasury and adverse effects by Covid-19 pandemic on our operations and service delivery. The Department is already at 90% absorption rate, a relatively good performance as per IPSAS.

### 5395) Committee Observations and Findings

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Budget Control and Performance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### 1678. Pending Bills

5396) As disclosed at Note 14 to the financial statements, The State Law Office and Department of Justice reported pending bills of Kshs.40,434,839 as at 30 June, 2020, which were not settled during the year but were instead carried forward to the 2020/2021 financial year. Failure to settle bills during the year to which they relate to adversely affects the provisions of the subsequent year to which they have to be charged.

### Submission by the Accounting Officer

5397) The Accounting Officer admitted that as disclosed at note 14, the State Law Office and Department of Justice reported pending bills of Kes.40,434,839 as at 30 June, 2020 which were not settled during the year but were instead carried forward to 2020/2021 financial year. The pending bills were not paid during FY2019/2020 due to inadequate exchequer releases but were paid in the subsequent financial years as follows:

<b>STATE LAW OFFICE AND DEPARTMENT OF JUSTICE</b>		
<b>ANNEX I: DETAILED /ITEMIZED ANALYSIS OF PENDING BILLS</b>		
<b>YEAR</b>	<b>ORIGINAL AMOUNT (KES)</b>	<b>OUTSTANDING AMOUNT (KES)</b>
<b>2019/2020 Pending Bills</b>		
Cooperative Bank House	30,907,299.24	30,907,299.24
Faith House (Anglican Church of Kenya) - Embu	771,005.60	771,005.60
David Ntarangwi Rukunga – Meru	1,190,160.00	1,190,160.00
NSSF Building – Mombasa	6,355,813.50	6,355,813.50
Ali Bin Ali – Malindi	365,529.00	365,529.00
<b>SUB-TOTAL</b>	<b>39,860,924.00</b>	<b>39,860,924.00</b>
<b>2018/2019 Pending Bills</b>		
Pago Airways Travel Services Ltd	34,685.00	34,685.00
Pago Airways Travel Services Ltd	47,555.00	47,555.00
<b>SUB-TOTAL</b>	<b>82,240.00</b>	<b>82,240.00</b>
<b>2017/2018 Pending Bills</b>		
African Touch Safaris	51,990.00	51,990.00
African Touch Safaris	50,895.00	50,895.00
Pago Airways Travel Services Ltd	264,900.00	264,900.00
<b>SUB-TOTAL</b>	<b>367,785.00</b>	<b>367,785.00</b>

<b>2016/2017 Pending Bills</b>		
Travel Plaza Ltd	48,825.00	48,825.00
African Touch Safaris	75,065.00	75,065.00
<b>SUB-TOTAL</b>	<b>123,890.00</b>	<b>123,890.00</b>
<b>GRAND TOTAL</b>	<b>40,434,839</b>	<b>40,434,839</b>

**5398) Committee Observations and Findings**

- (i) The Committee observed that the pending bills have since been settled; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**Basis for Conclusion**

**1679. Unregistered Lease Agreements**

5399) The statement of receipts and payments reflects an expenditure of Kshs.578,610,041 under use of goods and services which, as disclosed in Note 4 to the financial statements, includes an amount of Kshs.49,317,177 incurred on rentals of produced assets. However, and as previously reported, lease agreements for offices rented in Malindi, Meru, NSSF Mombasa, Cooperative House Nairobi and Embu were not fully executed and registered with the Ministry of Public Works in line with Section 47 of the Registered Land Act Cap 300.

5400) In the circumstances, validity of the lease agreements could not be ascertained.

**Submission by the Accounting Officer**

5401) The Accounting Officer submitted that all the lease agreements have now been renewed and registration process started by giving the documents to Ministry of Public Works who are responsible for registration.

**5402) Committee Observations and Findings**

- (i) The Committee observed that the registration process is ongoing for Meru, Embu and Nairobi; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON EFFECIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**Basis for Conclusion**



## **1680. Lack of an Approved Enterprise Risk Management Process and IT Strategic Committee**

5403) As previously reported, The State Law Office and Department of Justice did not have an approved well-documented enterprise wide risk management process and policies in place to effectively guide the risk management processes. This is contrary to Regulation 165 of the Public Finance Management (National Government) Regulations, 2015 which states that the Accounting Officer shall ensure that the national government entity develops risk management strategies, which include fraud prevention mechanism and a system of risk management and internal controls that builds robust business operations.

5404) Further, Treasury Circular No. 03/2009; Ref: MOF/IAG/033(75) requires that government entities/agencies should, among other things, develop and establish Risk Management Policy and Framework (RMPF) to guide its strategic and operational activities. However, the Office did not have an IT Strategic Committee, an IT Strategic Plan that supports business requirements and ensures that IT spending remains within the approved IT strategic plan, formally approved IT security policy to ensure data confidentiality, integrity and availability, documented and tested emergency procedures, copies of the IT continuity plan and disaster recovery plan.

### **Submission by the Accounting Officer**

5405) The Accounting Officer admitted that SLO&DOJ did not have an approved well documented enterprise wide risk management process at the time of audit review. But there is an ongoing initiative under ISO 27001 (ISMS) certification process to introduce an enterprise wide risk management framework for SLO&DOJ. Copies of ICT Risk Assessment Procedure, ICT Risk Assessment & Treatment table and ICT Asset Register were availed for perusal by the Committee. SLO&DOJ ICT Policy provides policies that guide risk management process i.e. Clause 3.3 – Information Security; Clause 3.4 ICT Equipment Replacement; Clause 3.5 Business Continuity.

5406) The Accounting Officer further admitted that in the financial year 2019/2020 SLO&DOJ did not have an ICT Strategic Committee. But SLO&DOJ has now appointed an ICT Strategic Committee. SLO&DOJ has an approved ICT Security policies. Clause 3.3 of the Approved ICT Policy provides information security policies. Development of Emergency Procedures, ICT Continuity Plan and Disaster Recovery Plan will be undertaken through ongoing ISO 27001 certification process.

5407) The ICT Departments draws its initiatives under key Result Area 4 (Strategy 6: Service Delivery Automation) of the SLO&DOJ Strategic Plan. This strategy is further expounded in the Draft ICT Strategy which has undergone stakeholder validation and now awaits approval by the Accounting Officer in the next two weeks. Please find attached SLO&DOJ Strategic Plan and the Draft ICT Strategy.

#### **5408) Committee Observations and Findings**

- (viii) The Committee observed that the ICT Strategic Committee has since been appointed;
- (ix) The Committee further observed that the draft ICT Strategy is awaiting approval by the Accounting Officer;
- (x) The Risk Management Policy and Framework had not yet been developed; and
- (xi) The Committee had discussed the matter in financial year 2018/19 and made following recommendation:-

**Within three months of tabling and adoption of this report, the Accounting Officer should submit the records for the enterprise-wide risk assessment committee like minutes to the Auditor- General for audit review.**

### **REVENUE STATEMENTS OF THE STATE LAW OFFICE AND DEPARTMENT OF JUSTICE**

#### **REPORT ON THE REVENUE STATEMENTS**

#### **5409) Unqualified Opinion**

**1681.** There were no material issues noted during the audit of the financial statements of the Office.

#### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **Basis for Conclusion**

#### **1682. Balance Carried Forward**

5410) Note 3 to the revenue statements reflects a balance carried forward of Kshs.188,409,693 which includes an amount of Kshs.168,776,500 indicated as held by Huduma Centre, and an amount of Kshs.1,099,057 held by Public Trustee. The balances relate to prior years revenue collections not remitted and transferred, to the Central Bank of Kenya revenue account, for a long period of time. This is contrary to Section 64(1) (a) of the Public Finance Management (National Government) Regulations, 2015, that requires an Accounting Officer and Receiver of revenue to personally be responsible for ensuring that adequate safeguards exist and are applied for the prompt collection and proper accounting for all National Government revenue and other public moneys relating to their Ministries, Departments or Agencies.

#### **Submission by the Accounting Officer**

5411) The Accounting Officer admitted that it was true note 3 to the statement of revenues and transfers reflects a balance carried forward of Kes.188,505,998 made up of Kes.168,776,500 due from Huduma Centre, Kes.1,099,057 due from Public Trustee.

5412) The Department has analyzed and reconciled the balances in deposit account to establish the actual and true position. We have remitted Kes.1,099,057 to exchequer. Kes.168,776,500 due from Huduma Centre is still pending and all efforts have been undertaken to acquire the funds.

5413) All the above matters were presented to the Public Accounts Committee on 26.02.2019 and recommendation made as having been resolved.

5414) Kes.168,776,500 was revenue due from Huduma Centre and the issue was transferred to Postal Corporation of Kenya when we presented the above matters to Auditors and the Public Accounts Committee on 26.02.2019. The recommendations made indicate the issue as having been resolved on SLO&DOJ side. The Chief Executive Officer, Kenya Postal Corporation was directed to transfer the funds to SLO&DOJ account at CBK. We request for your concurrence that this balances move from State Law Office and Department of Justice financial statements and be included under Kenya Postal Corporation financial statements as revenue owed to Business Registration Services who are the rightful service providers that generated the revenue. This will endeavor to clean State Law Office and Department of Justice financial records.

**5415) Committee Observations and Findings**

The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2018/19 and a recommendation was issued thereof.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**5416) Conclusion**

**1683.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**BUSINESS REGISTRATION SERVICE**

**REPORT ON THE FINANCIAL STATEMENTS**

**5417) Unqualified Opinion**

**1684.** There were no material issues noted during the audit of the financial statements of the Service.

**Other Matter**

**1685. Budgetary Control and Performance**

5418) As reflected in the statement of comparison of budget and actual amounts, the Business Registration Service actual expenditure for the year net of depreciation amounted to Kshs.270,123,992 against budgeted expenditure of Kshs.331,170,000 resulting in an overall under absorption of Kshs.61,046,008 or 18%. The under-spending affected the planned activities and may have impacted negatively on service delivery to the public.

#### **Submission by the Accounting Officer**

5419) The Accounting Officer admitted that the observation made by the auditor is noted. However, the figure Kes.61,046,008, pointed out by the auditor includes an accumulated surplus of Kes.25,273,275.55 for FY 2018/2019 which is for acquiring the service assets. The total allocation for the period was Kes.331,170,000 of which Kes.30,000,000 was given under supplementary budget to support personnel emoluments since the Business Registration Services (BRS) anticipated to fully delink by April 2020. This then left a balance of Kes.7,824,325 which is 2.4% of under absorption.

#### **5420) Committee observations and findings**

The Committee marked the matter as resolved.

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **Basis for Conclusion**

##### **1686. Staff Ethnic Composition**

5421) The Service had a total of one hundred and thirty (130) staff assigned to Business Registration Service from the State Law Office. However, as previously reported, a review of the ethnic composition report indicated that out of the one hundred and thirty (130) staff assigned, forty-six (46) were from the same ethnic community representing 35% of the total number of staff assigned. This is contrary to Section 7(2) of National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one third of its staff from same ethnic community.

5422) The Registration Service was therefore in breach of the law.

#### **Submission by the Accounting Officer**

5423) The Accounting Officer admitted that there was non-compliance with National Cohesion & Integration Act during the year under review since Business Registration Services (BRS) was working with staff inherited from the SLO&DOJ. However, the problem is being addressed as BRS conducted Suitability test and recruitment exercise in the current financial year 2020/2021 hence fairness of resource allocation.

5424) The status has since changed from 46 members of staff (35%) being from the same ethnic community to the current status of 36 members of staff (34%).

**5425) Committee observations and findings**

- (vii) The Committee observed the situation had been improved though marginally; and
- (viii) The Accounting Officer indicated he was taking measures to address the situation as it was inherited through staff from SLO&DOJ.

**5426) Committee recommendations**

**The Accounting Officer to report on outcome of measures taken to address the matter to the Auditor-General to review and report in the subsequent audit cycle of 2021/22.**

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**Basis for Conclusion**

**1687. Lack of a Disaster Recovery and Continuity Plan**

5427) As previously reported, Business Registration Service did not have an approved Disaster Recovery Plan and IT Business Continuity Plan. This poses a significant threat to resumption of operations quickly and effectively in case of an emergency or disaster especially due to the sensitivity of the information on registration of companies under the custody of the institution.

**Submission by the Accounting Officer**

5428) The Accounting Officer submitted that it was true that BRS had no Disaster recovery plan in the year under review. However, BRS is in the process of developing its own Disaster recovery plan as per the attached correspondences between BRS and National Treasury and proposal for BRS alternative hosting service, data persistence, disaster recovery and high-availability.

**5429) Committee Observations and Findings**

The Committee observed the Disaster Recovery Plan was not yet in place.

**5430) Committee recommendation**

**Within three months of tabling and adoption of this report, the Accounting Officer should ensure that a Disaster Recovery Plan is in place and forward the same to the Auditor-General for audit review.**

**REVENUE STATEMENTS OF BUSINESS REGISTRATION SERVICE**

**REPORT ON THE REVENUE STATEMENTS**

### **5431) Unqualified Opinion**

**1688.** There were no material issues noted during the audit of the financial statements of the Service.

### **Other Matter**

#### **1689. Non-Provision of Service Providers' Contracts**

5432) As reported in the previous year, the Business Registration Service contracted service providers to collect revenue on its behalf. The service providers include E-Citizen and by extension Safaricom and Kenya Commercial Bank among others. However, the respective contract agreements were not provided for audit review.

5433) In the circumstance it was not possible to establish the legality and performance of the service providers. Further, it was not possible to ascertain the basis of the revenue collected in the absence of supporting contracts.

#### **Submission by the Accounting Officer**

5434) The Observation made by the auditor on non-provision of Service Providers contract is true. Business Registration Services collects its revenue through the E-citizen platform as per the authorities provided below:

- i) The Government vide Gazette Notice Number 2725 dated 24<sup>th</sup> April, 2014 appointed a task force to implement the Government Digital Payments with the mandate to implement the Government Payment Gateway and ensure that individuals and businesses are enabled to make payments into Government electronically through all available channels.
- ii) The mandate of the task force was captured in the Kenya Gazette Special Issue no.9290 of 30<sup>th</sup> December 2014 through which the Cabinet Secretary, National Treasury introduced the Government Services Digital Payments Programme.
- iii) At its 6<sup>th</sup> meeting held on the 25<sup>th</sup> of October 2016, the BRS Board approved BRS management's request to move to the e-Citizen platform to stop possible revenue leakage at the companies' registry.

#### **5435) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Non-Provision of Service Providers' Contracts was satisfactory; and
- (ii) The Committee marked the matter as resolved.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **5436) Conclusion**

**1690.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### **Basis for Conclusion**

#### **1691. Lack of a Disaster Recovery and IT Business Continuity Plan**

5437) Business Registration Services does not have an approved Disaster Recovery Plan and IT Business Continuity Plan. This poses a significant threat to the core function of the Business Registration Services especially due to the fact that it handles sensitive information about registration of Companies.

#### **Submission by the Accounting Officer**

5438) The Accounting Officer admitted that BRS had no Disaster recovery plan in the year under review. However, BRS is in the process of developing its own Disaster recovery plan as per the attached correspondences between BRS and National Treasury and proposal for BRS alternative hosting service, data persistence, disaster recovery and high-availability.

#### **5439) Committee Observations and Findings**

The Committee observed that the process of developing Disaster Recovery Plan is ongoing.

#### **5440) Committee recommendation**

**Within three months of tabling and adoption of this report, the Accounting Officer should ensure that a Disaster Recovery Plan is in place and forward the same to the Auditor-General for audit review.**

#### **1692. Lack of Medium-Term Strategic Plan**

5441) Business Registration Service does not have a Strategic Plan for medium term fiscal framework and the fiscal policy objectives in contravention of Section 68(2) (g) of the Public Finance Management Act, 2012, which require the Accounting Officer to prepare a strategic plan for the entity in conformity with the medium-term fiscal framework and fiscal policy objectives of the national government.

5442) Under the circumstance, it was not possible to evaluate performance of the Business Registration Service.

#### **Submission by the Accounting Officer**



5443) The Accounting Officer submitted that Business Registration Service does not have a strategic plan in place but is in the process of developing its strategic plan since BRS has now fully delinked. In the year under review, the operations and activities of BRS were incorporated in the State Law Office Strategic Plan.

5444) However, BRS currently has entered into a contract with a vendor who is in the process of developing a strategic plan.

**5445) Committee observations and findings**

(i) The Committee observed that BRS had engaged a vendor to support process of developing a strategic plan.

(ii) The Committee marked the matter as resolved

**BUSINESS REGISTRATION SERVICE - OFFICIAL RECEIVER**

**REPORT ON THE FINANCIAL STATEMENTS**

**Basis for Qualified Opinion**

**1693. Unconfirmed Short-Term Deposits**

5446) The statement of assets and liabilities as at 30 June, 2020 reflects a nil balance under short term deposits. However, as reported in the previous year, Management did not avail bank confirmation certificates for the closing balance of Kshs.185,273,300 as at 30 June, 2019, held in seventeen (17) bank accounts as disclosed in Note 7(a) to the financial statements for 2018/2019.

5447) In the circumstances, the accuracy and validity of the nil balance for short-term deposits as at 30 June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

5448) The Accounting Officer submitted that it was true in the previous year's audit BRS management did not provide auditors with bank confirmation certificates for the fixed deposits held by the National Bank of Kenya (NBK) dated 2nd May 2019. This was due to NBK internal reorganization on its IT support which resulted to them not being able to print for us the bank confirmation certificates. However, BRS management provided the auditors with bank statements showing the date of investment and the date of maturity of its investments.

5449) In the FY 2019/2020, the short term deposits showed a nil balance. This can be ascertained vide a bank instruction letter which indicates the fixed deposits in the 9

accounts matured on 11th June 2020. The bank instructions letter and bank statements are hereby attached for verification.

**5450) Committee observations and findings**

**The Committee observed that the issues was discussed during the examination of the State Department account for financial year 2018/19 and a recommendation was issued thereof.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**5451) Conclusion**

**1694.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**5452) Conclusion**

**1695.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**PUBLIC TRUSTEE OF KENYA**

REPORT ON THE FINANCIAL STATEMENTS

**Basis for Qualified Opinion**

**1696. Deposits**

5453) The statement of financial position reflects a balance of Kshs.109,400,000 (2019 – Kshs.122,400,000) under deposits which, as previously reported, includes an amount of Kshs.71,250,000 held in Imperial Bank Limited. However, information available indicated that Imperial Bank Limited was placed under receivership by the Central Bank of Kenya on 13 October, 2015 and the Kenya Deposit Insurance Corporation (KDIC) appointed the receivers. Consequently, recoverability of the balance of Kshs.71,250,000 held at Imperial Bank remains doubtful.

5454) Under the circumstances, the accuracy and existence of deposits balance of Kshs.109,400,000 as at 30 June, 2020 could not be confirmed.

**Submission by the Accounting Officer**

5455) The Accounting Officer submitted that the Public Trustee wrote a letter addressed to the National Treasury requesting for authority to open a bank account with Kenya

Commercial Bank, which took over Imperial Bank. The National Treasury in its response advised the Public Trustee to use the existing bank account to receive money from KCB.

5456) The Public Trustee wrote to KCB advising them to pay the amount due through its existing bank account in National Bank of Kenya. On 4th August 2021, representatives from Public Trustee held a meeting with the appointed Receiver manager of Imperial Bank at IPS Building to follow up on the outstanding payments. The Public Trustee was issued with claim forms which were duly completed and presented to Kenya Commercial bank KICC Branch to facilitate remittance. The Public Trustee still awaits crediting of funds to the bank account.

#### **5457) Committee observations and Findings**

The Committee observed that the issue was discussed during the examination of the State Department account for financial year 2018/19 and a recommendation was issued thereof.

#### **1697. Investments**

5458) The statement of financial position reflects a balance of Kshs.232,160,000 under investments which, as disclosed in Note 14 to the financial statements, includes a balance of Kshs.144,098,000 described as deposits in financial institutions under the management of the Kenya Deposit Insurance Corporation (KDIC) as the Official Receiver. However, as previously reported, no explanation was provided for failure to seek refund of the dormant deposits. In addition, the dormant deposits of Kshs.144,098,000 includes investments totalling to Kshs.29,694,000 held in two (2) institutions as detailed below;

<b>Institution</b>	<b>Investment Balance (Kshs)</b>	<b>Managing Institution</b>
Central Finance Ltd	22,750,000	Kenya Deposit Insurance Corporation (KDIC)
Allied Credit Ltd	6,944,000	Kenya Deposit Insurance Corporation (KDIC)
<b>Total</b>	<b>29,694,000</b>	

5459) However, through letters dated 8 April, 2019, the Kenya Deposit Insurance Corporation notified the Public Trustee that the amounts were not payable as the two (2) institutions were wound up and stood dissolved indicating irrecoverability and therefore loss of funds.

#### **Submission by the Accounting Officer**

5460) The Accounting Officer submitted that it was true that the investments balance of Kes.29,694,000 as at 30th June, 2020 may be unrecoverable. This is in light of the fact that it was not until KDIC indicated in their letter dated 8th April, 2019 that the amount in the sum of Kes.29,694,000 from Central Finance and Allied credit were not recoverable as the

two institutions were wound up and stand dissolved. Records of late 1980's and 1990's have been retrieved from archives pertaining to investment made in Central and Allied credit which will facilitate preparation of a report for write off.

#### 5461) Committee observations and Findings

The Committee observed that the issue was discussed during the examination of the State Department account for financial year 2018/19 and a recommendation was issued thereof.

#### 1698. Cash and Cash Equivalents

5462) The statement of financial position reflects a balance of Kshs.4,783,108,000 under cash and cash equivalents as at 30 June, 2020. However, bank reconciliation statements for the various Public Trustee administration bank accounts reflected outstanding reconciling items whose clearance status as at the time of the audit in March, 2021 was not disclosed as tabulated below:

Account	Payments in Cashbook not in Bank Statement (Unpresented Cheques) (Kshs)	Receipts in Bank Statement not in Cashbook (Kshs)	Payments in Bank Statement not in Cashbook (Kshs)
Administration Account – Nairobi	-	14,292,282,	-
Nyeri	232,993	772,963	-
Machakos	230,288	1,751,873	-
Malindi	-	338,911	-
Eldoret	-	1,177,836	-
Kakamega	14,528,357	5,272,406	-
Kisii	428,000	4,930,777	-
Kisumu	-	13,121,365	-
Garissa	-	-	4,214
Embu	-	9,874,086	1,200
<b>Total</b>	<b>15,419,638</b>	<b>51,532,499</b>	<b>5,414</b>

5463) In the circumstances, the validity and accuracy of the cash and cash equivalents balance of Kshs.4,783,108,000 as at 30 June, 2020 could not be confirmed.

#### Submission by the Accounting Officer

5464) The Accounting Officer submitted that various bank accounts had bank reconciliations with outstanding items. This was the status as at the time of Audit. However, the process of clearing the outstanding items is ongoing. The process will clear all items relating to:

- i. Payments in Cash Book not in Bank Statements
- ii. Receipts in Bank Statements not in Cash Book

iii. Payments in Bank Statements not in Cash Book

5465) Due to numerous bank accounts with many transactions spread over several years, the process of reconciliation is expected to be continuous. The progress is evidenced by the attached bank reconciliations extracts.

**5466) Committee observations and findings**

- (i) The Committee observed that the process of clearing outstanding item is ongoing;
- (ii) The Committee similarly observed that the Accounting Officer failed to ensure that reconciliations are done in time and the complete financial statements submitted to the Auditor General in time as provided for in Article 229 (4)(h), and section 81(4)(a) of the Public Finance Management Act 2012.

**5467) Committee Recommendations**

**Within one month of adoption of this report, the Accounting Officer to present to the Auditor-General the reconciled statements. The Auditor-General to undertake a review and report to the National Assembly in the subsequent audit reporting cycle.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**5468) Conclusion**

**1699.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**5469) Conclusion**

**1700.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## 51. THE JUDICIARY

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1261

**Ms. Anne Amadi, the Accounting Officer for the Judiciary (Vote 1261) appeared before the Committee on 15<sup>th</sup> February, 2022 to adduce evidence on the Audited Financial Statements for the Judiciary (Vote 1261) for the Financial Year 2019/2020. She was accompanied by the following officers:**

- |                       |   |  |
|-----------------------|---|--|
| 1. Mr. Wycliff Wanga  | - | Director Accounting Services                   |
| 2. Mr. Maxwell Suero  | - | Deputy Director Budget Services                |
| 3. Mr. Ronald Wanyama | - | Director Audit                                 |
| 4. Mr. Ken Olotu      | - | Office of the Chief Registrar of the Judiciary |

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **1701. Cash and Cash Equivalents**

###### **1701.1 Unsupported Adjustments**

5470) Included in the cash and cash equivalents balance of Kshs.6,910,868,419 is Kshs.585,984,121 and Kshs.6,129,527,516 in respect of the deposits bank account and balances held in various commercial banks respectively. However, the balances were net of cash book adjustments amounting to Kshs.81,478,205 that were not adequately supported.

#### **Submission by the Accounting Officer**

5471) The Accounting Officer submitted that the Cashbook adjustments in Nakuru Law Courts amounting to KShs.81,241,223 and Homa Bay Law Courts amounting to KShs.236,982 were depositors receipts recorded in the General Deposit Ledger that had not been updated in the manual cashbook of the courts. The adjustment was necessary to agree the Deposit ledger balance with the cashbook balances. The adjustments were supported and verified by the Auditors. The court stations accounting system was superintended by Sub County Treasuries and upon de-linking and reconciliations of records; these were some of the adjustments necessary to ascertain the correct funds to be transferred by the Sub County Treasuries to the Judiciary.

5472) Therefore the account balances for the said stations were properly stated and accurate.

#### **5473) Committee Observations and Findings**

The Committee observed that these were depositors' receipts recorded in the General Deposit Ledger in Nakuru Law Courts amounting to KShs.81,241,223 and Homa Bay Law Courts

amounting to KShs.236,982 that had not been updated in the manual cashbook of the courts.

#### **5474) Committee Recommendations**

- 1) Within sixty days upon adoption of this report, the Auditor-General should review the transfer of the funds to the Judiciary and report the findings to the National Assembly.**
- 2) The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) after the close of the financial year in line with Article 229 of the Constitution.**

#### **1701.2 Unexplained Loss of Cash Deposits**

5475) Examination of the deposit records maintained by the Molo Court station revealed a loss of Kshs.34,219,651 dating back to 2017/2018 financial year through theft by staff members who have since been dismissed. The matter was referred to the Director of Criminal Investigation and the Asset Recovery Agency.

5476) In addition, bank reconciliation statements for the month of June, 2020 for the bank accounts for Embu, Nakuru and Malindi Court Stations reflected losses amounting to Kshs.2, 682,152, Kshs.84,588,258 and Kshs.1,455,800 respectively. However, the nature of the loss, recovery strategies and court proceedings on the matter were not disclosed.

5477) In view of the foregoing, it has not been possible to confirm that the bank balance of Kshs.6,129,527,516 held in various commercial banks as at 30 June, 2020 is fairly stated.

#### **Submission by the Accounting Officer**

5478) The Accounting Officer submitted that the loss in Molo Law Courts of KShs.34,074,235.50 was noted in FY2018/2019 by Judiciary Internal Audit and the matter referred to Human Resource Disciplinary Committee and the officers involved disciplined. Further the matter was forwarded to the Directorate of Criminal Investigation (DCI) for criminal prosecution.

5479) The losses of KShs.2,682,152 million in Embu and KShs.1,455,800 were matters investigated in FY2016/2017 and matters are active in Malindi and Runyenjes law Courts respectively. The officers who involved were dismissed. The KShs.84,588,258 noted in Nakuru Law Courts was not a loss but an amount expected from the National Treasury for deposits balances not transferred upon de-linking. Subsequently upon reconciliation, it was established the funds not transferred amount was KShs.52,427,008.06.

#### **5480) Committee Observations and Findings**

- (i) The Committee observed that the matter on loss in Molo Law Courts of KShs.34,074,235.50 was referred to Human Resource Disciplinary Committee and the



officers involved disciplined. Further the matter was forwarded to the Directorate of Criminal Investigation (DCI) for criminal prosecution.

- (ii) The Committee observed that the losses of KShs.2,682,152 million in Embu and KShs.1,455,800 in Malindi were matters active in Malindi and Runyenjes law Courts respectively.
- (iii) The Committee observed that the KShs.84,588,258 noted in Nakuru Law Courts was not a loss but an amount expected from the National Treasury for deposits. However, KShs.52,427,008.06 was not transferred.

**5481) The Committee therefore recommends that:**

- 1) **Within three months of tabling and adoption of this report, the DCI should report on the progress of investigations in relation to the Molo Law Courts loss to the National Assembly.**
- 2) **Within three months of tabling and adoption of this report, the Attorney General should follow up and report on his findings in relation to the matters that were active in Embu and in Malindi law courts to the National Assembly.**
- 3) **Within three months of tabling and adoption of this report, the DCI should initiate an investigation into the KShs.52,427,008.06 not transferred to the Judiciary and take appropriate action in accordance with the law.**

**Unreconciled Variances in Accounts Payables**

5482) The statement of assets and liabilities reflects Kshs.6,715,511,637 with respect to accounts payables which as disclosed at Note 11 to the financial statements, reflects general deposits – stations at various court stations amounting to Kshs.6,129,527,516. However, the analysis availed for audit review reflected an amount of Kshs.6,452,559,010 resulting to an unexplained difference of Kshs.323,031,494.

5483) Further, the Management did not explain why the deposits payable from the stations of Kshs.6,452,559,010 differed with the cash deposits of Kshs.6,129,527,516 as shown under Note 9 and how the resultant difference would be serviced. In the circumstances, the accuracy of the general deposits-stations balance of KShs.6,129,527,516 could not be confirmed

**Submission by the Accounting Officer**

5484) The amount of KShs.323,031,494 was the difference between cashbook balances of KShs.6,129,527,516.98 and the General Deposit Ledger balance of KShs.6,452,559.10. A reconciliation was done in 83 court stations and the sub-county treasuries and an amount of KShs.348,091,889 was established not transferred from the National Treasury upon de-linking. The KShs.323,031,491 noted by the audit was part of the KShs.348,091,889 established during the joint reconciliation. The Judiciary has since written to the National Treasury requesting for the funds not transferred upon de-linking. The Judiciary continues to hold sufficient funds in the bank accounts to ensure depositor's funds are secured.

#### **5485) Committee Observations and Findings**

The Committee observed that the funds relate to money not transferred from the National Treasury upon de-linking of which National Treasury is yet to remit.

#### **5486) The Committee therefore recommends that:**

**Within three months of tabling and adoption of this report, the DCI should initiate an investigation into the KShs.348,091,889 not transferred to the Judiciary and report to the National Assembly.**

#### **1702. Delayed Completion of Construction of Thirty-Nine (39) Courts**

5487) As disclosed under Annex 2 to the financial statements and as previously reported, the historical cost of assets of the Judiciary balance of Kshs.27,825,307,366 includes costs incurred on construction works of thirty-nine (39) Law Courts spread across the Country. Construction works for some of the law courts were awarded in the financial year 2013 but had taken long to complete therefore, attracting interests on the contract sum.

5488) A review of the position as at 30 June, 2020, indicated that a total of Kshs.822,204,890 was awarded to the contractors out of which an amount of Kshs.18,809,796 was paid in the 2019/2020 financial year as disclosed under Note 15 to the financial statements. Further, included in the award was a total of Kshs.773,740,811 to various contractors as claims on projects awarded but were yet to commence due to unavailability of land for construction, unpaid certificates, and interest on delayed payments.

5489) Consequently, the value for money on the payments and the outstanding obligations could not be confirmed.

#### **Submission by the Accounting Officer**

5490) The Accounting Officer admitted that there were delays in conclusion of GoK Funded projects in the 39 Law courts as at June 2020. However, (11) projects are practically complete namely Butali, Embu, Eldoret (Fence), Garsen, Runyenjes, Tawa, Mombasa Court of Appeal, Mombasa Law Courts (Renovations), Hamisi, Iten and Nkubu. The remaining construction works in 28 court stations have been repackaged and re-tendered. The funding for the projects has been proposed in FY 2022/2023 budget.

5491) The main reason for delayed completion of the projects was due to budget cuts as a result of which contractors abandoned sites that led to the delay in completion of works. The inadequate funding compelled contractors to seek compensation through arbitration where they were awarded a total of KShs.822,204,899.60. The amount has increased due to penalties and interest. The Judiciary has however engaged the National Treasury to consider funding to settle the awards to contractors.

#### **5492) Committee Observations and Findings**

- (ix) The Committee observed that 11 courts have since been completed and the remaining 28 are to be completed in the Financial Year ending June 2023.
- (x) The Committee further observed that much as 11 courts had since been completed, there was poor workmanship exhibited in a number of them.

#### **5493) Committee recommendations**

- 1) The Accounting Officer must ensure that the construction of the courts is undertaken following the right standards and any poor workmanship corrected to avoid possible occupational safety hazards.**
- 2) The Ministry of Public Works should inspect all the Law Courts building projects for defects and possible occupational safety hazards and table their comprehensive report to National Assembly within sixty days of the adoption of this report.**

#### **Other Matter**

##### **1703. Pending Bills**

5494) Note 14 to the financial statements reflects pending bills totaling 788,664,790 that were not settled during the financial year 2019/2020 but were instead carried forward to 2020/2021. Failure to settle bills in the year to which they relate distorts the financial statements for the year and also affects the budgetary provisions for the subsequent year.

#### **Submission by the Accounting Officer**

5495) The Accounting Officer submitted that it was true the pending bills impact negatively on budgetary provisions of subsequent years. The pending Bills that arose in FY2019/2020 were due to inadequate budget provision, delay in procurement process and failure by suppliers to deliver on time. The Judiciary has however settled all the bills in FY2020/21 that arose during FY2019/2020 except KShs.68,744,356.42 that is under arbitration process per

#### **5496) Committee Observations and Findings**

The Committee observed that the pending bills arose due to inadequate budget provision, delay in procurement process and failure by suppliers to deliver on time. The bills have since been settled in FY2020/21 except KShs.68,744,356.42 that was under arbitration process.

#### **5497) Committee Recommendations**

- 1) The Accounting Officer should speed up the arbitration process and within sixty days upon adoption of this report provide the status report to the National Assembly.**

- 2) **The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

#### **1704. Failure to Prioritize Budgeting for Older and Stalled Projects**

5498) An analysis of total work certified in relation to the contracted amount, revealed that the Judiciary was budgeting for projects in subsequent periods before completion of projects already contracted for. In addition, payments were prioritized for projects contracted for much later in disregard to the earlier contracted projects as shown below:

<b>Year</b>	<b>No. of Court Stations</b>	<b>Total Amount Contracted (KShs.)</b>	<b>Amount Certified to Date (KShs.)</b>	<b>% Certified</b>
2013	9	2,130,222,115	662,978,894	31%
2014	2	70,273,922	63,177,209	90%
2015	11	748,927,843	657,190,769	88%
2016	0	0.00	0.00	0%
2017	12	1,864,327,275	577,654,001	31%
2018	0	0.00	0.00	
2019	1	157,200,000	128,987,852	82%
<b>Total</b>	<b>35</b>	<b>4,970,951,155</b>	<b>2,089,988,725</b>	<b>42%</b>

5499) No reason or explanation was provided for the preference for payments of later projects instead of the earlier ones or why the Judiciary was undertaking additional projects before completing previous projects in violation of Regulation 56(2)(b) of the Public Finance Management Regulations, 2015 that requires continuing projects be budgeted for first before new projects are budgeted for by the entity.

#### **Submission by the Accounting Officer**

5500) The Accounting Officer submitted that the Judiciary prepares an annual procurement plan as required by Section 53(2) of the Public Procurement and Asset Disposal Act. The plan is approved by the Accounting Officer and uploaded in IFMIS before the beginning of each financial year thus any procurement has to be within the procurement plan for the financial year.

5501) Budgeting for the construction projects is guided by the National Treasury Circular No. 17/2015 dated 14th September 2015 which requires that a project committee of an MDA prioritizes projects to be implemented and budgeted for in each financial year. Each year the Judiciary has adhered to the guidelines set out in that circular in budgeting for projects.

5502) The delay in payment of certified works and completion of the construction works has been caused largely by the continued reduction of Judiciary Development budget each year.

The budget cuts cause the contractors to suffer huge financial losses. The government also suffers lack of value for money on those projects as it is compelled to pay for penalties and (or) interest on delayed payments.

5503) The Judiciary makes payments to contractors based on certified works and reports on inspection and acceptance committee issued. This is largely based on contractor's ability of contractor's to implement works and have them certified. Therefore contractors are paid based on their work done and certificate presented for payments and no priority is given to some contractors over others. Therefore, the Judiciary has continued to adhere to Regulation 56(2)(b) of the Public Finance Management Act Regulation 2015 in the budget of projects over the years.

#### **5504) Committee observations and findings**

The Committee observed that the Judiciary undertook additional projects before completing previous projects in violation of Regulation 56(2)(b) of the Public Finance Management Regulations, 2015 that requires continuing projects be budgeted for first before new projects are budgeted for by the entity.

#### **5505) Committee Recommendations**

**The Committee recommended that the Accounting Officer should within sixty days of the adoption of the report, ensure that all previous projects are completed before embarking on establishment of new ones and forward completion certificates to the Auditor General for audit verification.**

#### **1705. Unresolved Prior Year Audit Matters**

5506) Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues.

#### **Submission by the Accounting Officer**

5507) The Accounting Officer submitted that the Prior year matters for FY2018/2019 were responded and are awaiting PAC resolutions. However we have continuously updated the status report on implementation of the PAC recommendation and submit the same to the National Treasury.

#### **5508) Committee observations and findings**

- (i) The Committee observed that the issues were considered during the examination of the State Department account for financial year 2018/19 and recommendations issued thereof.
- (ii) The committee marked the matter as resolved.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

## **1706. Failure to have a Valid Lease Agreement for HIV and AIDS Tribunal**

5509) The HIV and AIDS Tribunal was allocated Kshs.42,988,420 in respect of operational costs. Included in this amount was Kshs.7,233,778 for rentals of produced assets. A review of the rental documents for the HIV Tribunal revealed that a lease agreement was signed and executed on 25 May, 2018 for a cost of Kshs.5,575,322 per annum by the Tribunal's Chief Executive Officer instead of the Chief Registrar of the Judiciary and backdated to 1 July, 2015. No adequate explanation or reason was provided by the Accounting Officer on why the Tribunal was occupying a building without a valid legal contract.

5510) Further, an amount of Kshs.20,200,395 in rental arrears was demanded from the Tribunal as per correspondences availed for audit review - Ref: M/NHIF/ETH A/08-20/RWN 24 dated August, 2020 from the property managers (on behalf of NHIF) to the Chief Executive Officer of the Tribunal.

5511) In the absence of duly executed lease agreements it was not possible to determine the accuracy and validity of the outstanding rent and the rent paid by the Tribunal.

### **Submission by the Accounting Officer**

5512) The Accounting Officer submitted that the in 2015 when the lease was executed by the Chief Executive Officer of the HIV/AIDS Tribunal was still under the Ministry of Health. The Tribunal transited to the Judiciary in the Financial Year 2016/2017 and the accounting officer signed the lease in 2018 and transmitted it to NHIF for execution. The NHIF only signed the lease in May 2021 upon which the sum of KShs.8Million was paid; pending bill of Kes14.2Million will be budgeted for in FY 2022/2023. As at June 2020, the NHIF had not executed the lease hence accumulation of rent to an amount of KShs.20,200,395. The lease has since been executed by both parties per

### **5513) Committee Observations and Findings**

- (i) The Committee observed that The Tribunal transited to the Judiciary in the Financial Year 2016/2017 and the Accounting Officer signed the lease in 2018 and transmitted it to NHIF for execution. As at June 2020, the NHIF had not executed the lease hence accumulation of rent to an amount of KShs.20,200,395. The lease has since been executed by both parties.
- (ii) The Committee marked the matter as resolved.

### **5514) Committee Recommendations**

- 1) **Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012;**



- 2) **Accounting Officers must at all times ensure that they prepare and keep proper accounting records in line with the provisions of Section 68 (2) (b) of the PFM Act, 2012; and**
- 3) **The Accounting Officer must at all times ensure that he/she provides accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**

#### **1707. Failure to Withhold Performance Bonds**

5515) Audit review of the construction project files revealed that a total of four construction projects for Wajir, Olkalou, Mukurweini and Kibera Courts had been stopped due to poor performance and workmanship. The total contracted cost for the projects was Kshs.695,857,795 out of which Kshs.322,200,617 was works certified as at the time of stoppage. However, the performance bonds totaling Kshs.69,585,794.96 were not seized in violation of Section 142(2) of the Public Procurement and Asset Disposal Act, 2015 which provides that the performance security shall unconditionally be fully seized by the procuring entity as compensation without prejudice to other penalties provided for by the Act.

#### **Submission by the Accounting Officer**

5516) The Accounting Officer admitted that the Judiciary stopped some of the construction projects under the World bank Judiciary Performance Improvement Project (JPIP) due to failure to adhere to contract terms. The contractors were slow in their execution and failed to keep current the performance bond. Despite requests to the contractors to submit extended performance bonds, they breached section 57.1 (f) of the general conditions of the contract. In addition, there were many warnings to complete the works but the contractors were unable to perform. The Judiciary had therefore no option but to terminate the contracts due to failure by the contractors to comply with general conditions of the contracts.

5517) The status of the said projects is listed below:

No.	Project	Progress	Status
1.	Wajir	80%	The Contract was Terminated on mutual basis. A settlement was reached and the remaining works estimated at KShs 70 million were to be done by same contractor at the same rates to be funded by GoK.
2.	Ol, Kalou	100%	Terminated on 23rd October 2020 for failure to renew performance bond and inability to complete works due to capacity issues. The outstanding works were reevaluated and works retendered. A



No.	Project	Progress	Status
			recovery of KShs 46m was made and a new contract was entered and works completed.
3.	Mukurweini	80%	Terminated under clause 58.1 of the General Condition of Contract in October 2021 for delay in completion of the works and recovery made of at the rate of 20%. The outstanding works were re-evaluated and works retendered to be completed under GoK Funding
4.	Kibera	100%	Terminated on 15th December 2020 for failure to renew performance bond and inability to complete works due to capacity issues. The outstanding works were reevaluated and works retendered and completed under the new contract.

5518) The Judiciary therefore followed Section 142. (1)( 2) of the Public Procurement and Asset Disposal Act 2015 and the general terms of contract when terminating the contracts.

#### **5519) Committee observations and findings**

- (i) The Committee observed that two of the above courts have since been completed and the remaining two have been re-tendered for;
- (ii) The Committee observed that the four contracts were terminated. However, the Accounting Officers did not indicate the possibility of termination incidental costs and any litigations as a result of the terminations.
- (iii) The Committee further observed that there were documentations provided with regard to the terminations and the completion certificates for the completed projects.

#### **5520) Committee Recommendations**

**Within sixty days upon adoption of this report, the Accounting Officer should provide the terminations agreement, the completion and hand over certificates for all the completed projects.**

#### **1708. Stalled Construction of Turkana High Court**

5521) During the year 2013, the Judiciary awarded a contractor, the tender for the construction of the High Court at Turkana at a cost of Kshs.814,886,141. Construction of the project commenced on 30 September, 2013 and was to end on 25 April, 2015. On 2 July, 2014, the project stalled with total works certified being at Kshs.140,079,212 out of which, a total of Kshs.101,294,765 had been paid. However, the certificates of works and inspection and acceptance reports were not availed for audit review.

5522) Based on advice by the Attorney General vide letter Ref.AG/ARB/JD/23/16 dated 21 August, 2017, the Judiciary was advised to negotiate with the contractor for purposes of resuming construction, by undertaking joint re-measurements of the work done, preparation of a valuation report, to enter into an arrangement to have the outstanding certificates settled and the pending works completed, and to have a capping on the increase of interest rates

due for the period of delay in the project implementation that had by then exceeded three years.

5523) In March 2019, an arbitration award of Kshs.290,645,723 was made against the Judiciary mainly for unpaid and uncertified certificates and retention money after failure by the Judiciary to reach an agreement with the contractor resulting in the total payable cost on the project escalating to Kshs.391,940,488. An audit inspection of the site in March 2021 revealed that the only works done were construction of the pillars with the slab for the first floor, which is equivalent to approximately 15% of the works and is less than the total project cost to date of Kshs.391,940,488.

5524) In addition, a letter dated 16 March 2020 Ref.AG/CONF/12/C/144 VOL.I(82) by the Attorney General to Judiciary rendered invalid projects whose contract period had expired and not yet renewed, implying that the contract between The Judiciary and the contractor was now non-existent and required to be re-tendered.

5525) Consequently, no benefit was achieved on the Kshs.391,940,488 claimed for the project and the public may not get value for money on this project.

#### **Submission by the Accounting Officer**

5526) The Accounting Officer admitted that the Judiciary awarded Land Mark Holdings Limited, the tender for the construction of the High Court in Lodwar at a cost of KShs.814,504,141. Construction of Lodwar commenced but was stopped following the directive of the parliamentary Accounts Committee (PAC) which queried the cost of the project. The contractor filed for arbitral proceedings and on 11th March 2019, the Arbitrator made the award.

5527) The already paid amount of KShs.101,294,765 was based on certified works while the KShs.290,645,722.99 was an arbitration award which included works done and penalties and interest accrued thereon. The Judiciary has since engaged the National Treasury to facilitate the payment of the arbitral award. Further, based on the Attorney Generals Advise, all the projects whose contract period had expired were not renewed and are being reviewed and repackaged for fresh tendering.

#### **5528) Committee observations and findings**

- (i) The Committee observed that the projects remains stalled to date; and
- (ii) The Committee observed that the arbitration award which included works done and penalties and interest accrued thereon had not been settled and may continue to attract more charges.

#### **5529) Committee Recommendations**

- 1) The Accounting officer fast-track the process of completing the stalled project and settlement of the arbitral award to avoid further penalties.**

- 2) **The National Assembly should amend the PFM Act 2012 and the accompanying regulations to cap the penalties and interest from escalation beyond certain limit.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5530) **Conclusion**

1709. There were no material issues relating to effectiveness of internal controls, risk management and governance.

**REVENUE STATEMENTS OF THE JUDICIARY**

REPORT ON THE REVENUE STATEMENTS

5531) **Unqualified Opinion**

1710. There were no material issues noted during the audit of the revenue statements.

**Other Matter**

1711. **Budgetary Control and Performance**

5532) The statement of receipts and transfers reflects total non-tax receipts of Kshs.2,266,900,242 for the year ended 30 June, 2020 representing an under-collection of Kshs.723,957,271 from the total budgeted revenue of Kshs.2,990,857,513. Out of the expected revenue transfer to the Exchequer of Kshs.2,900,857,513, the Judiciary transferred revenue of Kshs.2,124,182,269 or 71% of the budgeted receipts. Management has attributed the under-collection of revenue to scaled down operations at the courts stations due to the Covid-19 Pandemic.

**Submission by the Accounting Officer**

5533) The Accounting Officer admitted that it was true that under-collection was as a result of scaled down court operations due to Covid-19 pandemic. The Judiciary has strengthened digital revenue collection systems to ensure improved collection of revenue.

5534) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to under-collection of revenue arising from scaled down operations at the court stations was satisfactory; and
- (ii) The Committee marked the matter as resolved.

1712. **Unresolved Prior Year Matters**

5535) Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues. Further, the unresolved prior year issues were not disclosed under the progress on follow up of auditor's

recommendations section of the revenue statements as required by the Public Sector Accounting Standards Board.

#### **Submission by the Accounting Officer**

5536) The Accounting Officer admitted that the Prior year matters for FY2018/2019 were responded and are awaiting PAC resolutions. However we have continuously updated the status report on implementation on the PAC recommendation and submit the same to the National Treasury.

#### **5537) Committee Observations and Findings**

- (i) The Committee observed that the issues were discussed during the examination of the State Department account for financial year 2018/19 and recommendations issued thereof.
- (ii) The committee marked the matter as resolved.

#### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

##### **5538) Conclusion**

**1713.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

#### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

##### **5539) Conclusion**

**1714.** There were no material issues relating to effectiveness of internal controls, risk management and governance

#### **DONOR FUNDED PROJECT**

#### **THE JUDICIAL PERFORMANCE IMPROVEMENT PROJECT (IDA CREDIT NO. 5181 – KE)**

#### **REPORT ON THE FINCNAIL STATEMENTS**

#### **Basis for Qualified Opinion**

##### **1716. Difference between Project Payments and Work Certified.**

5540) The statement of receipt and payments reflects Kshs1,519,539,642 on Acquisition of non- financial assets which includes Kshs.1,474,939,671 relating to construction of buildings. A comparison of actual payments with certified works for four (4) contracts at Nakuru, Milimani, Wajir and Nyamira reveals excess payment of KShs.3,798,892 that was

attributed to previous years' taxes that had not been paid. However, no documentary evidence has been provided in support of the paid tax.

5541) Consequently, the validity of KShs.3,798,892 could not be ascertained.

#### **Submission by the Accounting Officer**

5542) The differences noted by the audit of KShs.3,798,892 were withheld taxes paid by Judiciary as a result of direct payments by the National Treasury settling amounts net of taxes. The tax payment vouchers settled by the Judiciary summarized below

No.	Court Station	Tax paid (KShs)
1.	J.N Investments – Nyamira Law Courts	1,115,531.05
2.	Diwafa – Nakuru Law Courts	1,906,043.35
3.	Glenn Steam – Milimani Law Courts	899,459.85
4.		<b>3,921,034.25</b>

#### **5543) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Difference between Project Payments and Work Certified was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **Emphasis of Matter**

#### **1717. Special Account Reconciliation**

5544) The statement of receipts and payments reflects loans from external development partners of Kshs.750,051,429 as disclosed under Note 8.3 to the financial statements. However, the balance differed with the special accounts statements balance of Kshs.758,072,640 resulting in an unreconciled and unexplained difference of Kshs.8,021,211.

5545) My opinion is not modified based on the effects described on the above matter.

#### **Submission by the Accounting Officer**

5546) The Accounting Officer admitted that the difference between statement of receipts and payments and the special account arose from exchange difference at the reporting date for the disbursement of funds from the dollar account to Kenya Shillings account. The exchange rate fluctuates from time to time and this causes exchange differences (in this case a loss).

#### **5547) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Difference between statement of receipts and payments and the special account was satisfactory; and
- (ii) The Committee marked the matter as resolved.

## **Other Matter**

### **1718. Budgetary Control and Performance**

5548) The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,195,000,000 and Kshs.1,888,098,131 respectively resulting to an underfunding of Kshs.306,901,869 or 14% of the budget. Similarly, the statement reflects final payments budget and actual on comparable basis of Kshs.2,195,000,000 and Kshs.1,726,379,499 respectively resulting to an under expenditure of Kshs.468,620,501 or 21% of the budget. The underfunding and under expenditure affected the planned activities and could have impacted negatively on service delivery for the public.

### **Submission by the Accounting Officer**

5549) The Accounting Officer admitted that the Project's planned activities were greatly affected by the Covid 19 Pandemic. Movement to inspect and deliver most goods especially furniture was affected hence the low absorption. The Judiciary requested for extension of time of the project from the World Bank and this was granted. Most of the JPIP projects are now complete hence realizing its intended objective.

### **5550) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to underfunding and under expenditure was satisfactory; and
- (ii) The Committee marked the matter as resolved.

### **1719. Pending Bills**

5551) Note 9.1 and 9.2 reflects pending bills totaling Kshs.83,675,667 while the IFMIS ledger reflects Kshs.32,693,603 for pending bills resulting in a difference of Kshs.50,982,064. No reconciliation or explanation has been availed for audit review. The Project is at risk of incurring significant interest costs and penalties with the continued delay in payment.

5552) Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

### **Submission by the Accounting Officer**

5553) The Accounting Officer admitted that the Pending bills were commitments not settled by end of the financial year. The KShs.32,693,603 were commitments in various stages of

payment which had not been completed by the end of the financial year. The difference of KShs.50,982,064 were requests for payments that were presented after the close of the year by contractors/suppliers. The pending bills were subsequently settled in the FY2020/21. The audited pending bills of Kshs.83,675,667 represented value of goods, services and construction certificates for payments that came late and were therefore time barred.

#### **5554) Committee Observations and Findings**

The Committee observed that the pending bills were commitments not settled by end of the financial year. The pending bills were subsequently settled in FY2020/21.

#### **5555) Committee Recommendations**

**The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **5556) Conclusion**

**1720.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **Basis for Conclusion**

#### **1721. Delayed Implementation of Projects**

5557) Examination of records for the Project (JPIP) as at 30 June 2020 revealed that work certified in respect of contractors totalled to KShs.5,175,142,583.68 out of the contract sum amounting to KShs.6,892,064,478. However, analysis of the project status provided by the Project Coordinator indicated that twenty (20) out of the twenty-eight (28) projects were still under construction. An audit inspection of sampled projects during the month of November 2020 revealed delay in completion of projects.

#### **Submission by the Accounting Officer**

5558) There were delays in completion of projects was due to contractors' underperformance. This was further compounded by the Covid-19 pandemic. However, most of the projects have since been completed and out of the sampled 28 projects, 25 are complete and leaving three namely Wajir, Voi and Mukurweini to be completed under GoK funding.

#### **5559) Committee Observations and Findings**

(i) The Committee observed that out of the twenty-eight projects, three projects remain incomplete; and



(ii) The matter remained unresolved.

**5560) Committee Recommendations**

**The Committee recommended that the Accounting Officer should within sixty days of the adoption of the report, ensure that all the 28 projects are completed before embarking on establishment of new ones and forward completion certificates to the Auditor General for audit verification.**

FINAL REPORT 2019/2020

## 52. ETHICS AND ANTI-CORRUPTION COMMISSION

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1271

**Mr. Twalib Mbarak, the Chief Executive Officer and the Accounting Officer Ethics & Anti-Corruption Commission (Vote 1271) appeared before the Committee 27<sup>th</sup> September, 2021 to adduce evidence on the audited financial statement for the Ethics & Anti-Corruption Commission (Vote 1271) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                      |                                    |
|----------------------|------------------------------------|
| 1. Mr. Jackson Mue   | - Director Finance Services        |
| 2. Mr. Julius Munaya | - Deputy Director Finance Services |
| 3. Mr. Joel Mukua    | - Director Procurement             |
| 4. Mr. Echoni Mugo   | - Senior Accountant                |

And submitted as follows:

#### 5561) **Unqualified Opinion**

**1722.** There were no material issues noted during the audit of the financial statements of the Commission.

#### **Emphasis of Matter**

##### **1723. Declining Financial Performance**

5562) During the year under review, the Commission reported a deficit of Kshs.116,545,540 (2018/2019 - deficit Kshs.20,108,198). The cumulative deficits for the two years have resulted in depletion of revenue reserves by Kshs.136,653,738 from Kshs.712,225,241 in the prior year to Kshs.167,480,766 as at 30 June, 2020. Although Management has disclosed at Note 29 to the financial statements that the deficits are mainly due to depreciation and unremitted Exchequer, the Commission's performance is on a downward trend and if strategies are not put in place to reverse the trend, the Commission is likely to experience financial difficulties in future.

5563) My opinion is not modified in respect of this matter.

#### **Submission by the Accounting Officer**

5564) The Commission's deficit is greatly caused by non- cash flow item i.e., depreciation and amortization of assets for FY 2019/2020, which is not part of the approved budget. The Commission, as a matter of best practice, recognizes revenues mainly in form of exchequer from the National Treasury when monies are actually received, while costs are recognized when there is a possibility of claim to pay such costs.

5565) As practice, the National Treasury requires exchequer request be supported by the processed payment claims/vouchers. In the FY 2019/2020, the National Treasury did not service all exchequer requests as such, some cost /claims/vouchers amounts were

recognized and the exchequer was not actually released. This resulted to having higher expenditure than received exchequer but not exceeding the approved budget. In the financial year 2019-2020, the Commission had unspent budget of Kshs.111,452,189 out of approved budget of Ksh.3,104,620,000.

5566) As a way forward, the National Treasury requires entities to pay such claims as first charge in the following financial year. The Commission prepares its financial statements on accrual basis of accounting and therefore accrues such expenses. The Commission's going concern status is based on its Annual Approved Budget and exchequer receipts from the National Treasury. There is no indicator that the National Treasury will not honour its obligation in the foreseeable future, in a way that would significantly affect the operation of the Commission.

**5567) Committee Observations and Findings**

(iii)The Committee observed that the explanation given by the Accounting Officer with regard to Declining Financial Performance was satisfactory; and

(iv)The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**Basis for Conclusion**

**1724. Valuation of Property, Plant and Equipment**

5568) As reported in the previous year, the Commission remitted Kshs.1, 518,000,000 to the National Land Commission (NLC) for compulsory acquisition of the Integrity Centre Building which houses the Commission's offices.

5569) According to the valuation report based on inspection conducted on 14 February, 2018, the NLC valued the property at Kshs.1,543,382,916 as detailed below:

<b>Component</b>	<b>Acreage</b>	<b>Value (Kshs.)</b>	<b>15% Statutory Allowance (Kshs.)</b>	<b>Total Value (Kshs.)</b>
Land	1.203	691,725,000	103,758,750	795,483,750
Improvements		650,347,101	97,552,065	747,899,166
<b>Total Compensation</b>		<b>1,342,072,101</b>	<b>201,310,815</b>	<b>1,543,382,916</b>

5570) Although the NLC had requested for valuation services from the Ministry of Lands and Physical Planning, available records indicate that the valuation of the property was however done by the NLC itself. No evidence was availed by the National Land Commission to clarify whether the Ministry of Lands and Physical Planning played any role in the valuation of the property. This is despite the fact that the Department of Land Valuation in

the Ministry is mandated to provide valuation services for and by all National and County Government entities. This exposes the National Land Commission to the risk of conflict of interest which may arise from the Commission conducting the valuation and thereafter paying the compensation thereof.

5571) Due to failure to involve the mandated Government Valuer, Ministry of Lands and Physical Planning, it has not been possible to ascertain whether the Commission obtained value for money in the acquisition process of its headquarters, the Integrity Centre Building.

5572) Further, according to a letter Ref, B35/NB/9720B/VOL.2/67 dated 4 March, 2020 from the State Department for Public Works, copies of the development plans (architectural, structural, electrical, mechanical and civil works drawings) submitted to the EACC by the NLC in respect of the property were not acceptable on the basis that:

- (i) The drawings were copies of structural details and without calculations;
- (ii) Architectural drawings were not provided;
- (iii) Services drawings were not provided; and
- (iv) The structural drawings provided were not the approved ones as required by the Nairobi City County Government.
- (v) According to the Management, this has hampered effective planning for the maintenance of essential electro-mechanical services and possible refurbishment and redevelopment of the Integrity Centre building.
- (vi) Consequently, it has not been possible to ascertain whether the Commission obtained value for money in the acquisition process of its Headquarters, the Integrity Centre building.

5573) **Committee Observations and Findings**

- (i) The Committee observed that the matter relates to paragraph 1662 for Financial Year ending June 2019
- (ii) The committee observed that matter was resolved in its Report for the financial year 2017/2018

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

5574) **Conclusion**

**1725.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**ETHICS AND ANTI-CORRUPTION COMMISSION - STAFF HOUSE MORTGAGE AND CAR LOAN SCHEME**

## REPORT ON THE FINANCIAL STATEMENTS

### 5575) **Unqualified Opinion**

**1726.** There were no material issues noted during the audit of the financial statements of the Scheme.

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### 5576) **Conclusion**

**1727.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### 5577) **Conclusion**

**1727.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### 5578) **Conclusion**

**1728.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## 53. NATIONAL INTELLIGENCE SERVICE

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1281

#### 5579) **Unqualified Opinion**

**1729.** There were no material issues noted during the audit of the financial statements of the Service.

### REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

#### 5580) **Conclusion**

**1730.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

### REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

#### 5581) **Conclusion**

**1731.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## INTELLIGENCE SERVICE DEVELOPMENT FUND

### REPORT ON THE FINANCIAL STATEMENTS

#### 5582) **Unqualified Opinion**

**1732.** There were no material issues noted during the audit of the financial statements of the Fund.

#### **Emphasis of Matter**

#### **1733. Winding Up of the Fund**

5583) As disclosed under Note 12 to the financial statements, the Fund is subject to winding up upon the lapse of the maximum ten years provided The Intelligence Service Fund (ISDF) through the Legal Notice No.110 of 2002 and the Exchequer and Audit (Intelligence Service Development Fund). In accordance with Section 209(3) of the Public Finance Management Regulations, 2012, the Management has written to the Office of the Cabinet Secretary, State Department for Interior and Coordination of the National Government requesting for the approval to wind up the Fund.

5584) My opinion is not modified based on the effects of the matter described above.

### REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

#### 5585) **Conclusion**

**1734.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5586) **Conclusion**

**1735.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

FINAL REPORT 2019/2020



## 54. OFFICE OF DIRECTOR OF PUBLIC PROSECUTIONS

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1291

**Mr. Noordin Haji, the Director of Public Prosecution and the Accounting Officer, Office of the Director of Public Prosecution (Vote 1291), appeared before the Committee on 6<sup>th</sup> October, 2021 to adduce evidence on the audited financial statement for the Office of the Director of Public Prosecution (Vote 1291) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                       |                                |
|-----------------------|--------------------------------|
| 1. Ms. Lilian Obuo    | - Chief of Staff               |
| 2. Mr. Kennedy Ndwiga | - Deputy Chief Finance Officer |
| 3. Mr. Dorcas Oduor   | - Secretary Public Prosecution |
| 4. Mr. Zuwena Zainab  | - Senior Principal Accountant  |

And submitted as follows: -

#### 5587) **Unqualified Opinion**

**1736.** There were no material issues noted during the audit of the financial statements of the Office.

### REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

#### 5588) **Conclusion**

**1737.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

### REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

#### **Basis for Conclusion**

#### **1738. Understaffing**

5589) A review of the staff establishment of the ODPP revealed that the Office has a staff establishment of 1340 legal Officers and 819 non-legal officers in various positions. However, it was noted that only 608 legal and 381 non-legal officers were in-post, resulting in a shortage of 732 and 438 legal and non- legal staff respectively.

#### **Submission by the Accounting Officer**

5590) The Office has undertaken the following steps to address understaffing:

##### **a. Increased staff in post**

Since September, 2020 the Office has recruited one hundred and forty-five (145) new staff in various cadres thereby increasing the number of staff in post to 1,115 (646 prosecutors and 469 non-prosecutors).

## **b. Advertisement of Vacant posts**

5591) The Office advertised 388 vacant posts both external and internal on 11<sup>th</sup> May 2021. The closing date for the advertisement was 2<sup>nd</sup> June, 2021 but was further extended to 17<sup>th</sup> June, 2021. The data capture exercise has since been concluded. Shortlisting and interviews will be conducted in due course to fill these posts. Once the recruitment process is completed, the ODPP will have a total of 901 legal staff and 621 non-legal staff in-post, with a shortage of 439 and 198 legal and non-legal staff respectively. A copy of the advert was availed for perusal by the Committee.

## **c. Review of Organizational Structure and Staffing levels**

5592) The Office has since reviewed its Organizational Structure and staffing levels which has resulted in an increased staff establishment. The job descriptions for jobs under the new Organizational Structure have been presented to the SRC in the current remuneration cycle for evaluation and grading.

### **5593) Committee observations and findings**

- (i) The Committee observed that the Accounting Officer has made commendable effort and filled the gap to 1,115 (646 prosecutors and 469 non-prosecutors) ;
- (ii) However, the Committee further observed that a staff establishment of 1340 Legal Officers and 819 non-legal officers has not been attained; and
- (iii) The matter remained unresolved

### **5594) Committee Recommendation**

**Within three months of tabling and adoption of this report, the Accounting Officer to provide information to the National Assembly on measures being taken to fill all the remaining critical vacant posts.**

## 55. OFFICE OF THE REGISTRAR OF POLITICAL PARTIES

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1311

**Ms. Ann Nderitu, the Accounting Officer for the Office of the Registrar of Political Parties (Vote 1311) appeared before the Committee on 1<sup>st</sup> September, 2021 to adduce evidence on the Audited Financial Statements for the Office of the Registrar of Political Parties (Vote 1311) for the Financial Year 2019/2020. She was accompanied by the following officers:**

- |                       |   |                              |
|-----------------------|---|------------------------------|
| 1. CPA Florance Birya | - | Assistant Registrar          |
| 2. Mr. John Macharia  | - | Assistant Accountant General |
| 3. Mr. Joshua Kimulu  | - | Chief Finance Officer        |
| 4. Mr. Bon Makolwel   | - | Senior Legal Officer         |

And submitted as follows

#### 5595) **Unqualified Opinion**

**1739.** There were no material issues noted during the audit of the financial statements of the Office.

#### **Other Matter**

#### **1740. Pending Bills**

5596) Note 9 to the financial statements reflects pending bill amounting to Kshs.3,960,263 that were not settled in the year under review but were carried forward to 2020/2021 financial year. Failure to settle bills in the year to which they relate adversely affects the implementation of the subsequent year's budgeted programmes as the pending bills form a first charge to that year's budget provision.

#### 5597) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to pending bills was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.**

#### 5598) **Committee Recommendation**

**The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **Basis for Conclusion**

#### **1741. Inapplicable Allowance**

5599) The office Staff Mortgage and Car Loan Scheme Advisory Committee incurred an expenditure of Kshs.650,000 paid to sixteen (16) officers for ten (10) days. However, the Office of the Registrar of Political Parties Regulations on Staff Mortgage and Car Allowance stipulate that a committee of seven members (7) shall be formed. However, a committee of sixteen (16) members was formed and paid by the office incurring an additional cost of Kshs.360,000. Further, it was established that the officers held only five (5) meetings that were paid for. The propriety of the expenditure of Kshs.360,000 could not be confirmed.”

#### **Submission by the Accounting Officer**

5600) The Staff Mortgage and Car Loan Advisory Committee is established under the Political Parties (Staff Mortgage and Car Loan Scheme) Regulations, 2017. The Committee comprises of seven (7) members appointed by the Accounting Officer, a Secretary and a liaisons office. The Accounting officer appointed Committee members, Secretariat and a liaison office. During the year under review, the Committee held thirteen (13) meetings and the Committee was paid in line with SRC Circular Ref. No. SRC/ADM/CIR/1/13 (122) dated 16th April 2014.

5601) The tenure of the Committee expired in May 2020 and the Accounting Officer has constituted another committee as per the Political Parties Regulations on Staff Mortgage and Car Loan.

#### **5602) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Accommodation and Travel Allowance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **1742. Accommodation and Travel Allowance**

5603) The statement of receipts and payments reflect an expenditure of Kshs.121,977,444 which as disclosed in Note 4 to the financial statements, include an amount of Kshs.26,363,700 incurred on domestic travel and subsistence allowance. The latter balance includes an expenditure of Kshs.12,486,000 paid to Political Parties Liaisons members for accommodation and travel allowances. Although the Registrar has sought the advice of Salaries and Remuneration Commission (SRC) on compensation of the members, the commission had not given a directive as at the time of audit. Under the circumstances, the regularity of the payments could not be confirmed.

#### **Submission by the Accounting Officer**

5604) The Political Parties Liaisons Committee (PPLC) is established under section 38 of the Political Parties Act, 2011 as a platform for dialogue between the Registrar, the Independent Electoral and Boundaries Commission (IEBC) and the political parties. The PPLC is composed of Political Party Leaders and Secretary Generals and or their

representatives who provide dialogue platform amongst all fully registered political parties. The committee is established at the National and county levels and is instrumental in nurturing inter and extra democracy within the political parties.

5605) The PPLC is one (1) of the three (3) sub-programmes within the office of the Registrar of Political Parties and is allocated funds by the National Treasury and Parliament through the Medium-Term Expenditure Framework (MTEF) budgeting process to facilitate its operations. During the FY 2019/20, the sub-programme was allocated Kshs.22,452,779 which was used in line with the approved work plan for PPLC. In order to realize the PPLC objective, the committee undertakes activities in various parts of the country from time to time.

5606) The office of the Registrar of Political Parties through letter Ref. No. RPP/ORG/29 VOL II (23) dated 12th March 2018 wrote to the Salaries and Remuneration Commission requesting for the office to be guided by the Salaries and Remuneration Commission Circular Ref. No SRC/ADM/CIR/1/ 13 Vol. IV (1) dated 20th November 2017 when implementing PPLC activities.

5607) As a follow-up, the office wrote to SRC requesting for a meeting to discuss issues among them PPLC facilitation. The SRC through letter Ref. No. SRC/ADM/MA/1/26 dated 21st June 2021 informed this Office that the Commission was involved in the 3rd Remuneration Review Cycle for Public Sector and will communicate on a suitable date for a meeting. The Office is currently waiting for confirmation of the appointment with SRC.

#### 5608) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Accommodation and Travel Allowance was satisfactory; and
- (ii) The Committee marked the matter as resolved.

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### **Basis for Conclusion**

#### **1743. Understaffing**

5609) The Office had a staff establishment of two hundred and thirty-five (235) officers. However, and as previously reported, only sixty-six (66) Officers were in-post resulting into a shortage of one hundred and sixty-nine (169) staff members. The understaffing hampers effective discharging of the mandate of the Office.

### **Submission by the Accounting Officer**

5610) The Accounting Officer submitted that it was true that the Office of the Registrar of Political Parties is grossly understaffed and this is hampering the effective delivery of the office mandate especially at the county level where the office has only seven (7) offices as opposed to the required 47. This has adversely affected the devolution of services at the county level and hence service delivery.

5611) The office wrote letter Ref. No. RPP/ADM/1 VOL. III/ (11) dated 15th January, 2020 to the National Treasury requesting for authority to fill some identified critical vacant posts. The National Treasury through letter Ref. No. RES 1311/19/01/A/ (22) dated 3rd February 2020 and the Head of Public Service Letter Ref. No. OP/CAB.4/24A dated 2nd March 2020 approved the office to fill the identified posts. The recruitment process was finalized in May 2021 and the officers have reported for duty.

5612) In addition, the Office has through letters Ref. No. RPP/ORG./18 Vol VIII (49) dated 26th July 2021 wrote to the National Treasury requesting for authority to recruit additional staff among other issues. The office is awaiting the National Treasury response on the same. The office progressively intends to fill critical vacant posts in its establishment and gradually attain the optimal staffing levels.”

#### 5613) **Committee Observations and Findings**

- (i) The Committee observed the matter relates to paragraph 1682 for Financial Year 2018/19.
- (ii) The Committee observed that the staffing establishment for the Office was 235 yet it had been operating with only 85 employees;
- (iii) The Committee further observed that the Office wrote letter Ref. No. RPP/ADM/1 VOL. III/ (11) dated 15<sup>th</sup> January, 2020 to the National Treasury requesting for authority to fill some identified critical vacant posts; and
- (iv) The Committee also established that the National Treasury through letter Ref. No. RES 1311/19/01/A/ (22) dated 3<sup>rd</sup> February 2020 and the Head of Public Service letter Ref. No. OP/CAB.4/24A dated 2<sup>nd</sup> March 2020 had been issued approving the Office to fill the identified vacancies.

#### 5614) **Committee Recommendation**

- 1) The Cabinet Secretary for the National Treasury and Planning should ensure that adequate resources are availed to the ORPP in the next budget cycle to adequately fill vacant critical positions.**
- 2) The Accounting Officer should actively engage the National Treasury to provide resources to fill the vacant positions to enable the Office to carry its mandate.**

#### **1744. Audit Committee**

5615) The term for all Audit Committee members expired in October, 2019. However, there is no evidence of extension of terms of service or recruitment of new members. In the

absence of an effective Audit Committee, the office was prone to serious internal control weakness.

#### **Submission by the Accounting Officer**

5616) In order to comply with section 177 (1) of Public Financial Management Regulations (National Government), 2015 which stipulates that members of audit committees shall be appointed for a term of three years and shall be eligible for re-appointment for a further term of three years, the Office through letter Ref: RPP/CMT/013 VOL III (107) dated 4th February, 2020 sought authority from National Treasury to source for Audit Committee members from institutions whose mandate is relevant to that of the office. The National Treasury vide letter Ref: NT/IAG/GEN/055/ (162) dated 5th March, 2020 granted authority for the office to reconstitute the Audit Committee.

5617) The Audit Committee with representatives drawn from Independent Electoral and Boundaries Commission, Office of the Attorney General and Department of Justice, Ministry of Interior and Coordination of National Government, Public Service Commission of Kenya, National Cohesion and Integration Commission and the National Treasury has been constituted and has been discharging their duties as required.

#### **5618) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to Audit Committee was persuasive; and
- (ii) The Committee marked the matter as resolved.

### **PARAGRAPH 1745 TO 1747 ON POLITICAL PARTIES FUND WERE EXAMINED BY THE SPECIAL FUND ACCOUNTS COMMITTEE.**

### **OFFICE OF THE REGISTRAR OF POLITICAL PARTIES-STAFF MORTGAGE LOAN FUND**

#### **REPORT ON THE FINANCIAL STATEMENTS**

#### **5619) Unqualified Opinion**

**1748.** There were no material issues noted during the audit of the financial statements of the Fund.

#### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **5620) Conclusion**

**1749.** There were no material issues relating to lawfulness and effectiveness in use of public resources.



REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5621) **Conclusion**

**1750.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**OFFICE OF THE REGISTRAR OF POLITICAL PARTIES-CAR LOAN FUND**

REPORT ON THE FINANCIAL STATEMENTS

5622) **Unqualified Opinion**

**1751.** There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5623) **Conclusion**

**1752.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5624) **Conclusion**

**1753.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## 56. WITNESS PROTECTION AGENCY

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 1321

#### 5625) **Unqualified Opinion**

**1754.** There were no material issues noted during the audit of the financial statements of the Agency.

### REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

#### 5626) **Conclusion**

**1755.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

### REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

#### **Basis for Conclusion**

#### **1756. Under Staffing**

5627) The Agency's Human Resource Policy Manual, 2016 provides for two hundred and ninety-six (296) staff members. However, only one hundred and nine (109) staff were in post as at the time of audit, resulting into a shortfall of one hundred and eighty-seven (187) staff members across the various staff cadres. The under staffing may hinder effective delivery of services by the Agency.

## 57. KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

### REPORT ON THE FINANCIAL REPORT FOR VOTE 2011

**Dr. Bernard Mogesa, the Chief Executive and Accounting Officer for Kenya National Commission on Human Rights (Vote 2011) appeared before the Committee on 21<sup>st</sup> February 2022 to adduce evidence on the Audited Financial Statements for the Kenya National Commission on Human Rights (Vote 2011) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                          |   |                         |
|--------------------------|---|-------------------------|
| 1. Ms. Catherine Mwikali | - | Human Resource Manager. |
| 2. Mr. John O. Wamwanya  | - | Finance Manager.        |
| 3. Mr. Josphat Kabuki    | - | Assistant Director      |

And submitted as follows

#### **5628) Unqualified Opinion**

**1757.** There were no material issues noted during the audit of the financial statements of the Commission.

#### **Other Matter**

#### **1758. Pending Bills**

5629) As disclosed under Note 15.1 to the financial statements, the Commission had pending bills totaling Kshs.2,789,882 in respect of supply of goods as at 30 June, 2020 that were not settled during the year but were instead carried forward to 2020/2021. Failure to settle bills during the year to which they relate adversely affects the provisions of the subsequent year to which they have to be charged.

#### **Submission by the Accounting Officer**

5630) The Accounting Officer submitted that the Commission had pending bills totaling Kshs.2,789,882 as at 30 June, 2020. The pending bills were as a result of insufficient balances in the respective budget lines as indicated below. The insufficiency in these budget lines were occasioned by the budget cuts save for the Medical Insurance.

Code	Description	Budget Balance as at 30 <sup>th</sup> June 2020	Pending bills	Reason
2210202	Internet Connections	71,209	1,105,266	Could not be processed due to insufficient budget balances. We have running contracts with suppliers. This include MTN for Internet and Wide Area Network services for Nairobi, Kitale, Kisumu and

				Mombasa offices. It also includes Internet services for Wajir and Nyahururu offices under the Safaricom.
2210304	Sundry items (e.g., Airport, taxis etc.)	2	1,023,909.6	Could not be processed due to insufficient budget balances.
2220101	Maintenance Expenses motor vehicles	40,217	365,366	Could not be processed due to insufficient budget balances.
2211305	Contracted guards and cleaning services	4,107	94,749.75	Could not be processed due to insufficient budget balances.
2210910	Medical Insurance	18,364	200,591	Could not be processed due to insufficient budget balances. This pending bill was caused by additional family members of Staff.
<b>TOTAL</b>		<b>133,899</b>	<b>2,789,882.35</b>	

5631) All the pending bills of Kshs.2,789,882.35 were paid by the end of Financial Year 2020/2021.

**5632) Committee Observations and Findings**

- (i) The Committee observed that the pending bills have since been settled; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES**

**5633) Conclusion**

**1759.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**5634) Conclusion**

**1760.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**KENYA NATIONAL COMMISSION ON HUMAN RIGHTS MORTGAGE AND CAR  
LOAN SCHEME FUND**

**REPORT ON THE FINANCIAL STATEMENTS**

**5635) Unqualified Opinion**

**1761.** There were no material issues noted during the audit of the financial statements of the Fund.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**5636) Conclusion**

**1762.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT  
AND GOVERNANCE**

**5637) Conclusion**

**1763.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## 58. THE NATIONAL LAND COMMISSION

### REPORT ON THE FINANCIAL REPORT FOR VOTE 2021

Ms. Kabale Arero Tache, the Accounting Officer for the National Land Commission (Vote 2021) appeared before the Committee on 3<sup>rd</sup> November, 2021 to adduce evidence on the Audited Financial Statements for the National Land Commission (Vote 2021) for the Financial Year 2019/2020. She was accompanied by the following officers:

1. Mr. Bernard Cherutich - Director Finance.
2. Mr. Ochuodho Peter - Head IARMY.
3. Mr. Daniel Mwakio - Principal Finance Officer.

And submitted as follows:

#### Basis for Qualified Opinion

##### 1764. Discrepancies Between Financial Statements and IFMIS Figures.

5638) The Financial Statements reflected balances which were at variance with amounts in the integrated Financial Management Information System (IFMIS) as summarized below:

Item Description	Balance as per IFMIS statements (Kshs)	Balance in the Financial statements Kshs	Difference (Kshs)
Total receipts	1,625,134,446	16,559,509,546	(14,934,375,100)
Total payments	1,619,768,795	16,654,611,332	(15,034,842,537)
Financial assets	1,793,362,788	12,438,596,658	(10,645,233,870)
Fund balance b/f	12,037,488	11,434,110	603,378
Financial liabilities	1,775,959,649	12,522,264,334	(10,746,304,685)

5639) The management has not provided explanation for the variances. In the circumstances the accuracy of the financial statements for the year ended 30th June, 2020 could not be confirmed.

#### Submission by the Accounting Officer

5640) The Accounting Officer submitted that it was true there were discrepancies between the balances as per IFMIS statements and financial statements prepared. This occurred due to the fact that the Compensation funds are received from Acquiring entities which already is budgeted and voted in their respective Vote heads in IFMIS System. This therefore means the Commission cannot re - vote and include it in the IFMIS budget vote. The Commission

does reconciliations to ensure that all the transaction figures are reconciled and disclosed accordingly in the Financial Statements. Attached find the reconciled figures.

5641) During the financial year under review, the Commission received Kshs.14,758,624,635 from Self reporting acquiring Entities and in the same period, the Commission earned Kshs.175,750,465 from Compensation interest account. The Commission paid Kshs.15,034,842,537 to Project Affected Persons (PAPs) in the year under review.

5642) In the same year, the Commission Compensation bank account balance was Kshs.10,645,233,870 and the amount owed by the Commission to Project Affected Persons (PAPs) was Kshs.10,746,304,685.

**5643) Committee Observations**

- (i) The explanation provided by the Accounting Officer was found to be satisfactory.
- (ii) The matter was, therefore, marked as resolved.

**Other Matter**

**1765. Unresolved Prior Year Audit Matters**

5644) Various prior year audit issues remained unresolved as at 30 June 2020. Management has not provided reasons for the delay in solving the prior year audit issues. Further, some of the unresolved prior year issues are not disclosed under the progress on follow up of auditors' recommendations section of the financial statements as required by the Public Sector Accounting Standards Board on the issues.

**Submission by the Accounting Officer**

5645) The Accounting Officer submitted that it was true some of the prior year audit issues were not addressed during audit period. However, management has addressed the issues raised previously which included accounts payable-deposits schedule which indicated long outstanding balances totaling to Kshs.864,726,930. As above some of the balances have been settled leaving a balance of Kshs.169,726,933 which have disputes and court cases.

**5646) Committee Observations**

- (i) The explanation provided by the Accounting Officer was found to be satisfactory.
- (ii) The matter was, therefore, marked as resolved.

**1766. Pending Bills**

5647) Note 17 to the financial statements indicates that the Commission had pending bills totaling Kshs.30,235,320 as at 30 June 2020. Management has not explained why the bills were not settled during the year when they occurred. Failure to settle bills during the year



to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form first charge.

#### **Submission by the Accounting Officer**

5648) The Accounting Officer submitted that it was true the Commission pending bill was Kshs.30,235,320 as at 30<sup>th</sup> June 2020. However during financial year 2020/2021 the Commission was able to settle Kshs.11,888,919 as first charge in the budget. Kshs.18,346,401 could not be settled as a first charge in the budget because some of the bills have disputes which the Commission is trying to address. Until the issues revolving around the pending bills are fully addressed then the Commission will be able to settle them amicably.

#### **5649) Committee Observations**

- (i) The explanation provided by the Accounting Officer was found to be satisfactory.
- (ii) However, the matter remains unresolved.

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

#### **Basis for Conclusion**

##### **1767. Long Outstanding Imprests**

5650) The statement of assets and liabilities reflects accounts receivables balance of Kshs.6,291,100 which as disclosed in Note 11 to the financial statements includes Government imprests of Kshs.1,155,220 which had been outstanding for more than one year. This is contrary to Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender. The imprest within 7 working days after returning to duty station. Regulation 93(6) further provides that in the event of the imprest holder failing to account for or surrender the imprest on due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defrauding officer with an interest at the prevailing Central Bank Rate.

5651) Under circumstances, recoverability of the Government imprest balance of Ksh.1,155,220 as at 30<sup>th</sup> June, 2020 could not be confirmed.

#### **Submission by the Accounting Officer**

5652) The Accounting Officer submitted that the above statement was true as stated by the Office of the Auditor General. The Commission states as follows;

5653) The imprest has since been surrendered in full as per the attached schedule.

**5654) Committee Observations**

- (i) The explanation provided by the Accounting Officer was found to be satisfactory.
- (ii) The matter was, therefore, marked as resolved.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**Basis for Conclusion**

**1768. Understaffing in Internal Audit Unit**

5655) A review of the Commission's Internal Audit Unit revealed that during the year under review, the Unit had only three (3) staff members comprising of one (1) acting head of the unit and two (2) clerical officers against an approved establishment of twelve (12) officers resulting into a deficit of nine (9) staff. The significant understaffing of the Unit might have adversely affected effective performance of the Unit thus compromising on the effectiveness of internal controls, governance and risk management systems.

**Submission by the Accounting Officer**

5656) The Accounting Officer submitted that it was true that during the time of audit by the Office of the Auditor General the Commission Internal Audit Unit was understaffed. However the situation has greatly improved with the recent recruitment of new additional four (4) internal audit staff and one (1) Head of Audit 2 Senior Internal Audit Officers and 2 Internal Audit Officers making a total of five (5) employees in the Audit Unit. The Commission is awaiting approval from the National Treasury to be able to recruit the remaining staff as per the approved Commission establishment of 12 auditors.

5657) This will further improve the Commission's internal control systems, compliance with relevant legislative and regulatory requirements hence ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management.

**5658) Committee Observations**

- (i) The explanation provided by the Accounting Officer was found to be satisfactory.
- (ii) The matter was, therefore, marked as resolved.

**NATIONAL LAND COMMISSION - HOUSING SCHEME FUND**

**REPORT ON THE FINANCIAL STATEMENTS**

**Basis for Qualified Opinion**

## **1769. Long-Term Receivables from Exchange Transactions**

5659) As disclosed in Note 4 to the financial statements, the statement of financial position reflects a balance of Kshs.30,686,594 under non-current receivables as at 30 June, 2020. The balance is made up of long-term loan repayments due from mortgage loans of Kshs.26,151,594 and long-term loan repayments due from car loans of Kshs.4,535,000. However, Management has not explained why car loans totalling to Kshs.4,535,000 were issued from the Housing Scheme Fund, contrary to Paragraph 7(1) of the Public Finance Management (National Land Commission Housing Fund) Regulations, 2018 which states that a loan advanced to a borrower under these Regulations shall be utilized for the purchase of a residential house, the development of a residential house, or the purchase of land and development of a residential house by the borrower.

5660) Under the circumstances, the validity of long-term loan repayments due from car loans of Kshs.4,535,000 as at 30 June, 2020 could not be confirmed.

### **5661) Committee Observations**

- (i) The explanation provided by the Accounting Officer was found to be satisfactory.
- (ii) The matter was, therefore, marked as resolved.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **5662) Conclusion**

**1770.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **5663) Conclusion**

**1771.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## 59. INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2031

**Mr. Marjan Hussein Marjan, the Accounting Officer for the Independent Electoral and Boundaries Commission appeared before the Committee on 28<sup>th</sup> February, 2022 to adduce evidence on the Audited Financial Statements for the Independent Electoral and Boundaries Commission (2031) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                           |   |   |
|---------------------------|---|---|
| 1. Mr. Francis M. Wandera | - | Commissioner - IEBC                       |
| 2. Ms. Chrispine Owiye    | - | Director Communication & Public Affairs   |
| 3. Mr. Obadiah Keitany    | - | Deputy CEO                                |
| 4. Mr. Harley Mutisya     | - | Director Supply Chain Management          |
| 5. Mr. Hassan Abdalla     | - | Manager Administration                    |
| 6. Mr. Rasi Masudi        | - | Director Voter Registration and Education |
| 7. Mr. Cliflord Rono      | - | Director Finance and Accountants          |
| 8. Mr. Patrick Nyakira    | - | Financial Accountant.                     |

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **1778. Accounts Receivables**

5664) The statement of financial position as at 30 June, 2020 reflects amounts of Kshs.11,160,000 and Kshs.26,193,000 in respect of accounts receivables and car loan accounts receivables, respectively. As disclosed under Notes 11 and 12 to the financial statements, the amounts relate to imprests or salary advances and car loans, respectively held by staff and former Commissioners of the defunct Electoral Commission of Kenya. The funds, which have been outstanding for more than ten (10) years, were recovered from the final dues of the staff and former Commissioners by The National Treasury but were not remitted to the Commission.

5665) In the circumstances, recoverability of the accounts' receivables and car loans accounts receivables amounting to Kshs.11,160,000 and Kshs.26,193,000 respectively, could not be ascertained.

#### **Submission by the Accounting Officer**

5666) The Accounting Officer submitted that the Commission is engaging the National Treasury with a view of getting the money refunded or obtaining an approval to write it off from the Commission books of accounts.

#### 5667) **Committee Observation and Findings**

The Committee observed that the accounts receivables and car loan of Kshs.11,160,000 and Kshs.26,193,000 respectively were held by staff and former Commissioners of the defunct Electoral Commission of Kenya. However, the funds have been outstanding for more than ten (10) years.

#### 5668) **The Committee Recommended that:**

**Within sixty days upon adoption of this report, the Accounting Officer and the Attorney General should institute recovery measures including legal actions against the debt holders for the outstanding amounts with interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(6) of the Public Finance Management (National Government) Regulations, 2015 for current staff and such interest rates as the court may determine in case of legal action against non-staff.**

#### **1779. Property, Plant and Equipment**

5669) As disclosed in Note 13 to the financial statements, the statement of financial position reflects a balance of Kshs.2,318,020,000 in respect of property plant and equipment as at 30 June, 2020 which includes an amount of Kshs.113,514,000 for office buildings. However, as reported in the year 2018/2019, the value of forty-one (41) constituency office block buildings has not been included in the amount disclosed in the financial statements. Further, the Commission is yet to obtain ownership documents for several parcels of land allocated by the National and County Governments and whose values have also not been included in the financial statements. In addition, as reported in the previous years, although the Commission maintained an asset register, it was not comprehensive as required under Regulation 143(2) of the Public Finance Management (National Government) Regulations, 2015 and assets of undetermined value inherited from the defunct Electoral Commission of Kenya has been omitted.

5670) In the circumstances, it has not been possible to ascertain the accuracy and completeness of the balance of Kshs.2,318,020,000 for property, plant and equipment included in the statement of financial position as at 30 June, 2020.

#### **Submission by the Accounting Officer**

5671) The Accounting Officer submitted as follows:

##### **a) Valuation of land and buildings**

5672) Their value could not be ascertained due to lack of official hand over from the defunct Electoral Commission of Kenya.

##### **b) Register and ownership of Land and Buildings**

5673) The Commission has commenced the registration of these parcels of land and has obtained several allotment letters and in the process of obtaining more.

**c) Preparation of Assets and Liabilities Registers in the Public Sector**

5674) The Commission will work closely with the National Government to ensure that all the Commission's Assets and Liabilities are incorporated in the National Register.

**5675) The Committee deliberated on this issue in the report for 2018/2019, observed, found and recommended as follows;**

- (i) The Committee observed that the commission had commenced the registration and valuation process and obtained several allotment letters;
- (ii) The Committee observed that the commission is working closely with the National Government to ensure that all the Commission's Assets and Liabilities are incorporated in the National Register.

**5676) Committee Recommendations**

**Within three months of tabling and adoption of this report, the Accounting Officer should give a comprehensive report on the status of the registration process and provide the updated Asset Register to the Auditor-General for audit review.**

**1780. Inventories**

5677) The Commission held significant quantities of strategic and non-strategic election materials in various stores located in various warehouses at its County and Constituency offices. These include items of undetermined values inherited from the defunct Electoral Commission of Kenya. However, and as reported in the previous years, the values of these inventories have not been determined and disclosed in the financial statements under review.

5678) Consequently, the total assets balance of Kshs.2,467,704,000 reflected in the statement of financial position as at 30 June, 2020 is not fairly stated.

**Submission by the Accounting Officer**

5679) The Accounting Officer submitted that the Accuracy and completeness of inventory have been hampered by manual record keeping. The Commission has also embarked on an elaborate disposal process that will culminate in the determination of the value of the inventory in the Commission warehouses.

**5680) The committee deliberated on this issue in the report for 2018/2019, observed, found and recommended as follows;**

- (i) The Committee observed that the commission was in breach of Section 161 of the Public Procurement and Asset Disposal Act 2015 but had initiated the process of developing an inventory system;
- (ii) The Committee further observed that the Accounting Officer failed to prepare and keep proper accounting records in contravention of Section 68 (2) (b) of the PFM Act, 2012;
- (iii) The matter remains unresolved.

#### 5681) **Committee Recommendations**

**Within three months of tabling and adoption of this report, the Accounting Officer should complete the inventory management system and invite the Auditor General to review the updated inventory management system.**

#### **Other Matter**

#### **1781. Accounts Payables**

5682) The statement of financial position reflects a balance of Kshs.3,124,814,000 against accounts payables as at 30 June, 2020 (2019 - Kshs.4,334,280,000). Management has explained that the existence of the accounts payables was mainly due to failure by The National Treasury to release funds from the Exchequer for settlement of the same. Failure to settle the bills during the year adversely affects the provisions for the subsequent periods to which they have to be charged.

#### **Submission by the Accounting Officer**

5683) The Accounting Officer submitted that the pending bills were accrued due to lack of exchequer for payments, which had been planned for and processed up to the Internet Banking level. Other pending bills were attributed to election petitions which were not anticipated and hence beyond the control of the Commission. The Commission has however made several efforts to secure the budgetary provision and the exchequer to facilitate settlement of the said bills in addition to settling them as first charge.

#### **5684) The Committee observed and found that:**

- (i) The Committee observed that the Accounting Officer gave the underlying reasons for the not settling the pending bills and the contingency measures put in place to address the problem including petitioning the National Treasury for further funding.
- (ii) The Committee further observed that the huge pending bills might hinder the effectiveness of service delivery by the commission or attract unnecessary legal costs.

#### **5685) The Committee recommended that:**

- 1) The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**



- 2) **Within three (3) months after tabling and adoption of this report, the Cabinet secretary National Treasury should undertake to allocate enough funds to enable settlement of the account receivables to avoid unnecessary legal costs.**

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **Basis for Conclusion**

#### **1782. Outstanding Court Awards**

5686) The statement of financial position as at 30 June, 2020 reflects Kshs.21,903,000 in respect of receivables from non-exchange transactions. As disclosed in Note 10 to the financial statements, the balance includes an amount of Kshs.5,396,000 Appropriations-In-Aid (AIA) receivables relating to amounts due from court cases which were decided in the year 2013 and for which costs had been awarded to the Commission.

5687) Management has not demonstrated measures taken to collect the amounts awarded or collect the revenue due as required under Regulation 64(1) of the Public Finance Management (National Government) Regulations, 2015 which states that an Accounting Officer and a Receiver of Revenue are personally responsible for ensuring that adequate safeguards exist and are applied for the prompt collection and proper accounting for, all National Government revenue and other public moneys relating to their Ministries, Departments or Agencies.

#### **Submission by the Accounting Officer**

5688) The Accounting Officer submitted that the Commission has put in place mechanisms to recover costs awarded in its favor from the various petitioners.

5689) **The committee deliberated on this issue in the report for 2018/2019, observed, found and recommended as follows;**

(iii) The Committee observed that the Accounting Officer gave the underlying reasons for failure in collecting the revenue and the contingency measures put in place to recover the awarded costs.

(iv) The Committee further noted the delays in recovering the awarded costs which might hinder the effectiveness and efficiency of the service delivery by the commission or lead to loss of revenue.

5690) **The Committee recommended that:**

**Within Sixty days of tabling and adoption of this report, the Accounting Officer and the Attorney should initiate the recovery measures including legal action for the revenue due**

**and outstanding on the awarded costs and submit the report to the Auditor-General for audit review.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5691) **Conclusion**

**1783.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION STAFF MORTGAGE AND CAR LOAN SCHEME**

REPORT ON THE FINANCIAL STATEMENTS

5692) **Unqualified Opinion**

**1784.** There were no material issues noted during the audit of the financial statements of the Scheme.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5693) **Conclusion**

**1785.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5694) **Conclusion**

**1786.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## 60. PARLIAMENTARY SERVICE COMMISSION

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2041

**Mr. Jeremiah M. Nyengeny, the Chief Executive Officer and the Accounting Officer for Parliamentary Service (Vote 2041), appeared before the Committee on 4<sup>th</sup> October, 2021 to adduce evidence on the Audited Financial Statements for the National Assembly (Vote 2041) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                        |                                      |
|------------------------|--------------------------------------|
| 1. Mr. Peter Ngugi     | - Ag. Chief Accountant               |
| 2. Mr. Daniel Ngumbao  | - Deputy Director Finance            |
| 3. Mr. Anthony Ndubi   | - Ag. Principal Accountant           |
| 4. Mr. Anthony Njoroge | - Director Litigation and Conveyance |

And submitted as follows:

#### **Basis for Qualified Opinion**

##### **1787. Unsupported Domestic Travel and Subsistence**

5695) The statements of receipts and payments for the year ended 30 June, 2020 reflects total expenditure of Kshs.3,881,415,626 in respect of use of goods and services. As disclosed under Note 4 to the financial statements, the expenditure includes an amount of Kshs.1,395,384,441 relating to domestic travel and subsistence out of which Kshs.11,392,479 was paid to the Members in respect of mileage claims. However, no explanation was provided as to why three (3) Members were paid twice or thrice for the same date of travel.

5696) Further, examination of payments for claims by Members for mileage and domestic subsistence facilitation revealed instances where some Members were paid domestic subsistence facilitation and mileage claims amounting to Kshs.5,219,357 on days when they were outside the country and already receiving foreign subsistence allowances. The irregular payments had not been recovered by the time of the audit in December, 2020.

5697) In the circumstances, the propriety of the expenditure of Kshs.11,392,479 and Kshs.5,219,358 included under domestic travel and subsistence in the statement of receipts and payments for the year ended 30 June, 2020 could not be determined.

#### **Submission by the Accounting Officer**

- (i) **Overpayment of Mileage Claims**

5698) It is observed that the amount of Kshs.11,392,479 was paid to various Senators in respect of Motor Mileage allowances for dates already previously claimed by Senators as previously listed in your earlier correspondence.

5699) While noting that Senators' Mileage Allowances are paid to Senators as a reimbursement and only processed upon an individual Senator's application through a standard application form, please note that the PSC gave instructions to the Mileage Office to immediately effect and ensure full recovery of any overpaid amount from the concerned Senators.

5700) As a result of the above instructions, PSC has successfully undertaken recovery of any payment beyond the entitlement, and thus far the amount of Kshs.11,392,479 erroneously paid to the Senators has been recovered in total

5701) Further, we have also put in place measures (including systems upgrade) and instructed officers serving in the Mileage Office to ensure that there is no recurrence of overpayment of Senators in the future.

**(ii) Overpayment of Domestic Subsistence Allowances**

5702) Payment of Daily Subsistence Allowance is incompatible with payment of Mileage Allowances. It is noted that various Members of the Senate were paid the amount of Kshs. 5,219,357 in respect of Mileage Allowances against dates during which they were outside the country on other parliamentary duties as indicated in your earlier correspondence.

5703) The Parliamentary Service Commission employs two different systems to compute and process the two allowances namely; the Foreign Subsistence Allowance on the one the part, and the Mileage and Domestic Subsistence Allowances on the other. It is noted that the Domestic Subsistence Allowance was only introduced in the Parliamentary Service Commission within the 2019/2020 Financial Year and teething problems arose in the processing of the two distinct allowances.

5704) Additionally, it should be noted that the nature of parliamentary business and the responsibilities of Members of Parliament are such that they sometimes have to terminate foreign travel prematurely in order to return to the country to attend to emergent matters at the constituency or in Parliament or its Committees, whether on account of an impromptu special sitting or otherwise. In such event, Foreign Subsistence Allowance will be correctly paid for the period when a Member is demonstrated to have been out of the country and to be paid the Daily Subsistence Allowance for the period when the Member will be demonstrated to have returned to the country and engaged in official business in the country for which the Member is entitled to the Domestic Subsistence Allowance. In the circumstances, the Foreign Subsistence Allowance shall have been paid for the full number of travel days approved but the Member shall have returned to the country prior to expiry

of the full number of days approved and for which the Foreign Subsistence Allowance shall have been paid. This therefore necessitates a process of reconciliation of the exact number of days spent out of the country and those spent in the country over the period in question, and thereafter the excess Foreign Subsistence Allowance is surrendered and/or refunded.

5705) Subsequent to the observation in the Audit Query on this issue, PSC instructed the office concerned with the processing of the Mileage and Domestic Subsistence Allowances to make full reconciliation and recovery of any overpayments as highlighted in the Audit. The Commission further instructed that a mechanism be developed to ensure the interaction of the two systems so as to ensure smooth processing of claims.

5706) Subsequent to the above instructions, a full reconciliation was undertaken by the Mileage Office, and all the above members have now fully surrendered back to the PSC all the payments made to them for the dates they returned before exhausting the days for which they had received the Overseas Daily Subsistence Allowances (per diems).

**5707) Committee Observations and Findings**

- (i) The Committee observed that the amount of Kshs.11,392,479 was paid to various Senators in respect of Motor Mileage allowances for dates already previously claimed by Senators,
- (ii) The Committee further observed that various Members of the Senate were paid the amount of Kshs. 5,219,357 in respect of Mileage Allowances against dates during which they were outside the country on other parliamentary duties.
- (iii)The Committee in addition observed that full reconciliation and recovery of any overpayments of Motor Mileage allowances and Domestic Travel & Subsistence allowances have been carried out by the Accounting Officer.
- (iv)The matter is marked as resolved.

**5708) Committee Recommendations**

**The Accounting Officer should put in place measures (including systems upgrade) to ensure that there is no recurrence of over-payment of Senators in future pursuant to paragraph 23 (c) of Public Finance Management (National Government) Regulations, 2015.**

**1788. Non-Current Assets**

5709) The Committee observed that the issue on omission of acquired assets from the summary of fixed assets availed and lack of fixed asset register has been resolved. The Committee further observed that the issue on ownership documents relates to paragraph 1717 of the financial year 2018/2019.

**Other Matter**

## **1789. Pending Bills**

5710) Note 14.1 to the financial statements reflects pending bills amounting to Kshs.122,340,709 that were not settled in the year under review but were carried forward to the 2020/2021 financial year. The Commission has attributed non-payment of the pending bills to delayed Exchequer releases by The National Treasury. Failure to settle bills in the year to which they relate adversely affects the implementation of the subsequent year's budgeted programmes as the pending bills form a first charge to that year's budget provision.

### **Submission by the Accounting Officer**

5711) The Parliamentary Service Commission reported an amount of Kshs.122,340,709.00 as Pending Bills as at 30th June, 2020. While the entity had no shortage of Exchequer at the close of the Financial year, most of the bills could not have been conclusively processed before the close of the year because the Requester Module under the IFMIS was closed down by the National Treasury long before some of the suppliers had remitted invoices for the services they had rendered prior to the close of the Financial Year. Further, some of these invoices that had by then been submitted by the suppliers had not been conclusively verified in line with the requirement of the PFM Act 2012, and thus did not meet the threshold for they payment.

5712) The Parliamentary Service Commission has however made an extensive and deliberate effort to ensure that the pending bills are fully cleared, and has now cleared a total of Kshs.110,395,924.58 out of the initial total pending bills and presently only an amount of Kshs.11,944,784.42 remains pending. Out of these outstanding pending bills, invoices worth Kshs.5,690,780.30 remain unverified for various reasons, meaning they have not been able to meet the required threshold for payment.

### **5713) Committee Observations and Findings**

- (i) The Committee observed that the Parliamentary Service Commission (PSC) reported an amount of Kshs.122,340,709.00 as Pending Bills as at 30th June, 2020 which were carried forward to the 2020/2021 financial year and that PSC has cleared a total of Kshs.110,395,924.58 out of the initial total pending bills, leaving a balance of Kshs. 11,944,784.42 pending.
- (ii) The Committee further observed that the explanation given by the Accounting Officer with regard to Pending Bills was satisfactory; and
- (iii) The Committee marked the matter as resolved.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for Conclusion**

## **1790. Irregular Procurement of Office Supplies and Services, Accommodation and Transport Service at County Offices**

5714) The statement of receipts and payments for the year ended 30 June, 2020 reflects an expenditure of Kshs.3,881,415,626 in respect of use of goods and services. As disclosed under Note 4 to the financial statements, the amount includes Kshs.767,007,315 relating to other operating expenses out of which Kshs.8,710,614 was incurred on office supplies and services, accommodation and transport at the County offices. Although the respective amounts of expenditure in various cases were above the threshold for low value procurement method, the management of the County offices did not apply alternative procurement methods as required under Section 91 of the Public Procurement and Asset Disposal Act, 2015 but procured these goods and services directly through cash purchases.

### **5715) Committee Observations and Findings**

- (i) The Committee further observed that the explanation given by the Accounting Officer with regard to low value procurement at County offices was satisfactory; and
- (ii) The Committee marked the matter as resolved.

## **1791. Accounts Receivables' - Outstanding Imprests**

5716) The statement of assets and liabilities reflects an accounts receivables' balance of Kshs.17,476,419 as at 30 June, 2020. The balance includes imprests totalling Kshs.13,826,087 which were due for surrender on or before 30 June, 2020. No satisfactory explanation has been provided by the Management for failure to ensure that all imprests are surrendered or accounted for when they fall due. Further, no action has been taken by Management to recover the full amounts of outstanding imprests from the salaries of the defaulting Members and staff contrary to the provisions of Regulation 93(5) and (6) of the Public Finance Management (National Government) Regulations, 2015.

### **Submission by the Accounting Officer**

5717) The Accounting Officer submitted that it was true that the statement of assets and liabilities reflected an amount of Kshs.17,476,419 as Accounts Receivables 30th June 2020. However, it is not true that out of above figure an amount of Kshs.13,826,087 remained outstanding in respect of Imprests which were due for surrender on or before 30th June, 2020. Rather, the correct amount outstanding in respect of outstanding imprest as at 30th June 2020 was Kshs.17,452,585.71 was in regard to outstanding imprests as at the close of that financial year.

5718) Extensive actions have been taken to recover the said amount and presently an amount of Kshs.11,833,265.61 (over 50%) has already been recovered, remaining with an amount of Kshs.5,619,320.10 outstanding. The Commission has already commenced judicial action to recover the outstanding imprests from the defaulters, and towards this Court filing



has been done for a number of the cases. The Commission has also relentlessly endeavored to recover the balance from the defaulters or from their estates in case of the deceased.

5719) Further, in an effort to recover outstanding imprest owing to the Parliamentary Service Commission, the followings suits have been instituted in Court: -

1. CHIEF MAGISTRATE'S COURT AT NAIROBI  
CIVIL CASE NO. 3272 OF 2020  
PARLIAMENTARY SERVICE COMMISSION –VS – MS. BERNEDETTA OKUTU SHAMA (sued as the Legal Representative of the Estate of the Late HON. GURRACH BORU GALGALO  
SUM CLAIMED: KSHS. 114,768.10/-
2. CHIEF MAGISTRATE'S COURT AT NAIROBI  
CIVIL CASE NO. 3273 OF 2020  
PARLIAMENTARY SERVICE COMMISSION –VS KENNETH KIPKOECH NGENY  
SUM CLAIMED: KSHS. 29,940/-
3. CHIEF MAGISTRATE'S COURT AT NAIROBI  
CIVIL CASE NO. 3274 OF 2020  
PARLIAMENTARY SERVICE COMMISSION –VS ANDREW MUKOMA MWENDWA  
SUM CLAIMED: KSHS. 502,417.05/-
4. CHIEF MAGISTRATE'S COURT AT NAIROBI CIVIL CASE NO. E828 OF 2020  
PARLIAMENTARY SERVICE COMMISSION –VS EKARI CHIRE  
SUM CLAIMED: KSHS. 415,816.30.

5720) The cases are being prosecuted for purposes of obtaining judgment and enforcing recovery of the outstanding imprest.

**5721) Committee Observations and Findings**

- (i) The Committee observed that the outstanding amount in respect of imprest as at 30th June 2020 was Kshs.17,452,585.71 out of which Kshs.11,833,265.61 has already been recovered, and judicial action to recover Kshs.5,619,320.10 outstanding imprest from the defaulters, has been taken.
- (ii) The Committee further observed that the explanation given by the Accounting Officer with regard to Outstanding Imprests was satisfactory; and
- (iii) The Committee therefore marked the matter as resolved.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

5722) **Conclusion**

1792. There were no material issues relating to effectiveness of internal controls, risk management and governance.

**PARLIAMENTARY CAR LOAN SCHEME FUND**

REPORT ON THE FINANCIAL STATEMENTS

5723) **Unqualified Opinion**

1793. There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5724) **Conclusion**

1794. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5725) **Conclusion**

1795. There were no material issues relating to effectiveness of internal controls, risk management and governance.

**PARLIAMENTARY MORTGAGE LOAN SCHEME FUND**

**1796. Receivables - Non-Performing Loans**

5726) As disclosed in Note 6 to the financial statements, the statement of financial position reflects a balance of Kshs.7,242,680,817 under receivables which includes an amount of Kshs.7,239,589,103 advanced to members and staff, out of which loans amounting to Kshs.61,256,049 were not being serviced. Further, no adequate provision has been made in the financial statements to provide for uncertainty in the recovery of the loans.

5727) Under the circumstance, recoverability of loans amounting to Kshs.61,256,049 included in the receivables balance of Kshs.7,242,680,817 as at 30 June, 2020 is doubtful.

**Submission by the Accounting Officer**

5728) During the financial year ended 30th June 2020, the statement of financial position reflected an amount Ksh.7,242,680,817 advanced to both Members and staff under

receivables out of which an amount of Ksh.61,256,049.00 was not being serviced as per regulations.

5729) The Parliamentary Service Commission has instituted legal processes to recover the amounts outstanding as per the Parliamentary Mortgage Scheme Fund Regulations (Member and Staff).

5730) PSC has issued demand letters and commenced legal procedures to recover the amounts through public auction of the property secured as security safeguarding the Parliamentary Service Commission interests as attached.

**5731) Committee Observations and Findings**

- (i) The committee observed that the statement of Financial position reflects that an amount Ksh.7,242,680,817 were advanced to both Members and staff under Accounts Receivables out of which an amount of Ksh.61,256,049.00 was not being serviced as per regulations.
- (ii) Further, the Committee observed that the explanation given by the Accounting Officer with regard to Non-Performing Loans was satisfactory; and
- (iii) The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**5732) Conclusion**

**1797.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**5733) Conclusion**

**1798.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**PARLIAMENTARY CATERING FUND  
REPORT ON THE FINANCIAL STATEMENTS**

**Basis for Qualified Opinion**

**1799. Understatement of Expenditure**

5734) The statement of financial performance reflects a total expenditure of Kshs.69,465,669 incurred during the year under review. However, a review of the cashbook and payment details presented for audit revealed that the actual amount incurred was Kshs.70,284,635 resulting to an unexplained variance of Kshs.818,966.

5735) In the circumstances, the accuracy of the expenditure of Kshs.69,465,669 reflected in the financial statements as at 30 June, 2020 could not be confirmed.

#### **Submission by the Accounting officer**

5736) The financial statements reflect total expenditure of Ksh.69,465,669.00 as incurred during the year under review being an understatement of Ksh.818,966.00 There were initially expenses incurred during the period prior to Catering Fund coming into operation but paid during 2019/2020 period. The initial accounting process was cash basis while current Fund processes has been accounted on accrual basis of Accounting that recognized the expenditure when incurred as opposed to when actual payment was done. Thus this resulted in an omission of Ksh818, 966.00 from total expenditure for 2019/2020 financial statements.

5737) The prior catering services was run by a Member's Committee with no proper accounting records nor financial statements prepared. Parliamentary Service Commission resolved to have a Catering Fund established to offer the services, established regulations and prepare financial statements every financial period under the PFM Act and subjected to annual audit.

5738) PSC has now reconciled the records and ascertained the correctness of these expenditure which is now being rectified to include them in 2020/2021 Financial Year to reflect the correct financial position for the Fund. Going forward PSC shall ensure proper books and records are maintained by enhancing financial systems.

#### **5739) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Understatement of Expenditure was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### **Other Matter**

##### **1800. Pending Bills**

5740) Note 6 to the financial statements reflects pending bills of Kshs.8,436,381 which were not paid during the year under review but were instead carried forward to the 2020/2021 financial year. Failure to settle bills in the year to which they relate adversely affects the subsequent year's provisions, since the bills form the first charge to that year's budget provisions.

#### **Submission by the Accounting Officer**

5741) The amounts were pending bills for goods and services supplied and rendered to the Catering Fund during the year but remained unpaid by closure of financial year. This was occasioned by: -

- (i) Late submission and receiving of invoices by Suppliers and Service Providers towards closure of Financial Year.
- (ii) The 30 days' credit period within which invoices are to be settled once received by Catering Fund, thus most of the bills received during the end of financial year were due in the following financial period.

5742) However, the position has since changed with Kshs.8,221,201.00 of the total pending bills having been retired during 2020/2021 financial year and balance of Ksh.215,180. being an amount owed to Danny Kam Agencies which is in dispute. This will be cleared once the matter is resolved. The Fund Shall prioritize settling pending bills before or within the credit period to ensure prompt payment of service and goods providers, and prioritize settlement of pending bills as first charge during the subsequent financial year.

**5743) Committee Observations and Findings**

- (i) The Committee observed that pending bills of Kshs.8,436,381 were not settled during the year under review but were instead carried forward to the 2020/2021 financial year, out of which Kshs.8,221,201.00 of the total pending bills were retired during 2020/2021 financial year and balance of Ksh.215,180 being an amount owed to Danny Kam Agencies which is in dispute, remaining.
- (ii) The Committee further observed that the explanation given by the Accounting Officer with regard to pending bills was satisfactory; and
- (iii) The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**Basis for Conclusion**

**1801. Accounts Receivables**

5744) As disclosed in Note 5 to the financial statements, the statement of financial position reflects an amount of Kshs.1,247,767 in respect of monies owed to the Fund by Ex-Members, current Members of Parliament and Parliamentary staff. However, Regulation 11 of the Public Finance Management (Parliamentary Catering Fund) Regulations, 2019 requires the Administrator of the Fund to establish a catering payment system for the services offered at the catering facility which includes card or mobile payments and monthly deductions. The Regulations also requires Members to pay their bills promptly.

5745) However contrary to this Regulation, an amount of Kshs.1,247,767 was still outstanding as at 30 June, 2020. Consequently, the administration of the Fund was in breach of the law.

#### **Submission by the Accounting Officer**

5746) The financial statements of parliamentary Catering Fund for year ended 30th June 2020 reflects an amount of Ksh.1,247,767.00 in respect of monies owed to the Fund by Ex-Members, current Members of Parliament and parliamentary staff. The Catering Fund offers services payable through payment systems through cash, card, mobile and check off systems in monthly payroll.

5747) However, at the end of the financial year some of the accounts were outstanding out which an amount of Ksh.1,229,962.00 has been recovered/paid leaving a balance of Ksh.17,805.00. For the long outstanding amount owed by former Members, the fund has instituted recovery processes by issuing demand letters and contacting the respective Members in an effort for them to clear the amounts owing.

5748) Going forward the Catering Fund will strictly enforce payment by cash or through the monthly check off in payroll to avoid accounts falling long overdue and requiring Ex Members to now make a deposit of Ksh.20,000 to access credit facility and ensure at all times this limit is not exceeded.

#### **5749) Committee Observations and Findings**

- (i) The Committee observed that Accounts Receivables amounting to Kshs.1,247,767 was outstanding as at 30 June, 2020 in respect of monies owed to the Fund by Ex-Members, current Members of Parliament and parliamentary staff contrary to the Parliamentary Catering Fund Regulation.
- (ii) The Committee further observed that the explanation given by the Accounting Officer with regard to Accounts Receivables was satisfactory; and
- (iii) The Committee marked the matter as resolved.

### **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

#### **5750) Conclusion**

**1802.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## 61. NATIONAL ASSEMBLY

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2042

**Mr. Michael Sialai, the Accounting Officer and the Clerk Kenya National Assembly (Vote 2042), appeared before the Committee on 4<sup>th</sup> October, 2021 to adduce evidence on the Audited Financial Statements for the National Assembly (Vote 2042) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                         |                                      |
|-------------------------|--------------------------------------|
| 1. Ms. Serah Kioko      | - Deputy Clerk                       |
| 2. Mr. Irungu Kigundu   | - Director Finance                   |
| 3. Mr. Peter A. Meikoki | - DDPM                               |
| 4. Mr. Kennedy Malinda  | - Chief Procurement Officer          |
| 5. Mr. Anthony Njoroge  | - Director Litigation and Conveyance |

And submitted as follows:

#### 5751) **Unqualified Opinion**

**1803.** There were no material issues noted during the audit of the financial statements of the National Assembly.

#### 1804. **Pending Bills**

5752) Annex 5 to the financial statements indicates that the National Assembly had pending bills totaling Kshs.156,192,903 as at 30 June, 2020, which were not settled in 2019/2020 but were instead carried forward to the 2020/2021 financial year. The Management has explained that the bills were unpaid due to challenges related to the Integrated Financial Information System (IFMIS) connectivity towards the end of the financial year, delays in Exchequer releases and inadequate supporting documents- from the suppliers of goods and services. Failure to settle bills during the year to which they relate, adversely affects the provisions of the subsequent year to which they are charged.

#### **Submission by the Accounting Officer**

5753) The amounts were pending bills for goods and services supplied and rendered, allowances to various Members of Parliament and Staff during the year but remained unpaid by closure of the 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 procurement 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.

5754) However, the position has since changed with Kshs104, 206, 756.75 of the total pending bills having been retired during the 2020/2021 financial year with balance of Kshs51,059,029.70 yet to be settled due to lack of enough supporting documents or the amounts are disputed. An amount of Ksh.927,118.00 was verified and confirmed as not payable. All efforts are being made to retire any pending bill that meets the threshold of payment. We shall prioritize settling pending bills that meet the thresholds as first charge during the current Financial Year 2021/2022.

**5755) Committee Observations and Findings**

- (i) The Committee observed that the National Assembly had pending bills totaling Kshs.156,192,903 as at 30 June, 2020 out of which Kshs104, 206, 756.75 of the total pending bills were retired during the 2020/2021 financial year, leaving a balance of Kshs51,059,029.70
- (ii) The Committee further observed that the explanation given by the Accounting Officer with regard to Pending bills was satisfactory; and
- (iii) The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES  
Basis for Conclusion**

**1805. Irregular Procurement of Office Supplies and Services, Accommodation and Transport Service at Constituency Offices**

5756) The statement of receipts and payments for the year ended 30 June, 2020 reflects an expenditure of Kshs.7,564,548,299 in respect of use of goods and services. As disclosed in Note 4 to the financial statements, the amount includes Kshs.2,482,743,939 relating to other operating expenses out of which Kshs.45,335,769 was incurred on office supplies and services, accommodation and transport at the Constituency Offices. Although the expenditure in various cases were above the threshold for low value procurement method, the Management of the county constituency offices did not apply alternative procurement methods as required under Section 91 of the Public Procurement and Asset Disposal Act, 2015 but procured the above goods and services directly through cash purchases.

**Submission by the Accounting officer**

5757) During the financial year 2019/2020 National Assembly incurred Ksh.45,335,769.00 under Constituency offices as operating expenses being costs incurred on transport, accommodation and office expenses.

5758) The Constituency Office Managers were trained in the 4th quarter of 2017/2018 financial year on financial management of office funds in which Public Procurement Regulations formed part of the issues covered. National Assembly has further issued a memo reminding the Constituency Manager to fully adhere and comply with financial and procurement law and regulations at all times.

5759) However, to ensure compliance The Parliamentary Service Commission has advised the managers to use National Government- Constituency Development Fund (NG-CDF) prequalified suppliers in procuring for services and /goods and always seek guidance or clarifications from our office wherever they need support. There has been a high turnover of managers which has negative impact on compliance. To address this challenge, we are planning for continuous trainings during 2021/2022 financial further on public procurement, assets management as well as tax compliance among other office matters in order to enhance accountability of Government resources at the Constituency and County levels.

5760) Further we are reviewing the Constituency/County operations manual and regulations for use during this financial year and in preparation for next Parliamentary term. This will enhance capacity building for all staff at the Constituency/County level in management and accountability of public resources in these offices.

5761) The Department is developing a policy on per diem allowances to guide on the transport, accommodation and subsistence allowances for Constituency Officers who travel outside their duty stations.

**5762) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regards to low value procurement by Constituency Office Managers was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**5763) Conclusion**

**1806.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## 62. PARLIAMENTARY JOINT SERVICES

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2043

**Mr. Clement Nyandiere, the Director General and Accounting Officer for Parliamentary Joint Services (Vote 2043) appeared before the Committee on 19<sup>th</sup> October, 2021 to adduce evidence on the Audited Financial Statements for the Parliamentary Joint Service (Vote 2043) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                          |                             |
|--------------------------|-----------------------------|
| 1. Mr. Irungu Kigundu    | - Director Finance          |
| 2. Mr. Johnson N. Muyera | - Head Of Accounting Unit   |
| 3. Ms. Keith M. Kisinguh | - Chief Procurement Officer |

And submitted as follows

#### 5764) **Unqualified Opinion**

**1807.** There were no material issues noted during the audit of the financial statements of the Project.

#### **1808. Pending Bills**

5765) Annex 1 to the financial statements indicates that the Parliamentary Joint Services had pending bills amounting to Kshs.45,462,874 as at 30 June, 2020. The pending bills relate to construction of buildings and supply of goods and services which were not settled in 2019/2020 financial year but were instead carried forward to 2020/2021. Failure to settle bills during the year to which they relate adversely affects the provisions of the subsequent year to which they are charged.

#### **Submission by the Accounting Officer**

5766) The Accounting Officer submitted that it was true that the financial statements reflected pending bills amounting to Kshs.45,462,874.07 as at 30th June, 2020. These bills have since been settled in full as shown in the schedule in the annex and copies of the payment vouchers provided.

#### 5767) **Committee Observations and Findings**

- (v) The Committee observed that the explanation given by the Accounting Officer with regard to pending bills was satisfactory; and
- (vi) The Committee marked the matter as resolved.

#### 5768) **Committee Recommendation**

**The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **Basis for Conclusion**

#### **1809. Failure to Maintain Assets Register**

5769) The statement of receipts and payments for the year ended 30 June, 2020 reflects an expenditure of Kshs.1,643,577,284 in respect of acquisition of assets. As disclosed under Note 6 and Annex 3 to the financial statements, the amount represents the total historical cost of assets purchased and held by the Parliamentary Joint Services as at 30 June, 2020. However, the Management did not maintain an assets register contrary to Regulation 143 of the Public Finance Management (National Government) Regulations, 2015 which requires an Accounting Officer to maintain a register of assets under his or her control or possession as prescribed by the relevant laws.

5770) The Management explained that assets are jointly owned by three votes of Parliament - the Senate, the National Assembly and the Parliamentary Joint Services and that, the Parliamentary Service Commission is in the process of developing a policy to address the ownership.

#### **Submission by the Accounting Officer**

5771) The Accounting Officer submitted that it was true that a summary of fixed assets as disclosed under Annex 3 reflects Kshs.1,643,577,284 being the total historical costs in respect of assets held by the Parliamentary Joint Services as at 30 June 2020. The book value of the fixed assets was taken to be the historical cost incurred to procure the fixed assets. The ownership of some assets like buildings and furniture cannot be confirmed with certainty because the assets are jointly owned by the three Votes of Parliament which are the Parliamentary Service Commission in which the Senate housed, the National Assembly and the Parliamentary Joint Services. The process of identifying which assets belongs to which Accounting Entity has been initiated and is ongoing with a view to coming up with an Assets Register that truly reflects the correct ownership of the Commission's assets.

5772) The Parliamentary Service Commission is in the process of coming up with an asset policy which is at an advanced stage, awaiting the Commission's approval. This will address the issue of the asset register among other issues and therefore will be adopted by the Parliamentary Joint Services once approved.

#### **5773) Committee Observations and Findings**

- (i) The Committee observed that the formulation of the asset policy is at an advanced stage; and
- (ii) The matter remained unresolved.

**5774) Committee Recommendation**

**Within three (3) months upon tabling and adoption of this report, the Accounting Officer should conclude the development of asset policy, prepare an asset register and submit the same to the National Assembly and the Auditor General for audit verification.**

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**5775) Conclusion**

**1810.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## 63. JUDICIAL SERVICE COMMISSION

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2051

**Ms. Anne Amadi, the Accounting Officer for the Judiciary (Vote 2051) appeared before the committee on 15<sup>th</sup> February, 2022 to adduce evidence on the Audited Financial Statements for the Judiciary (Vote 2051) for the Financial Year 2019/2020. She was accompanied by the following officers:**

- |                       |   |  |
|-----------------------|---|--|
| 1. Mr. Wycliff Wanga  | - | Director Accounting Services                   |
| 2. Mr. Maxwell Suero  | - | Deputy Director Budget Services                |
| 3. Mr. Ronald Wanyama | - | Director Audit                                 |
| 4. Mr. Ken Olutu      | - | Office of the Chief Registrar of the Judiciary |

And submitted as follows

#### 5776) **Unqualified Opinion**

**1811.** There were no material issues noted during the audit of the financial statements of the Commission.

#### **Other Matter**

#### **1812. Pending Bills**

5777) Note 13.1 to the financial statements reflects pending bills amounting to Kshs.1,860,525 that were not settled in the year under review but were carried forward to 2020/2021 financial year. Failure to settle bills in the year to which they relate adversely affects the implementation of the subsequent year's budgeted programmes as the pending bills form a first charge to that year's budget provision.

#### **Submission by the Accounting Officer**

5778) Pending Bills due arose early closure of IFMIS however the bills were settled in full and the vouchers availed to the auditors for review.

#### 5779) **The Committee observations and Findings**

The Committee observed and found that the pending bills formed the first charge of the financial year 2019/2020 and were therefore cleared.

#### 5780) **Committee Recommendations**

**The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### 5781) **Conclusion**

**1813.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### 5782) **Conclusion**

**1814.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

FINAL REPORT 2019/2020



## 64. COMMISSION ON REVENUE ALLOCATION

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2061

**Dr. Moses Sichei, the Chief Executive Officer and the Secretary to Commission on Revenue Allocation (Vote 2061), appeared before the Committee on 3<sup>rd</sup> January 2021 to adduce evidence on the Audited Financial Statements for the Commission on Revenue Allocation (Vote 2061) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                       |                               |
|-----------------------|-------------------------------|
| 1. Dr. Jane Kiringai  | - Chairperson, CRA            |
| 2. Mr. Peter Gachuba  | - Commissioner, CRA           |
| 3. Ms. Angela Kariuki | - Director Corporate Services |
| 4. Ms. Maureen Junge  | - Finance Manager             |

And made submissions as follows:

#### 5783) **Unqualified Opinion**

**1815.** There were no material issues noted during the audit of the financial statements of the Commission.

#### **Other Matter**

##### **1816. Pending Bills**

5784) Annex II to the financial statements shows that the Commission on Revenue Allocation had pending bills totalling to Kshs.7,470,306 which were not settled as at 30<sup>th</sup> June, 2020. The pending bills relates to supply of goods and services which were not settled in 2019/2020 financial year but were instead carried forward to 2020/2021 financial year. Failure to settle bills during the year to which they relate adversely affects the provisions of the subsequent year to which they are charged.

#### **Submission by the Accounting Officer**

5785) The Commission's pending bills stated above were mainly incurred due to challenges of budgetary constraints faced by the Commission in FY 2019/2020. Most of those outstanding bills arose from the Commission's contractual obligations with various service providers. Further, a total of Kshs.2,616,618 included in the said pending bills was in relation to accrued staff gratuity of two members of staff who had been engaged on contractual terms hence a balance of Kshs.4,853,688 being payable to service providers.

5786) The Commission cleared the pending bills as a first charge in FY 2020/21 budget. A scheduled was availed providing details on payments and reconciliations made by the Commission in relation to the pending bills of Kshs.4,853,688 apart Kshs.500,000 legal fees which relates to a case that had not been closed at the time.

**5787) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to the pending bills was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**5788) Committee Recommendation**

**The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**5789) Conclusion**

**1817.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**5790) Conclusion**

**1818.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

**COMMISSION ON REVENUE ALLOCATION STAFF MORTGAGE SCHEME FUND**

**REPORT ON THE FINANCIAL STATEMENTS**

**5791) Unqualified Opinion**

**1819.** There were no material issues noted during the audit of the financial statements of the Fund.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**Basis for Conclusion**

**1820. Unpaid Fringe Benefit Tax**

**5792)** During the year under review, the fund management gave out loans to employees at an interest rate below the market rate, which attracted the Fringe Benefit Tax payable by the Commission. However, as at the end of the year, the Fringe Benefit Tax payable to the Kenya Revenue Authority was Kshs.831,826. Failure to comply with the stipulated remittance timelines attracts fines and penalties. The fund management is therefore in breach of section 12B of the Income Tax Act which stipulates that a fringe benefit tax is

payable commencing on the 12<sup>th</sup> June, 1998 by every employer in respect of a loan provided to an individual who is a director or an employee at an interest rate lower than the market interest rate.

**Submission by the Accounting Officer**

5793) The CRA's Staff Mortgage Scheme was established with an initial capital outlay of Kshs.80,805,126/- as seed capital for scheme. It was expected and has been the Commission's responsibility to grow the fund to a level that would meet all the scheme's demands in terms of mortgage loan requirements and any other expenses.

5794) Over the years, we spent a lot of time trying to set up an appropriate system for the mortgage scheme evidenced by our financial reporting of the Scheme's transactions since implementation. However, in the process of setting up we forgot to provide for the Fringe Benefit Tax.

5795) Following the audit conducted in the financial year 2019/20, the Commission recognized and provided for the outstanding Fringe Benefit Tax in its books of accounts for the said year. In the subsequent year, FY 2020/21, the outstanding Fringe Benefit Tax was full settled as indicated in the attached on prior year's adjustment of the financial statements for FY 2020/21.

**5796) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to the pending bills was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**5797) Conclusion**

**1821.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## 65. PUBLIC SERVICE COMMISSION

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2071

**Mr. Simon K. Rotich, the Accounting Officer for the Public Service Commission (Vote 2071), appeared before the committee on 10<sup>th</sup> August 2021 to adduce evidence on the Audited Financial Statements for the Public Service Commission (Vote 2071) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                            |   |                             |
|----------------------------|---|-----------------------------|
| 1. Mr. Remmy N. Mulati     | – | Deputy Commission secretary |
| 2. Mr. Simiyu Njalale      | – | Assistant Director          |
| 3. Mr. Patrick K. Malakweu | – | Deputy Director, SCOM       |
| 4. Mr. Julius O. Muturi    | – | Head of Accounting Unit     |
| 5. Mr. Rebecca J. Kiplagat | – | PSC Commission              |

And submitted as follows:

#### 5798) **Unqualified Opinion**

**1822.** There were no material issues noted during the audit of the financial statements of the Commission.

#### **Other Matter**

##### **1823. Pending Bills**

5799) As disclosed in Note 18 to the financial statements, the Commission had pending bills of Kshs.9,360,827 as at 30 June, 2020. Management has not provided an explanation for failure to settle bills during the year to which they relate to distorts the financial statements and adversely affects the budgetary provision for the subsequent year as they form a first charge

#### **Submission by the Accounting Officer**

5800) The Accounting Officer submitted that it was true that the Commission had pending bills of Kshs.9,360,827 at the close of financial year 2019/2020. Pending bills arose due to system failure to process transactions from IFMIS to Internet Banking because of system congestions at the close of financial year 2019/2020. The unpaid transactions were discovered during system reconciliation in July 2020 after the closure of the financial year. During this time systems were closed and no more transactions could be processed. The same had to be reversed in the system. The Public Service Commission disclosed in the financial Statements for financial year 2019/2020 full settlement of pending bills.

5801) However, the Commission settled the pending Bills as first charge in Financial Year 2020/21.

#### 5802) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Pending Bills was satisfactory; and
- (ii) The Committee marked the matter as resolved.

#### 5803) **Committee Recommendations**

**The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

#### **1824. Unresolved Prior Year Matter – Irregular Extension of Group Personal Accident Insurance Cover**

5804) The Committee observed that the issue was discussed during the examination of the State Department account for financial year 2018/19.

#### 5805) **Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Insurance Cost was satisfactory; and
- (ii) The Committee therefore marked the matter as resolved.

#### 5806) **Committee Recommendations**

**The Accounting Officer must at all times ensure that he/she prepares and initiates all pending payments to service providers and any other payments to feed into the IFMIS system and have the payments processed and executed in the system on time.**

#### **1825. Irregular Payments of Special Duty Allowances**

5807) The statement of receipts and payments reflects an expenditure of Kshs.1,578,187,488 under compensation of employees which includes an amount of Kshs.1,091,587 special duty allowances. The allowance was paid to thirteen (13) members of staff who had performed duties of higher posts for a duration exceeding six (6) months contrary to Section C15 (4) of the Human Resource Policies and Procedures Manual for the Public Service of May, 2016 which provides that special duty allowance will not be payable to an Officer for more than six (6) months.

5808) Under the circumstances, the Commission was in breach of the Human Resource Policies and Procedures for the Public Service.

#### **Submission by the Accounting Officer**

5809) The Authorized officer on the recommendation of the Commission Human Resource Management Advisory Committee vide their meeting held on 14th April, 2020 under Min 7/2020, approved payments of special duty allowance to twenty (20) officers who were performing duties of the higher posts for a period of six months.

5810) Further, the head of Human Resource Unit vide a Memo to the Secretary / CEO Ref. No. PSC/ADM /218/63/ (180) dated 10th May, 2020 requested for belated approval of payment of Special Duty Allowance for the twenty seven (27) officers who had been performing duties of the higher posts, among them the 13 officers whose period was extended upon the approval of the authorized officer vide memo Ref PSC/ADM/218/63/(160) dated 3rd February 2020 for a further period of six months .

5811) The Memo Ref. No. PSC/ADM /218/63/ (180) dated 10th May, 2020 which was approved by the CEO was later ratified in the Commission Human Resource Management Advisory Committee (CHRMAC) meeting held on 4th September, 2020 under Min 10/2020. Both approvals were implemented during 2019/2020 F/Y in the payroll of May, 2020 where the accrued arrears were paid.

5812) Commission Human Resource Management Advisory Committee members were unable to hold regular physical meetings to deliberate on staff matters among them recommendations for payment of Special Duty Allowance for officers performing duties of higher posts due to COVID 19 pandemic leading to piling up cases which were later paid in arrears.

5813) It is worthy to note that the Commission has since promoted officers through the ongoing succession management in Ministries, Departments and Agencies (MDAs) therefore; we no longer have officers performing duties of higher post.

**5814) Committee Observations and Findings**

- (i) The Committee observed that the approvals by the Chief Executive Officer and the Advisory Committee were not superior to Commission's Human Resource Manual and therefore, the Commission was in breach of its Human Resource Policies and Procedures manual for the Public Service, and
- (ii) The matter remained unresolved.

**5815) Committee Recommendations**

**The Committee reprimands the Commission's Accounting Officer for violation of Section C15 (4) of the Human Resource Policies and Procedures Manual for the Public Service of May, 2016 which provides that special duty allowance will not be payable to an Officer for more than six (6) months.**

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**5816) Conclusion**

**1826.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## 66. SALARIES AND REMUNERATION COMMISSION

### FINANCIAL STATEMENTS FOR VOTE 2081

**Ms. Gitau Anne, the Accounting Officer for Vote 2081 Salaries and Remuneration Commission appeared before the Committee on 23<sup>rd</sup> August 2021 to adduce evidence on the audited Financial Statements of Vote 2081 Salaries and Remuneration Commission for the Financial Year 2015/2016. She was accompanied by the following Officers:**

- |                        |   |                             |
|------------------------|---|-----------------------------|
| 1. Dr. Lyn Mengich     | – | Chairperson - SRC           |
| 2. Ms. Sophie Moturi   | – | Commissaioner               |
| 3. Ms. Margaret Njoko  | - | Director Corporate Services |
| 4. Ms. Mary C. Kanuche | - | Head of Finance             |

#### 5817) **Unqualified Opinion**

**1827.** There were no material issues noted during the audit of the financial statements of the Commission.

### REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

#### 5818) **Conclusion**

**1828.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

### REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

#### **Basis for Conclusion**

#### **1829. Lack of Offsite Back Up and Disaster Recovery Centre**

5819) The Commission is the custodian of all remuneration information for Public and State Officers in the country. However, it does not maintain an offsite back up for this critical information.

5820) Although management has commenced engagements with the Kenya Revenue Authority (KRA) with the objective of securing an offsite backup and data recovery site, no formal agreement has been signed as at 30th June 2020. Consequently, the Commission is at risk of information loss in the event of a disaster at its premises.

#### **Submission by the Accounting Officer**

5821) The Commission has not acquired and commissioned an off-site back-up and disaster recovery site. The Commission acknowledges the criticality of the co-location services and has put in place preliminary key steps of ensuring an ICT Disaster Recovery Plan (CDRP) and Business Continuity Plan (CBCP) are in place.



5822) The Commission has in the past been mobilizing resources through the Medium Term Expenditure Framework (MTEF) process to secure the Data Recovery Site but has not been successful. Efforts to partner with Government Agencies in this process are at preliminary stages and consultations are already on-going with ICT Authority in a bid to leverage on the existing shared services.

5823) Additionally, the Commission has prioritized resources of the disaster recovery site in the funding requirements for the Financial Year 2022/23. Upon confirmation of the funding, it is envisaged that an off-site back-up and disaster recovery facility will be operational by the FY 2023/24.

5824) **Committee Observation and Findings**

- (i) The Committee observed that the process of establishing off-site back-up and disaster recovery site is ongoing; and
- (ii) The matter remained unresolved.

5825) **Committee Recommendations**

**The Accounting officer should fast track the partnership with the ICT Authority in establishing off-site back-up and disaster recovery site in order to avert possible data loss.**

## 67. TEACHERS SERVICE COMMISSION

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2091

**Dr. Nancy Macharia, the Accounting Officer for the Teachers Service Commission (Vote 2091) appeared before the committee on 14<sup>th</sup> July 2021 to adduce evidence on the Audited Financial Statements for the Teachers Service Commission (Vote 2091) for the Financial Year 2018/2019. She was accompanied by the following officers:**

- |                               |                                    |
|-------------------------------|------------------------------------|
| 1. Mr. Cheptumo Ayabei        | - Director Finance and Accounts    |
| 2. Mr. Mr. Ibrahim Gedi Mumin | - Director Administrative Services |
| 3. Mr. Allan Sitima           | - Legal Officer                    |
| 4. Mr. Lawrence Oimo Oganga   | - Head of Procurement              |

#### **Basis for Qualified Opinion**

##### **1830. Stores and Cash Losses**

5826) The statement of assets and liabilities reflects accounts receivables balance of Kshs.847,227,279 which includes stores and cash losses amounting to Kshs.10,487,516 and Kshs.2,928,398 respectively, which as previously reported occurred between the years 1988 and 2000. The matter was investigated and the Director of Public Prosecutions directed the suspect to be charged with the offence of stealing by person employed in the Public Service contrary to Section 280 of the penal code. A review of the matter during the year under review indicates that the Court's ruling on 12 March, 2019 determined that the accused had a case to answer. The next defense hearing date set for 12 June, 2019 was adjourned to 23 December, 2019 and later to January, 2020. The management has however indicated that on 6 March 2020 the judgment was delivered where the court exonerated the accused from all charges. It has therefore not been possible to confirm the recoverability of Kshs.10,487,516 and Kshs.2,928,398 being the value of stores and cash losses respectively. Consequently, the accuracy of the accounts receivable balance of Kshs.847,227,278 reflected in the statement of assets and liabilities as at 30 June, 2020 could not be confirmed.

##### **Submission by the Accounting Officer**

5827) The Accounting Officer submitted as follows:

##### **Loss of Stores Ksh. 10,487,516 (30 Cisco switches)**

5828) These were losses occasioned by theft of stores which the Commission followed up and the suspect was charged at the Kibera Law Courts vide O.B. NO.46/3/6/2013 with the offense of stealing by person employed in public service contrary to section 280 of the penal code. Though the Commission did not have control over the progress of the case, our

legal officer followed up the matter and has been able to ascertain from the court records that;

- a) On diverse dates all prosecution's witnesses and the defense rendered their respective submissions before Court, and;
- b) On 6/3/2020, the judgment was delivered where the Court exonerated the accused from all the charges. The accused was therefore acquitted and the copy of judgment is hereby attached.
- c) The Commission sought authority for write off of the loss from the National Treasury vide letter Ref: TSC/FIN/60/VOL.V/68 dated 18<sup>th</sup> February, 2021.
- d) The National Treasury vide letter Ref:AG/3/14/Vol.1 (66) dated 19<sup>th</sup> March, 2021 granted the Commission authority to write off the loss.
- e) The write off will be reflected in the financial statements for the year ended 30 June, 2021.

### **Cash Losses Ksh.2,928,398**

5829) These 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, during the Commissioners meeting held on 24/9/2015 decided it was uneconomical to continue with the cases, recommended a write-off and sought for the National Treasury's approval before recognizing the write-off in our books.

5830) After several correspondences between the Commission and the National Treasury in respect of the request for approval of a write-off, the National Treasury vide letter Ref: AG/3/149/Vol.1/ (54) dated 13<sup>th</sup> February, 2019 gave guidelines the Commission needed to follow in order to conclude the matter. The Commission followed the guidelines, re-submitted the request vide letter Ref: TSC/FIN/60/VOL.V/20 dated 5<sup>th</sup> March, 2019 and as also guided, sought the Attorney General's legal opinion on the matter.

5831) The Attorney General vide letter Ref: AG/CONF/9/29 Vol II (43) dated 10<sup>th</sup> May, 2019 advised on a waiver if all reasonable steps have been taken to recover the loss and if it would be uneconomical to continue to pursue the recovery. This is similar to what the Commissioner's had recommended during their above cited meeting.

5832) The Commission vide letter Ref:TSC/FIN/60/VOL.V/68 dated 18<sup>th</sup> February, 2021 resubmitted a request to the National Treasury for authority to write off the loss since the Commission during a meeting held on 24/09/2015 had determined that reasonable steps had been taken to recover the loss and it would be un economical to continue with the cases.

5833) The National Treasury vide letter Ref: AG/3/14/Vol.1 (66) dated 19<sup>th</sup> March, 2021 advised the Commission to pursue further efforts as had been advised by the Attorney General. The Commission has initiated the process of follow up on the Cash losses of Kshs. 2,928,398

5834) The Commission has since 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.

**5835) Committee Observations and Findings**

**The Committee observed that the matter was discussed in the report of 2017/2018 and 2018/2019 and was marked as resolved.**

**1831. Property, Plant and Equipment Schedule**

5836) As reported in the previous years, the property, plant and equipment schedule balance of Kshs.4,556,808,968 under Part XVI, other important disclosures as at 30 June, 2020, includes a balance of Kshs.88,096 being the residual value of one (1) motor vehicle procured in 2004 at a total cost of Kshs.2,085,869. A review of the matter in January, 2018 revealed that the vehicle had earlier been taken and auctioned by the auctioneers after obtaining a duplicate log book No. 20063490279 from Kenya Revenue Authority.

5837) Although the Commission repossessed the vehicle, the case has been pending before court. A review of the matter in 2018/19 indicated that, the Commission (Defendant) prepared an application to dismiss the suit for want of prosecution which was heard on 22 November, 2018. According to management, the plaintiff objected on the ground that the failure for the matter to proceed was due to the file missing from the registry. The case was not dismissed but set for hearing on 3 October, 2019. The case was later adjourned to 20 February, 2020. On 15 September, 2020 the court ruled that the motor vehicle be released to the plaintiff but the Commission appealed the ruling on 20 November, 2020. No further updates on the case had been presented for audit review as at the date of the report.

5838) In the circumstances, it has not been possible to confirm that the Property Plant and Equipment schedule balance of Kshs.4,556,808,968 as at 30 June, 2020 is fairly stated.

**Submission by the Accounting Officer**

5839) The Accounting Officer submitted as follows:

**Motor vehicle Net Book Value of Ksh.88,096**

5840) The Motor Vehicle Registration No. KAR 246L - Nissan Urvan whose residual value is Ksh.88,096.00 was repossessed from auctioneers. The original log book was submitted to KRA on 30/6/2011 to verify the rightful owner upon their request vide letter ref: KRA/RTD/TRANS-DUP/10027/0-11 dated 13/6/2011.

5841) The case has been ongoing and after court hearings on diverse dates judgment was finally delivered on 15<sup>th</sup> September, 2020, where the court ruled that the motor vehicle registration No. KAR 246L be released to the plaintiff. A copy of the judgment is hereby attached. The Commission has appealed the ruling vide the Memorandum of Appeal dated 20<sup>th</sup> November, 2020.

**5842) Committee Observations and Findings**

**The Committee observed that the matter was discussed during the Examination of the Accounts of the Commission for Financial Year 2017/18 and 2018/2019 and the issue was marked as resolved.**

**Other Matter**

**1832. Budgetary Control and Performance**

5843) The Commission had an approved development receipts budget and actual on comparable basis of Kshs.400,000,000 and Kshs.347,526,000 respectively resulting to an under-funding of Kshs.52,474,000 or 13% of the budget. Similarly, the Commission expended an amount of Kshs.271,066,000 or 68% of the development budget of Kshs.400,000,000 resulting to under-utilization of Kshs.128,934,000 or 32% of the budget. The under-expenditure mainly occurred under SEQUIP expenditure where the Commission expended Kshs.271,066,000 against an approved budget of Kshs.400,000,000 resulting to an under-expenditure of Kshs.128,934,000.

5844) Management has attributed the utilization to the reduced activities due to the effects of the COVID 19 pandemic.

**Submission by the Accounting Officer**

5845) There were no submissions from the accounting officer.

**5846) Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

**5847) Committee Recommendations**

- 5) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 6) Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **Basis for Conclusion**

#### **1833. Non-Compliance with One Third Basic Pay Rule**

5848) A review of the payrolls for the months of March and June, 2020 reflects that two hundred and fifteen (215) teachers and twelve (12) secretariat staff received net salaries lower than a third of their basic salary. This is Contrary to Human Resource Policies and Procedures Manual for the Public Service dated May, 2016 Section C.1 (3) which states that Public officers shall not over-commit their salaries beyond two thirds (2/3) of their basic salaries and Heads of Human Resource Units should ensure compliance.

#### **Submission by the Accounting Officer**

5849) There were no submissions from the accounting officer.

#### **5850) Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

#### **5851) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### **5852) Conclusion**

**1834.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## **DONOR FUNDED PROJECT**

## SECONDARY EDUCATION QUALITY IMPROVEMENT PROJECT (IDA CREDIT NO.6138-KE)

### REPORT ON THE FINANCIAL STATEMENTS

#### 5853) **Unqualified Opinion**

**1835.** There were no material issues noted during the audit of the financial statements of the Project.

#### **Other Matter**

#### **1836. Budgetary Control and Performance**

5854) The statement of comparative budget and actual amounts reflects that the Project received an amount of Kshs.347,526,267 or 87% of the approved budget of Kshs.400,000,000. Similarly, the Project utilized Kshs.271,065,923 on use of goods and services resulting into under expenditure of Kshs.128,934,077 or 32% of the budget. Management has attributed the low absorption to lack of funding at the beginning of the financial year and the budget being availed in December, 2019 through a supplementary budget.

5855) In the circumstances, the under absorption of the approved budget is an indication of the activities not implemented by the Management leading to non-provision of services to the stakeholders.

#### **Submission by the Accounting Officer**

5856) There were no submissions from the accounting officer.

#### **5857) Committee Observations and Findings**

The Committee observed that the Accounting officer did not respond to this paragraph.

#### **5858) Committee Recommendations**

- 1) The Accounting Officer must at all times ensure that he/she avails the responses for the Auditor General's Report and the corresponding supporting documentation at least seven working days prior to his/her appearance before the Committee and in line with Sections 31(6) and 32 of the Public Audit Act, 2015.**
- 2) Within three months of tabling and adoption of this report, the Accounting Officer should respond and avail supporting documentation to the Auditor-General for audit review pursuant to section 68 (2) (k) of the PFM Act 2012. The auditor General should then review the responses and report on the status to the National Assembly.**

### REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES



5859) **Conclusion**

**1837.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5860) **Conclusion**

**1838.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

FINAL REPORT 2019/2020

## 68. NATIONAL POLICE SERVICE COMMISSION

### REPORT ON THE FINANCIAL STATEMENTS FOR VOTE 2101

**Mr. Joseph V. Onyango, the Principal Secretary and Accounting Officer for National Police Service Commission (Vote 2101), appeared before the Committee on 27<sup>th</sup> September, 2021 to adduce evidence on the audited financial statement for the National Police Service Commission (Vote 2101) for the Financial Year 2019/2020. He was accompanied by the following officers:**

- |                       |  |
|-----------------------|--|
| 1. Mr. J. M. Wambugu  | - Deputy Chief Executive Officer (Finance & Adm) |
| 2. Mr. Kimani Gathoni | - Manager Supply Chain Management                |
| 3. Ms. Mary Achola    | - Manager Internal Audit                         |
| 4. Mr. Philip Kerio   | - Senior Accountant                              |
| 5. Mr. E. Nyaga       | - Manager  |

And submitted as follows:

#### 5861) **Unqualified Opinion**

**1839.** There were no material issues noted during the audit of the financial statements of the Commission.

#### **Other Matter**

##### **1840. Pending Bills**

5862) Note 13 to the financial statements indicates that the Commission had pending bills of Kshs.17,636,826 as at 30 June, 2020. Management has explained that the bills related to disputed rent between the landlord and the Commission. Reconciliation has since been agreed upon and the Commission is in the process of settling the reconciled bills.

##### **Submission by the Accounting Officer**

5863) The status of an amount of Kshs.17,636, 826/- reported as pending in 2019/2020 financial year is accounted as follows:-

1. Kshs.17,533,841.07/- was in respect of rent due to Park Plaza Limited, the Landlord of the Commission. The payment could not be paid by the end of the financial year because the Commission and the Landlord were carrying out a reconciliation of all the payments done from the commencement date of the lease. That process has ended and the pending bills have all been settled. Copies of bank statements have been forwarded to your office for verification.
2. Kshs.527,560/- represents a claim which is still undergoing Criminal Investigations.

#### 5864) **Committee Observations and Findings**

- (i) The Committee observed that Kshs.17,533,841.07/- in respect of rent due to Park Plaza Limited, the Landlord of the Commission could not be paid by the end of the financial year because the Commission and the Landlord were carrying out reconciliations arising from disputed claims on the lease. The reconciliation process had ended and the pending bills settled. However, the reconciled balances and a signed copy of the agreement on the outstanding amount had not been forwarded to the office of the Auditor General for audit verification.
- (ii) The Committee further observed that a claim of Kshs.527,560 was undergoing Criminal Investigations.
- (iii) The matter therefore remains unresolved.

#### 5865) **Committee Recommendation**

- 1) **Within three months of adoption of this report, the Accounting Officer should ensure that the reconciled balances and the signed copy of the agreement on the outstanding amount is forwarded to the office of the Auditor General for audit verification. Also, provide a status report on the claim of Kshs.527,560 that was undergoing Criminal Investigations.**
- 2) **The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

#### REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

##### 5866) **Conclusion**

**1841.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

#### REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

##### 5867) **Conclusion**

**1842.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## 69. OFFICE OF THE CONTROLLER OF BUDGET

### REPORT ON THE FINANCIAL STATEMENTS VOTE 2121

**Dr. Margaret Nyakang'o, the Controller of Budget and the Accounting Officer for Office of the Controller of Budget (Vote 2121) appeared before the Committee on 3<sup>rd</sup> August 2021 to adduce evidence on the Audited Financial Statements for Office of the Controller of Budget (Vote 2121) for the Financial Year 2019/2020. She was accompanied by the following officers:**

- |                             |   |                                     |
|-----------------------------|---|-------------------------------------|
| 1. Dr. Margret N. Nyakang'o | - | Controller of Budget.               |
| 2. Mr. Mackin A. Ogolla     | - | Director Corporate Services.        |
| 3. Ms. Pamela Okoth         | - | Chief Manager Finance and Accounts. |
| 4. Mr. Patrick Onita Kabiro | - | Manager Finance and Accounts.       |
| 5. Ms. Mary Owii            | - | PA, Controller of Budget.           |

#### 5868) **Unqualified Opinion**

**1843.** There were no material issues noted during the audit of the financial statements of the Office.

### REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

#### 5869) **Conclusion**

**1844.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

### REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

#### 5870) **Conclusion**

**1845.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## OFFICE OF THE CONTROLLER OF BUDGET MORTGAGE FUND

### REPORT ON THE FINANCIAL STATEMENTS

#### 5871) **Unqualified Opinion**

**1846.** There were no material issues noted during the audit of the financial statements of the Fund.

### REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

5872) **Conclusion**

**1847.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

FINAL REPORT 2019/2020

## 70. COMMISSION ON ADMINISTRATIVE JUSTICE

### REPORT ON THE FINANCIAL STATEMENTS VOTE 2131

**Mr. Dan Karomo, the Chief Executive Officer and Accounting Officer for the Commission on Administration of Justice (Vote 2131) appeared before the Committee on 28<sup>th</sup> February, 2022 to adduce evidence on the Audited Financial Statements for the Commission on Administration of Justice (Vote 2131) for the Financial Year 2019/2020. He was accompanied by the following officers:**

1. Mr. Bernard Nyariki - Assistant Director Finance and Accounts
2. Mr. Justus Manyasa - Assistant Administration Officer.

And submitted as follows:

#### 5873) **Unqualified Opinion**

**1849.** There were no material issues noted during the audit of the financial statements of the Commission.

#### **Other Matter**

##### **1850. Pending Bills**

5874) “As disclosed in note 29.1 to the financial statements, the Commission had pending bills totaling Ksh.2,174,251 as at 30th June 2020 that were not settled during the 2019/2020 financial year but were instead carried forward to 2020/2021 financial year. Failure to settle bills during the year to which they relate adversely affects the provisions of the subsequent year as they form a first charge”.

##### **Submission by the Accounting Officer**

5875) During the financial year 2019/2020, the Commission on Administrative Justice (CAJ) had pending bills totaling Ksh.2,174,251. The Commission would like to clarify that the pending bills were occasioned by factors beyond its control whereby:

- (i) Austerity measures instituted in response to Covid-19 pandemic affected items that had running contracts, among them Communication expenses, hire of transport services, postal services and air travel expenses.
- (ii) Some suppliers were unable to provide relevant documentation to support payments on time.

5876) It was worthwhile to note that instituting austerity measures on items with running contracts risks exposing the Commission to costly litigation, for breach of contracts. The Commission has since settled all the pending bills as they formed a first charge on the budgetary provision for the 2020/2021 financial year. This is in compliance with Treasury Circular No. 12/2020 Ref. No.: ES/03/'P' (32) dated 23rd June 2020, on Guidelines for

implementation of the 2020/2021 financial year's budget. Further, it has endeavored to sensitize its suppliers on their obligation and the need to provide the required documentation promptly, to facilitate settlement of their claims expeditiously.

**5877) Committee Observations and Findings**

- (i) The Committee observed that the pending bills have since been settled; and
- (ii) The Committee marked the matter as resolved.

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**5878) Conclusion**

**1851.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**5879) Conclusion**

**1852.** There were no material issues relating to effectiveness of internal controls, risk management and governance.



## 71. NATIONAL GENDER & EQUALITY COMMISSION

### REPORT ON THE FINANCIAL STATEMENTS – VOTE 2141

**Ms. Betty Sungura Nyabuto, the Chief Executive Officer and Accounting Officer for National Gender & Equality Commission (Vote 2141), appeared before the Committee on 27<sup>th</sup> September, 2021 to adduce evidence on the audited financial statement for the National Gender & Equality Commission (Vote 2141) for the Financial Year 2019/2020. She was accompanied by the following officers:**

- |                         |                                 |
|-------------------------|---------------------------------|
| 1. Dr. Joyce M. Mutinda | - Chairperson to the Commission |
| 2. Mr. Paul kuria       | - Director Programmes           |
| 3. Mr. MMathew Musau    | - Head of Procurement           |
| 4. Mr. Joseph Ndiku     | - ADFPA                         |
| 5. Ms. Beatrice Cheron  | - Senior Accountant             |

And submitted as follows

#### 5880) **Unqualified Opinion**

**1853.** There were no material issues noted during the audit of the financial statements of the Commission.

#### **Other Matter**

##### **1854. Pending Bills**

5881) As disclosed under Notes 15 to the financial statements, the Commission had pending bills totalling Kshs.5,887,415 as at 30 June, 2020 that were not settled during the year 2019/2020 but were instead carried forward to 2020/2021. Management has attributed the delay in settlement of pending bills to late submission of invoices by suppliers and lack of Exchequer releases. Failure to settle bills during the year to which they relate adversely affects the provisions of the subsequent year to which they have to be charged.

#### **Submission by the Accounting Officer**

5882) The Commission was issued with an unqualified (clean) audit opinion for the Financial Year 2019/2020. The Auditor General's report paragraph 1853 states that there were no material issues noted during the audit of the financial statements of the Commission. A commendation letter was given to the Commission by the Principal Secretary, National Treasury for the unqualified (clean) audit opinion for the Financial Year 2019/2020.

5883) The bills totalling Kshs.5,887,415.00 were settled in FY 2020/2021 as per the direction given by the National Treasury on 'Settlement of pending bills for FY 2019/2020 and prior years' in a Circular Ref. AG/87/1/VOL.VII/(26) of November 2020.

5884) Inclusion of the bills in FY 2020/21 did not adversely affect operations because there was scale down of activity being measures instituted to curb spread of Covid-19 which resulted in scale down of activities including staff working from home. Attached are the following supporting documents and letters to National Treasury:

- a) List of the pending bills indicating the references and dates of payment
- b) Letter Ref. NGEC/CS/TREASURY/003 VOL.II (106) of 30<sup>th</sup> November, 2020 appraising the National Treasury on settlement of the pending bills.

**5885) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer with regard to Pending Bills was satisfactory; and
- (ii) The Committee marked the matter as resolved.

**5886) Committee Recommendation**

**The Accounting Officer should ensure that pending bills in any financial year are avoided. Where pending bills are unavoidable, they should form the first charge in the budget of the subsequent year.**

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

**5887) Conclusion**

**1855.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

**REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

**5888) Conclusion**

**1856.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

## 72. INDEPENDENT POLICING OVERSIGHT AUTHORITY

### REPORT ON THE FINANCIAL STATEMENTS – VOTE 2151

**Ms. Elema Halake, the Accounting Officer for Independent Policing Oversight Authority (Vote 2151), appeared before the Committee on 21<sup>st</sup> February, 2022 to adduce evidence on the audited financial statement for Independent Policing Oversight Authority (Vote 2151) for the Financial Year 2019/2020. The Accounting Officer was accompanied by the following officers:**

1. Ms. Eunice Juma - Director Business Services

And submitted as follows:

#### 5889) **Unqualified Opinion**

**1857.** There were no material issues noted during the audit of the financial statements of the Authority.

#### **Other Matter**

#### **1858. Pending Bills**

5890) As disclosed in Note 12.1 to the financial statements, Independent Policing Oversight Authority had pending bills totalling Kshs.4,636,480 as at 30 June, 2020 which were not settled during the year but were instead carried forward to the financial year 2020/2021. Failure to settle bills during the year to which they relate adversely affects the provisions of the subsequent year to which they have to be charged.

#### **Submission by the Accounting Officer**

5891) As reported in the other matter in the report of the Auditor General on the accounts of the Independent Policing Oversight Authority (IPOA) for the year ended 30th June 2020, IPOA had pending bills totaling Kshs.4,636,480 as at 30th June 2020 which were not settled during the year but were instead carried forward to the financial year 2020/2021. The pending bills were incurred mainly due to lack of sufficient budget and exchequer.

5892) The pending bills incurred due to lack of sufficient budget amounted to Kshs.4,300,860. These comprised of the following;

- A. Kshs.1,737,430 payable to Neoscape Arch systems - contract for refurbishment of IPOA Eldoret regional office at KVDA Annex plaza.**

5893) The budget for refurbishment was rationalized downwards in supplementary estimates I FY ---- by Kshs.30,750,000 and subsequently by 30,750,000.00 in supplementary estimates II FY ---- due to Covid-19 pandemic challenges. This led to closure of the financial year with pending bills and failure to refurbish Nyeri and Kakamega offices as earlier planned.

**B. Kshs.2,563,430 payable to Lloyd Masika Limited bill for excess service charges.**

5894) As per the lease agreement signed between the lessee and the Authority for provision of office space any excess service charge shall be apportioned on pro rata basis to all the tenants and shall be paid only on production of an audited report prepared by independent auditors. The invoice was received on 29<sup>th</sup> April 2020 after finalization of Supplementary Estimates II FY 2019/20 where the budget cuts had been effected on various vote heads and therefore the Authority was not able to pay the submitted invoice.

5895) In the FY 2019/20 the Authority's operations and maintenance printed budget estimates were revised downwards by Kshs.71,266,034 leaving no room for reallocation within the sub vote heads to accommodate the excess service charges which had not been foreseen.

5896) Subsequently the Authority has included a provision for the excess service charges in the rent and rates budget estimates.

5897) The remaining pending bills amounting to Kshs.335,620 were incurred due to lack of exchequer occasioned by late delivery of invoices by the suppliers after closure of the IFMIS e-procurement module and IFMIS down time resulting to Payment failing to upload from the IFMIS platform to the internet banking platform for payment to be initiated.

5898) All the pending bills were the first charge in the Financial Year 2019/20 budget and as at 20<sup>th</sup> October 2020 they were all fully settled. The following Documents were availed to the Committee for perusal:

- (i) Detailed schedule of the pending bills and the status;
- (ii) Bank statement extract for payments made through IB; and
- (iii) Bank deposit slip for withholding tax for cash deposited directly to KRA account for withholding tax.

5899) During the audit of the Authority's 2020/21 financial statements, the matter was fully resolved with the Auditor General since all the pending bills carried forward to the financial year 2020/2021 had been settled in full.

**5900) Committee Observations and Findings**

- (i) The Committee observed that the explanation given by the Accounting Officer and

- the documents provided were satisfactory; and  
(ii) The Committee marked the matter resolved.

#### REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

##### 5901) **Conclusion**

**1859.** There were no material issues relating to lawfulness and effectiveness in use of public resources.

#### REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

##### 5902) **Conclusion**

**1860.** There were no material issues relating to effectiveness of internal controls, risk management and governance.



Sign..... Date.....07/06/2020.....

**HON. JAMES OPIYO WANDAYI, CBS, MP**  
**CHAIRMAN**  
**PUBLIC ACCOUNTS COMMITTEE**