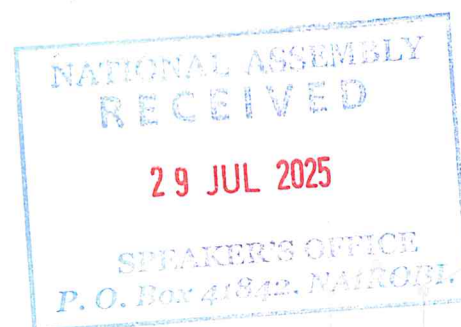


Approved
SNA
29/7/25

REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT-
FOURTH SESSION

SPECIAL FUND ACCOUNTS COMMITTEE

REPORT ON THE CONSIDERATION OF THE AUDITED
ACCOUNTS FOR THE WATER SECTOR TRUST FUND FOR THE
FINANCIAL YEARS 2018/2019 TO 2022/2023



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

JULY 2025



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JULY 2025

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List of Abbreviations and Acronyms

- | | | |
|------------|---|---|
| 1) AWWDA | - | Athi water Works Development Agency |
| 2) CLSG | - | Conditional Liquidity Support Programme |
| 3) CoK | - | Constitution of Kenya, 2010 |
| 4) BMGF | - | Bill & Melinda Gates Foundation |
| 5) EU | - | European Union |
| 6) FY | - | Financial Year |
| 7) GGEP | - | Green Growth and Employment Programme |
| 8) GoK | - | Government of Kenya |
| 9) J6P | - | Joint six Programme |
| 10) IFAD | - | International Fund for Agricultural Development |
| 11) KfW | - | Germany Development Bank |
| 12) KRA | - | Kenya Revenue Authority |
| 13) MDAs | - | Ministries, Departments and Agencies |
| 14) PFM | - | Public Finance Management |
| 15) OAG | - | Office of the Auditor-General |
| 16) PSASB | - | Public Sector Accounting Standards Board |
| 17) QAMs | - | Quality Assurance Monitors |
| 18) WRUA | - | Water Resources Users Association |
| 19) WASREB | - | Water Service Regulatory Board |
| 20) WLP | - | Water and livelihoods Programme |
| 21) UPC | - | Urban Project Concept |

CHAIRPERSON'S FOREWORD

Hon. Speaker, on behalf of the Special Funds Accounts Committee and under Standing Order 199, it is my pleasant duty and honour to present to the House the report of the Committee on consideration of the reports of the Auditor-General on the audited financial statements for the Water Sector Trust Fund for the financial years 2018/2019 to 2022/2023.

Oversight over national revenue and expenditure is amongst the roles of the National Assembly as stipulated under Article 95 (4) (c) of the Constitution of Kenya, 2010. Further, Article 226 of the CoK provides that an Act of Parliament shall provide for the designation of an Accounting Officer in every public entity at the national level who is accountable to the National Assembly for its financial management. In addition, Article 229(8) mandates this House to debate and take appropriate action on audit reports from the Auditor-General.

In fulfilment of these constitutional provisions, the National Assembly established various Committees to examine reports of the Auditor-General to ascertain whether public funds are utilized in a lawful, authorized, effective, efficient, economical, and transparent manner. The Special Funds Accounts Committee was established in the Fifth Session of the Eleventh Parliament following the review of the National Assembly's Standing Orders, is one of the Committees.

The Committee received oral and written submissions from Mr. Willis Ombai, the Chief Executive Officer, Water Sector Trust Fund regarding the audited financial statements for the Financial Years 2018/2019 to 2022/2023. The submissions formed the basis of the Committee's observations, findings, and recommendations. These are also contained in the Minutes and Hansard Reports of Committee proceedings.

Hon. Speaker, I wish to express appreciation to the Honourable Members of the Committee, the Office of the Speaker, the Clerk of the National Assembly, the Parliamentary Liaison Offices of the Auditor-General and the National Treasury and the Committee Secretariat for facilitating the Committee in the production of this report.



HON. FATUMA ZAINAB MOHAMMED, M.P.
CHAIRPERSON, SPECIAL FUNDS ACCOUNTS COMMITTEE

CHAPTER ONE

1.0 PREFACE

1.1 Establishment and Mandate of Special Funds Accounts Committee

1. The Special Funds Accounts Committee is one of the six Watchdog Committees of the National Assembly established under Standing Order 205. It is mandated to examine the reports of the Auditor-General on the following:

- i) *Funds established by statute or by subsidiary legislation, except Funds under Standing Order 205B (Decentralized Funds Accounts Committee)*
- ii) *The Equalization Fund;*
- iii) *The Equalization Fund Advisory Board;*
- iv) *The Political Parties Fund; and*
- v) *Other funds as may be communicated by the Honourable Speaker*

1.2 Committee Membership

2. The Committee comprises the following members:

S/ N	Name	Constituency	Party
1	Hon. Fatuma Zainab Mohammed, MP (Chairperson)	Migori (CWR)	Independent
2	Hon. Dawood Abdul Rahim, HSC, MP (Vice Chairperson)	North Imenti	Independent
3	Hon. Mary Emaase Otucho , MP	Teso South (CWR)	UDA
4	Hon. Charles Ngusya Nguna	Mwingi West	Wiper
5	Hon. Dr. Christine Ombaka Oduor, MP	Siaya (CWR)	ODM
6	Hon. Erastus Kivasu Nzioka, MP	Mbooni	Wiper
7	Hon. Eve Akinyi Obara, MP	Kabondo Kasipul	ODM
8	Hon. Joseph Majimbo Kalasinga, MP	Kabuchai	FORD-K
9	Hon. Tom Mboya Odege, MP	Nyatike	ODM
10	Hon. Catherine Nakhabi Omanyoo, MP	Busia (CWR)	ODM

11	Hon. Cecilia Asinyen Ngitit, MP	Turkana (CWR)	UDA
12	Hon. Erick Kahugu Wamumbi, MP	Mathira	UDA
13	Hon. Joseph Kimutai Cherorot, MP	Kipkelion East	UDA
14	Hon. Onchoke Charles Mamwacha, MP	Bonchari	UPA
15	Hon. Paul Kibichi Biego, MP	Chesumei	UDA

1.3 Committee Secretariat

3. The Secretariat facilitating the Committee comprises the following staff:

S/ N	NAME	DESIGNATION
1	Mr. Erick Nyambati	Senior Clerk Assistant
2.	Ms. Comfort Achieng	Clerk Assistant III
3	Mr. Nimrod Mate	Clerk Assistant III
4	Mr. Robert Ngetich	Fiscal Analyst II
5	Ms. Judith Kanyoko	Legal Counsel II
6	Ms. Bevaline Mosoti	Research Officer III
7.	Mr. Derrick Kathurima	Media Relations Officer III
9	Ms. Felistus Muiya	Public Communications Officer III
10	Mr. Peter Mutethia	Hansard Audio Officer III
11	Mr. Joshua Lenambet	Serjeant At Arms

CHAPTER TWO

EXAMINATION OF THE AUDITED FINANCIAL STATEMENTS FOR WATER SECTOR TRUST FUND FOR 2018/2019 TO 2022/2023 FINANCIAL YEARS

1. Mr. Willis Ombai, the Chief Executive Officer, Water Sector Trust Fund appeared before the Committee on Tuesday 20th, August 2024 to adduce evidence on the audited financial statements for Water Sector Trust Fund for the Financial Years 2018/2019 to 2022 /2023. During the meeting, the Accounting Officer was accompanied by:

1. Mr. Edwin Korir - General Manager Internal Audit
2. Mr. Kega Muthoni - General Manager Programmes
3. Mr. Wynant Mulira - Principal Internal Auditor
4. Mr. Mathew Karanja - Principal Accountant

2.1 Examination of the Auditor General reports for Water Sector Trust Fund for the financial Year 2018/19

1. Unsupported expenditure

2. The statement of financial performance reflects project expenses of Kshs. 571,050,171 which as disclosed under Note 10 to the financial statements includes Kshs 5,424,187 (2018: Kshs 16,848,188) relating to expenditures that have outstanding audit queries arising from audit of project implementing organisations. Although Management has indicated that the issue is being dealt with legally and administratively, the outcome of the process has not been disclosed.

Submissions by the Accounting Officer

3. The Accounting Officer submitted that—

Below is the detailed scheduled of the amount which the auditor had categorised as unsupported expenditure and status of resolution.

Table I – Unsupported expenditure FY 2018-2019

FY	Prog.	Implementing Partner	Amount	Status as at August 2024	Remarks
2019	GGEF	Kasha Water Resources Users Association (WRUA)	99,290	Follow up ongoing	Demand letter submitted to the IP.
2019	EU-SHARE	Mudhe water project	75,000	Follow up ongoing	Demand letter submitted to the IP
2019	EU-	Quachacha Water Pan	75,000	Follow up	Demand letter

FY	Prog.	Implementing Partner	Amount	Status as at August 2024	Remarks
	SHARE			ongoing	submitted to the IP
2019	EU-SHARE	Isakhia Water and Sanitation Project	97,312	Follow up ongoing	Demand letter submitted to the IP
2019	IFAD	North Mathioya WRUA	29,100	Sufficient document provided	Recommended for closure
2019	IFAD	Upper Maragua WRUA	20,000	Follow up ongoing	Demand letter submitted to the IP
2019	J6P	Sirimon CLTS - 2019	10,643	Follow up ongoing	Demand letter submitted to the IP
2019	J6P	Lelmokwo water project-2019	1,315,083	Follow up ongoing	Technical audit will be carried out and the matter be closed.
2019	J6P	Tharaka Nithi County Water Bill	2,728,600	Refund was made by the WSP	Recommended for closure
2019	J6P	Murugi Mugimango CLTS	125,000	Sufficient document provided	Recommended for closure
2019	J6P	Doldol Luisikut Water Project	19,000	Sufficient document provided	Recommended for closure
2019	UPC	Naromoru Water and Sanitation WaterProject	28,000	Sufficient document provided	Recommended for closure
2019	UPC	Homabay Household Sanitation Project	90,600	Sufficient document provided	Recommended for closure
2019	UPC	Naromoru Water and Sanitation Water Project	40,000	Sufficient document provided	Recommended for closure
2019	UPC	Piloting of new PSF technology. Innovation. Garissa Water and Sewerage Company	533,300	Sufficient document provided	Recommended for closure
2019	UPC	Muranga WSP	14,655	Follow up ongoing	Relates to VAT
2019	UPC	Kirinyaga WSP	167,904	Follow up	Relates to VAT

FY	Prog.	Implementing Partner	Amount	Status as at August 2024	Remarks
				ongoing	
			5,469,487		

4. He informed the committee that Following the release of the audit report a total of **Kshs.3,593,600 (66%)** had been accounted for through provision of supporting documents, refunds and technical audits of the projects funded. He noted that for the amount which had not been resolved, negotiations was ongoing with the implementing partners and Development Partners. A request had been made to DPs to consider waiver on questioned costs relating to VAT and demand letters have been made to IPs. He also noted that to mitigate the recurrence, the following are the measures which Water Fund had put in place to ensure that the funds released to Implementing Partners (IPs) are properly utilized:

- i) **Follow up of documents and closure of questioned costs by the Board of Trustees;** upon release of the audit report, management has been following up documents to support expenditure and have the Board close the questioned costs.
- ii) **County Engagement Strategy;** Water Fund Board has approved a County Engagement strategy document that will enhance engagement of the Fund with various counties.
- iii) **Risk Management Policy and Framework;** The Fund has implemented robust risk management policy and Framework which will enhance risk management in the project implementation cycle. Flagging of projects with issues is undertaken on a regular basis and appropriate mitigating measures undertaken.
- iv) **Governance Assessment of water service providers;** Regular Governance assessment of various Implementing Partners is undertaken and areas of improvement agreed for implementation with various Implementing Partners (IPs.)
- v) **Project Implementation Manual:** the purpose of the Project Implementation Manual (PIM) is to provide detailed guidance for Implementing Partners (IPs) of the approved projects within the Water Fund funding cycle. The manual gives a road map from the procurement stage to project closure while considering critical obligations and responsibilities of different project stakeholders as part of financial contract management.
- vi) **Enhanced Monitoring and Evaluation;** Resources have been availed to enhanced monitoring and evaluation of funded projects.
- vii) **Recruitment of Quality Assurance Monitors;** these consultants are based in various counties and they assist the Implementing Partners in all aspects of project implementation.
- viii) **Training of Implementing Partners;** regular training of implementing partners will enable the partners to implement projects efficiently.
- ix) **Systems Integrated Project (SIP);** currently under implementation and will integrate all programmes and enhanced visibility and decision making.
- x) **Technical Audits (External and Internal Audits);** where documents are not available, technical auditors will be able to assess the value of implemented projects.

- xi) Reporting to Ethics and Anti-Corruption Commission.** In situations of suspected cases of corruption, the matters are normally reported to the EACC for further investigation.
- xii) Document Management System;** The Fund is currently implementing document management system where all documents will be scanned and stored electronically to avoid situation where Implementing Partners will report issues of missing supporting documents at the Implementation level.

Observations by the Committee

5. The Committee observed that—

- i) **Kshs.3,593,600 (66%) had been accounted for through provision of supporting documents, refunds while Kshs.1,875,887 had not been supported**
- ii) **The matter is unresolved.**

Recommendations of the Committee

6. The Committee recommended that—

- i. **Within six months upon adoption of this report, the Accounting Officer must provide a report with supporting Documentation on the recovery of the pending amount of Kshs.1,875,887 which had not been supported to the Office of the Auditor General for audit verification.**
- ii. **The Accounting Officer should ensure that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of the financial statements in compliance with Public Finance Management Act, 2012 and in accordance with the standards prescribed by the Public Sector Accounting Standards Board as per Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.**

2) Delayed Funding and Project Implementation

7. The statement of comparison of budget and actual amounts reflects a final budgeted total revenue of Kshs 2,062,287,856 against actual received revenue of Kshs. 1,125,492,774 resulting in a revenue deficit of Kshs 936,795,082 or 45% of the budgeted revenue. The deficit was caused mainly by delay in remitting budgeted funds by both the Development Partners and Government of Kenya.
8. Further the Statement of Comparison of Budget and Actual amounts reflect actual project expenditure of Kshs. 571,050,171 against the budgeted expenditure of Kshs 1,680,717,504 resulting in an under-expenditure of Kshs 1,109,667,333 or 66% of the budgeted expenditure. The delayed funding and implementation of the Fund's projects behind schedule may lead to cost overruns and non-provision of services to the intended beneficiaries.

Submissions by the Accounting Officer

9. The Accounting Officer submitted that—

The management acknowledged the finding that there was delay in remitting budgeted funds by both the Development Partners and Government of Kenya. Follow up was undertaken to

ensure timely receipt of funds from both the Government and the Development Partners. DPs supported programmes are multi-year in nature and thus outstanding disbursements were budgeted for and received in subsequent years on a rolling basis. Below is the detailed scheduled of the amount which had been budgeted for and received at the Water Fund.

Table II- Budget and amount received – FY 2018-2019

No	Funding source	Budgeted amount (KShs)	Amount received (KShs)	Actual expenditure (Kshs)	Deficit (KShs)
1	GoK grants	584,900,000	579,856,000	344,222,993	(5,044,000)
2	Finance income	2,000,000	52,092,307	0	50,092,307
	United Nations Children Fund	0	1,744,009	1,744,009	1,744,009
	Miscellaneous income	54,400,000	25,417,314	0	(28,982,686)
3	Government of Germany – KfW/BMGF	447,000,000	73,960,418	103,960,418	(373,039,582)
4	European Union – Rural	102,867,856	144,177,607	144,177,607	41,309,751
5	Government of Denmark	306,300,000	56,967,655	59,890,673	(249,332,345)
6	IFAD	101,720,000	64,800,390	64,800,390	(36,919,610)
7	World Bank	148,900,000.00	40,693,881	40,693,881	(108,206,119)
8	Sweden/Finland - J6P	314,200,000	85,783,193	155,783,193	(228,416,807)
	Total	2,062,287,856	1,125,492,774	915,273,164	(936,795,082)

Observations by the Committee

10. The Committee observed that—

- i. The Fund had a budget deficit amounting to Kshs 936,795,082 and an under absorption of Kshs 1,109,667,333.
- ii. The outstanding disbursements was occasioned by the delay in remitting budgeted funds by both the Development Partners and Government of Kenya.
- iii. The matter is resolved.

3) ICT Control Deficiencies

11. Although management had implemented two systems to aid in project management and monitoring, the systems were not fully utilized and had become redundant since implementation. The Fund may therefore not have derived value from the investment made in the system. Further, incidences of shared passwords, lack of enforcement of key password parameters on the application and database as well as lack of audit logs and global auditing parameters at the database level were noted.
12. In addition, continuous monitoring of super user activities and administration accounts on the application, database and operating system level was also lacking. The above weaknesses may lead to undetected unauthorized access and activities and potential abuse of the privilege

access with possible negative impact on business operations, financial loss or reputational damage.

Submissions by the Accounting Officer

13. The Accounting Officer submitted that—

1The fund was implementing two parallel project management information systems which were inefficient. Management had since implemented and integrated project management systems(SIP)which has the capacity to provide project management solutions for all the WSTF funded programs in line with GOK and DP reporting and compliance requirements.

Issue raised

Further, incidences of shared passwords, lack of enforcement of key password parameters on the application and database lack of audit logs and global auditing parameters at the database level were noted.

In addition, continuous monitoring of super user activities and administration accounts on the application, database and operating system level was also lacking

Current status

The management has implemented an automated password compliance policy.

The policy requires the password to meet the required complexity standards.

Audit logs have been enabled at database level.

Information systems audit is carried out regularly to ensure compliance.

Internal audit department regularly reviews the superuser activities in the system

Observations by the Committee

14. The Committee observed that—

- i) **Management has since implemented and integrated project management systems (SIP)which has the capacity to provide project management solutions for all the Water Sector Trust Fund funded programs in line with the requirements**
- ii) **The matter is resolved.**

2.2. Examination of the Auditor General reports for Water Sector Trust Fund for the financial Year 2019/2020

1. Unsupported Expenditure

15. The statement of financial performance reflects project expenses of Kshs.1,280,183,177 which as disclosed under Note 12 to the financial statements, includes an amount of Kshs. 11,211,949 (2019: Kshs.5,424,187) relating to expenditures that have outstanding audit queries arising from the audit of Project implementing organizations. Although Management has indicated that the issue being dealt with legally and administratively, the outcome of the process has not been disclosed.

Submissions by the Accounting Officer

16. The Accounting Officer submitted that—

Below is the detailed scheduled of the amount which the auditor had categorised as unsupported expenditure and status of resolution.

Table III- Unsupported Expenditure FY 2019-2020

FY	Prog	Implementing Partner	Amount	Status as at August 2024	Remarks
2020	GGEF	Kipsing Water Resource Users Association (WRUA)	1,476,700	Follow up is ongoing	Though the audit query is not closed, the project is successfully complete. Technical audit will be undertaken to finally close the query.
2020	GGEF	Kuro Bisan Owo WRUA	1,658,050	Follow up is ongoing	Though the audit query is not closed, the project is successfully complete. Technical audit will be undertaken to finally close the query.
2020	GGEF	Sake Community Rural Water Supply Project	70,000	Follow up is ongoing	Though the audit query is not closed, the project is successfully complete. Technical audit will be undertaken to finally close the query.
2020	GGEF	Dahan WRUA	89,500	Follow up is ongoing	Though the audit query is not closed, the project is successfully

FY	Prog	Implementing Partner	Amount	Status as at August 2024	Remarks
					complete. Technical audit will be undertaken to finally close the query.
2020	GGEP	Dahan WRUA	1,890,000	Follow is ongoing	Though the audit query is not closed, the project is successfully complete.
2020	GGEP	Madogo WRUA	144,723	Follow up is ongoing	Though the audit query is not closed, the project is successfully complete. Technical audit will be undertaken to finally close the query.
2020	EU-SHARE	Ngalabalabia	327,181	Sufficient document provided	Recommended for closure
2020	IFAD	Kayahwe WRUA-IFAD, Muranga	1,400	Sufficient document provided	Recommended for closure
2020	IFAD	Kayahwe WRUA-IFAD, Muranga	19,100	Sufficient document provided	Recommended for closure
2020	IFAD	Lower Mathioya	1,660	Sufficient document provided	Recommended for closure
2020	IFAD	Kimakia CFA-IFAD	24,000	Follow up ongoing	Demand letters issued for refund by the CFA
2020	IFAD	Kimakia CFA-IFAD	102,500	Follow up ongoing	Demand letters issued for refund by the CFA
2020	J6P	Mwangani Community Project- Kwale - 2020	2,281,843	Follow up ongoing	Technical audit will be undertaken to value the works done.
2020	J6P	Enosagami	953,380	Sufficient document provided	Recommended for closure
2020	UPC	Bar Kowino-Nyawita Water Project	50,000	Sufficient document provided	Recommended for closure
2020	UPC	Witemere Household Sanitation Project	42,000	Sufficient document provided	Recommended for closure

FY	Prog	Implementing Partner	Amount	Status as at August 2024	Remarks
2020	UPC	Naivasha Household Sanitation Project	120,000	Sufficient document provided	Recommended for closure
2020	UPC	Kericho Household Sanitation Project	50,000	Sufficient document provided	Recommended for closure
2020	UPC	Mairo Inya Household Sanitation Project	42,000	Sufficient document provided	Recommended for closure
2020	UPC	Bar Kowino-Nyawita Water Project	855,693	Sufficient document provided	Recommended for closure
			10,199,730		

17. He informed the Committee that following the release of the audit report a total of **Kshs. 2,462,414** had been accounted for through provision of supporting documents, refunds and technical audits of the projects funded. He noted that for the amount which had not been resolved, negotiations are ongoing with the implementing partners and Development Partners. A request has been made to DPs to consider waiver on questioned costs relating to VAT. Further demand letters have been made to IPs. He also noted that to mitigate the recurrence, the following are the measures which Water Fund had put in place to ensure that the funds released to Implementing Partners (IPs) are properly utilized:

- i) **Follow up of documents and closure of questioned costs by the Board of Trustees;** upon release of the audit report, management has been following up documents to support expenditure and have the Board close the questioned costs.
- ii) **County Engagement Strategy;** WaterFund Board has approved a County Engagement strategy document that will enhance engagement of the Fund with various counties.
- iii) **Risk Management Policy and Framework;** The Fund has implemented robust risk management policy and Framework which will enhance risk management in the project implementation cycle. Flagging of projects with issues is undertaken on a regular basis and appropriate mitigating measures undertaken.
- iv) **Governance Assessment of water service providers;** Regular Governance assessment of various Implementing Partners is undertaken and areas of improvement agreed for implementation with various Implementing Partners (IPs.)
- v) **Project Implementation Manual;** the purpose of the Project Implementation Manual (PIM) is to provide detailed guidance for Implementing Partners (IPs) of the approved projects within the WaterFund funding cycle. The manual gives a road map from the procurement stage to project closure while considering critical obligations and responsibilities of different project stakeholders as part of financial contract management.
- vi) **Enhanced Monitoring and Evaluation;** Resources have been availed to enhanced monitoring and evaluation of funded projects.

- vii) **Recruitment of Quality Assurance Monitors;** these consultants are based in various counties and they assist the Implementing Partners in all aspects of project implementation.
- viii) **Training of Implementing Partners;** regular training of implementing partners will enable the partners to implement projects efficiently.
- ix) **Systems Integrated Project (SIP);** currently under implementation and will integrate all programmes and enhanced visibility and decision making.
- x) **Technical Audits (External and Internal Audits);** where documents are not available, technical auditors will be able to assess the value of implemented projects.
- xi) **Reporting to Ethics and Anti-Corruption Commission.** In situations of suspected cases of corruption, the matters are normally reported to the EACC for further investigation.
- xii) **Document Management System;** The Fund is currently implementing document management system where all documents will be scanned and stored electronically to avoid situation where Implementing Partners will report issues of missing supporting documents at the Implementation level.

Observations by the Committee

18. The Committee observed that—

- i) **Kshs. 2,462,414 had been accounted for through provision of supporting documents and refunds while Kshs.7,737, 316 had not been supported.**
- ii) **The matter is unresolved.**

Recommendations of the Committee

19. The Committee recommended the following—

- i. **Within six months upon the adoption of this report the Accounting Officer must provide a progress report with supporting documentation on the recovery of the pending amount of Kshs.7,737, 316 which had not been supported to the Office of the Auditor General for audit verification.**
- ii. **The Accounting Officer should ensure that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of the financial statements in compliance with Public Finance Management Act, 2012 and in accordance with the standards prescribed by the Public Sector Accounting Standards Board as per Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.**

2) Budgetary Control and Performance

- 20. The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.4,128,900,000 and Kshs. 1,867,808,184 respectively resulting to an under-funding of Kshs.2,261 ,091 ,816 or 55% of the budget. Similarly, the Fund actual expenditure amounted to Kshs.1,687,724,308 against a budgeted expenditure of Kshs.4,128,900,000 resulting to an under expenditure of Kshs.2,441,175,692 or 59%. The underfunding and under-expenditure affected the planned activities which in turn may have impacted negatively on service delivery to the public.

Submissions by the Accounting Officer

21. The Accounting Officer submitted the following—

The management acknowledges the finding noting that there was delay in remitting budgeted funds by both the Development Partners and Government of Kenya. Continuous follow up is being undertaken to ensure timely receipt of funds from both the Government and the Development Partners.

22. DPs supported programmes are multi-year in nature and thus outstanding disbursements were budgeted for and received in subsequent years on a rolling basis. Further, Water Fund instituted measures aimed at efficient and timely accountability by projects in improving expenditure and absorption of funds. Below is the detailed scheduled of the amount which had been budgeted for and received at the Water Fund

Table IV- Budget and amount received FY 2019-2020

No.	Funding source	Budgeted amount (KShs)	Amount received (KShs)	Actual expenditure (KShs)	Variance (KShs)
1	GOK	595,000,000	688,742,500	407,541,191	187,458,809
2	Finance income	2,000,000	83,236,025	1,122,401	877,599
3	Kenya Water and Sanitation conference	63,000,000	30,980,627	0	63,000,000
4	Government of Germany - KfW/BMGF	657,000,000	91,263,460	137,981,274	519,018,726
5	European Union - Rural	500,000,000	61,455,544	114,387,880	385,612,120
6	Government of Denmark	1,129,000,000	363,980,318	363,442,051	765,557,949
7	IFAD	236,900,000	79,842,213	79,842,213	157,057,787
8	World Bank	433,000,000	203,589,393	203,589,393	229,410,607
9	Sweden/Finland - J6P	513,000,000	264,718,104	379,817,905	133,182,095
	Total	4,128,900,000	1,867,808,184	1,687,724,308	2,441,175,692

Observations by the Committee

23. The Committee observed that—

- The Fund had a budget deficit amounting to Kshs.2,261 ,091 ,816 and an under absorption of Kshs.2,441,175,692
- The outstanding disbursements were occasioned by the delay in remitting budgeted funds by both the Development Partners and Government of Kenya.
- The matter is resolved.

1. ICT Control Deficiencies

24. Review of the Information Communication Technology (ICT) systems implemented by Management, and controls put in place revealed existence of deficiencies and weaknesses in those systems. For instance, the ICT Policy did not include a change management process.

As such, critical elements including change log tracking, change management work flow for emergency scenarios, risk assessment and impact criteria on requested changes, details of change approvers, user acceptance testing, fall back procedures and responsibilities for aborting and recovering from unsuccessful changes and unforeseen events were lacking.

25. Further, weaknesses were identified in password configuration whereby parameters documented in the policies were not being enforced in the system. Also, databases password history configurations had been set to 5 passwords against policy recommendation of no re-use of old passwords. In addition, continuous monitoring of superuser activities and administrator accounts on the applications, database and operating level were also lacking. Although Management has subsequently amended the ICT Policy and reconfigured password parameters, existence of the above identified and other weaknesses may lead to undetected unauthorized access and activities, abuse of privileged access which can negatively impact on business operations, financial loss and reputational damage.

Submissions by the Accounting Officer

26. The Accounting Officer submitted that—

Below is the detailed scheduled of the amount which had been budgeted for and received at the Water Fund.

Table V- ICT findings and status

	Observation by the auditor	Current status	Remarks
1.	Change log tracking,	Log tracking is now a standard procedure in systems and databases	Done
2.	Change management workflow for emergency scenarios	Change management is now an integral part of the approved ICT policy	Done
3.	Risk assessment and impact criteria on requested changes,	Change management is now an integral part of the approved ICT policy. All changes undergo risk assessment	Done
4.	Details of change approvers	Details of change approvers is part of the revised change management process	Done
5.	User acceptance testing	User acceptance testing is part of the revised change management process	Done

	Observation by the auditor	Current status	Remarks
6.	Fall back procedures and responsibilities for aborting and recovering from unsuccessful changes and unforeseen events were lacking.	This is part of the revised change management process	Done
7.	Weaknesses were identified in password configuration whereby parameters documented in the policies were not being enforced in the system	Complex Password configuration is now documented and enforced	Done
8.	Databases password history configurations had been set to 5 passwords against policy recommendation of no re-use of old passwords.	This configuration was set to 24 passwords, which is the industry standard.	Done
9.	Continuous monitoring of superuser activities and administrator accounts on the applications, database and operating level were also lacking.	Continuous monitoring of superuser activities and administrator accounts on the applications, database and operating level is now part of the standard operating procedures	Done
10.	Management has subsequently amended the ICT Policy and reconfigured password parameters, existence of the above identified and other weaknesses may lead to undetected unauthorized access and activities, abuse of privileged access which can negatively impact on business operations, financial loss and reputational damage.	A revised and approved ICT Policy is now in effect that addresses these and above issues.	Done

27. The management acknowledges the finding and undertook review of ICT policy as alluded above to address control deficiencies that were identified. Subsequently a second review of

ICT policy commenced in FY2023/2024 as part of continuous improvement and to keep abreast with developments in the ICT. The review was finalised and purposed to eliminate all the gaps and deficiencies identified as above.

Observations by the Committee

28. The Committee observed that—

- i. Management undertook review of ICT policy and have since addressed the control deficiencies that were identified.**
- ii. The matter is resolved.**

2.3. Examination of the Auditor General reports for Water Sector Trust Fund for the financial Year 2020/2021

1. Budgetary Control and Performance

29. The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.6,607,541,700 and Kshs.4,311,813,541 respectively resulting to an under-funding of Kshs.2,295,728,159 or 35% of the budget. Similarly, the Fund spent Kshs. 4,537,321,233 against an approved Budget of Kshs. 6,607,541,700 resulting to an under-expenditure of Kshs.2,070,220,467. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

Submissions by the Accounting Officer

30. The Accounting Officer submitted that—

The Management acknowledge the finding noting that there was delay in remitting budgeted funds by both the Development Partners and Government of Kenya. Continuous follow up is being undertaken to ensure timely receipt of funds. WaterFund has instituted measures in capacity building and support to projects aimed at efficient and timely accountability of funds disbursed which improve project expenditure and absorption of funds.

TABLE VI- Budget and amount received for FY 2020-2021

No	Funding source	Budgeted amount (KShs)	Amount received (KShs)	Actual expenditure (KShs)	Variance (KShs)
1	GOK recurrent and development	594,300,000	643,555,000	438,950,500	155,349,500
2	Other incomes	5,000,000	66,281,136	-	5,000,000
3	GoK priority projects	48,500,000		468,002,164	(419,502,164)
4	Government of Germany – KfW/BMGF	798,813,000	152,372,250	155,763,414	643,049,586
5	European Union - Rural	801,786,000	316,271,248	341,271,248	460,514,752
6	Government of Denmark	390,810,000	735,996,373	735,996,373	(345,186,373)
7	IFAD	139,560,000	73,033,846	73,033,846	66,526,154
8	World Bank	3,728,772,700	2,045,484,105	2,045,484,105	1,683,288,595
9	Sweden/Finland - J6P	-	278,819,583	278,819,583	(278,819,583)
10	Saudi Fund	100,000,000	-	-	100,000,000
	Total	6,607,541,70	4,311,813,541	4,537,321,233	2,070,220,46

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Observations by the Committee

31. The Committee observed that—

- i. **The Fund had a budget deficit amounting to Kshs.2, 2,295,728,159 and an under absorption of Kshs.2,070,220,467.**
- ii. **The outstanding disbursements were occasioned by the delay in remitting budgeted funds by both the Development Partners and Government of Kenya.**
- iii. **The matter is resolved.**

2. Delay in Project Implementation

32. Water Sector Trust Fund entered into a financing support and implementation agreement with Athi Water Works Development Agency (AWWDA) for Gatundu priority project on 28 April, 2020. AWWDA contracted a drilling company for LOT 3 and 4 of works relating to ground water exploitation project, drilling and equipping of Gatundu boreholes for Kshs.54,632,385 and Kshs.61 238,383 respectively.

33. The drilling company was paid an initial sum of Kshs 7,388 808, however the company did not complete the works. Following abandonment of the construction works in March, 2021 without prior consultation or approval by the Project Manager, the Agency held meetings with the contractor for resumption of works without success and subsequently, the Agency issued a notification to terminate the contract on 30 November, 2021. In the circumstances, the abandoned project affected the planned objectives of the Fund and may have impacted negatively on service delivery to the public.

Submissions by the Accounting Officer

34. The Accounting Officer submitted that—

The project was jointly funded by Water Fund and Athi Water Works Development Agency (AWWDA). Water Fund was to contribute Kshs. 250M and AWWDA was to contribute Kshs. 425M to support the programme activities. Under the contract AWWDA was to be implementing and accounting agency. WSTF has since received accounting documents for the disbursement made under this project. AWWDA should provide the current status and for WaterFund all the funds (Kshs. 250,000,000) transferred to AWWDA was fully accounted.

Submissions by Athi Water Accounting Officer

35. The Accounting Officer Submitted that—

Athi Water Works Development Agency (AWWDA), entered into a contract for construction works for Gatundu Water and Sanitation Project: Gatundu Ground Water Exploitation Project; Contract No. AWWDA/GOK/GWSP/W-29/LOT 3/2020 and further, a Contract for construction works for Gatundu Water and Sanitation Project: Drilling and Equipping of

Gatundu Boreholes: Contract No. AWWDA/GOK/GWSP/W-29/LOT 4/2020 with M/s Drill Rite Africa Limited in July 2020.

36. Both contracts were funded by the Government of Kenya through the Ministry of Water, Sanitation and Irrigation. The construction works for the two projects commenced simultaneously on 28th July, 2020 with an original completion date of 28th July, 2021 and the Defect Liability Period supposed to end on 28th May, 2022. However, by December 2023, the contract term for both project works had lapsed but the project works remained incomplete.
37. The contractor requested for review of rates via a letter dated 25 February, 2021 which was declined pursuant to Special Condition of Contract (SCC) clause 50 which states that a contract is not subject to price adjustment. The contractor abandoned the site after the decline of price variation and the Agency issued a notice on intention to terminate the contract on 30 November, 2021 and demanded to cash the performance guarantee.
38. AWWDA subsequently made a demand to the bank seeking to recall the performance bonds of Kshs. 6,123,839 on account EKI/SM/20-GI6689 and Kshs. 5,463,239 on account EKI/SM/20-GI6690 as deposited by the Plaintiff on account of performance guarantee. Following AWWDA's intention to terminate the above-mentioned contracts and the demands to the bank to recall the performance bonds as above-referenced, AWWDA was served with an Application Milimani Civil Suit No. E971 of 2021 Drill Rite Africa Limited- VS- Athi Water Works Development Agency and Bank of Africa Kenya Limited under a certificate of Urgency dated 17th December, 2021.
39. The Plaintiffs (Drill Rite ltd), sought for Orders inter alia, that the Court restrains by the 2nd Defendant (Bank of Africa) from releasing Kshs. 6,123,839 on account EKI/SM/20-GI6689 and Kshs. 5,463,239 on account EKI/SM/20-GI6690 as deposited by the Plaintiff on account of performance guarantee and further that the issues in dispute on variation of prices be referred to adjudication by an Arbitrator to be appointed by the Kenya Chapter of the Chartered Institute of Arbitrators as per the Contract. The plaintiffs also sought for orders on payment for works completed as at 22nd September 2021. The court directed that the case be settled through arbitration.
40. AWWDA and M/s Drill Rite Limited entered into a Final Settlement Agreement on the 11th day of January, 2024 for the purposes of amicably settling all matters in dispute leading to the filing of the above-mentioned suit and the copy of settlement agreement has been annexed in the Management responses. For the Construction works for Gatundu Water and Sanitation Project: Gatundu Ground Water Exploitation Project; Contract No. AWWDA/GOK/GWSP/W-29/LOT 3/2020, it was agreed in the Final Settlement Agreement that upon withdrawal of the suit against AWWDA and Bank of Africa, AWWDA to settle

the final payment of kshs. 4,561,261.43 (Inclusive of VAT) to the contractor for works done and certified.

41. For Gatundu Water and Sanitation Project: Drilling and Equipping of Gatundu Boreholes project; Contract No. AWWDA/GOK/GWSP/W-29/LOT 4/2020 it was agreed in the Final Settlement Agreement Upon withdrawal of the suit against AWWDA and Bank of Africa, AWWDA to settle the final payment of Kshs. 5,932,866.99 (Inclusive of VAT) to the contractor for works done and certified. Subsequently, as per the terms of the final settlement agreement between the parties, the plaintiffs (Drill Rite Limited) filed a notice of withdrawal dated 24th January, 2024 seeking to withdraw the suit in its entirety. The Court marked the matter as withdrawn with no orders as to costs vide Order dated 5th March, 2024 and copy of the order is annexed in the Management Responses

Observations by the Committee

42. The Committee observed that—

- i. **Management entered into a financing support and implementation agreement with Athi Water Works Development Agency (AWWDA) for Gatundu priority project for lot 3 and 4**
- ii. **The construction works for the two projects commenced simultaneously on 28th July, 2020 however, by December 2023, the contract term for both project works had lapsed but the project works remained incomplete.**
- iii. **The contractor's request for a rate review was declined pursuant to SCC clause 50, leading to site abandonment, issuance of termination notice, recall of performance bonds by AWWDA, a legal suit and arbitration request by Drill Rite Africa Limited, and eventual amicable resolution through a Final Settlement Agreement signed on 11th January 2024.**
- iv. **As part of the settlement, AWWDA agreed to make final payments totalling Kshs. 10,494,128.42 for certified works, leading to the withdrawal of the suit by the plaintiff on 24th January 2024 and the court marking the case as formally withdrawn on 5th March 2024.**
- v. **The matter is resolved.**

3. Information, Communication and Technology (ICT) Governance-

(a) ICT Policy Deficiencies

43. Review of the current IT Policy in place revealed that the Fund does not have clearly defined controls, processes and procedures with regards to network administration, backup management and user creation in the application systems. Inadequate user access creation guidelines may result to inconsistent processes of user access creation across the various systems within the organization. Lack of policy guidelines on network administration and backup management may lead to inadequate backup and network procedures being implemented in the IT systems.
44. In the circumstances, the adequacy of ICT backup and controls in the network procedures implemented in the IT systems, could not be confirmed. The management acknowledges the

finding and undertook review of ICT policy to address control deficiencies that were identified. Subsequently a second review of ICT policy commenced in FY2023/2024 as part of continuous improvement and to keep abreast with developments in the ICT. The review was finalised and purposed to eliminate all the gaps and deficiencies identified as above.

Observations by the Committee

1. The Committee observed that—

- i. Management undertook review of ICT policy and have since addressed the control deficiencies that were identified.**
- ii. The matter is resolved.**

(b) Password Deficiencies in the Aren Register Application

45. The Aren Register application does not have a password configuration in place that would allow the administrators of the system to implement password policy as per industry standards or the organization's IT policy. Failure to implement a password policy may allow attackers to gain unauthorized access to the system therefore exposing the Fund to possible loss or manipulation of its data. In the circumstances the controls in place to prevent unauthorized access to the system could not be confirmed.

Submissions by the Accounting Officer

46. The Accounting Officer submitted that—

The management acknowledges the deficiencies in the Aren system's password security implementation. Management engaged the Aren system vendor for refinement of the password module to cater for password complexity requirements.

Observations by the Committee

47. The Committee observed that the following;

- i. The Fund's Aren Register application did not have a password configuration in place that would allow the administrators of the system to implement password policy as per the organization's IT policy.**
- ii. The matter is unresolved**

Recommendations of the Committee

48. The Committee recommended that—

That within three Months upon the adoption of this report the Accounting Officer to ensure that the Fund has an Aren Register application that has a password configuration in place to allow the administrators of the system to implement password policy as per the organization's IT policy.

4. Questioned Project Expenses

49. The statement of financial performance reflects project expenses of Kshs.4,098,370,763 as disclosed in Note 12 to the financial statements. Included in the project expenses is an amount of Kshs.18,087,102 in respect of questioned costs which had procurement queries

arising from the audit of project implementing organizations. Although Management has indicated that the issue is being dealt with legally and administratively, these costs reflect weak controls in management of funds disbursed and spent by various water and sanitation and water resources projects in various counties. In the circumstances, the effectiveness of controls in the management of funding to water projects could not be confirmed.

Submissions by the Accounting Officer

50. The Accounting Officer submitted the following

Management acknowledges that in course of financing projects, an amount Kshs.18,087,102 which translate to approximately 0.4% of total expenditure was questioned. The management contacted the different implementing partners with the findings and is in the process of consolidating the supporting documentation for review. Any unsupported expenditure will be recovered from each institution with punitive measures instituted in cases where misappropriation is noted.

Table VII-Questioned Project Expenses for FY 2020-2021

FY	Prog	Implementing Partner (IP)	Amount	Status as at August 2024	Remarks
2021	GGEP	Lorugum WRUA	262,005	Follow up ongoing	Demand letters issued and follow up being made
2021	GGEP	Namoruakwan	93,900	Follow up ongoing	Demand letters issued and follow up being made
2021	GGEP	Kangirisae	19,300	Follow up ongoing	Demand letters issued and follow up being made
2021	GGEP	Libahalow	114,298	Sufficient supporting documents provided	Recommended for closure
2021	GGEP	Garissa WSP	75,144	Sufficient supporting documents provided	Recommended for closure
2021	IFAD	Kayahwe Water Resources Management Project	22,400	Follow up ongoing	Demand letters issued and follow up being made
2021	IFAD	Kayahwe Water Resources Management Project	173,000	Follow up ongoing	Demand letters issued and follow up being made
2021	IFAD	Kimakia CFA Project	23,000	Follow up ongoing	Demand letters issued and follow

FY	Prog	Implementing Partner (IP)	Amount	Status as at August 2024	Remarks
					up being made
2021	IFAD	Gura Water Resources Management Project	39,000	Sufficient supporting documents provided	Recommended for closure
2021	IFAD	Chehe Community Forest Association Project	158,500	Follow up ongoing	Demand letters issued and follow up being made
2021	IFAD	Chehe Community Forest Association Project	472,500	Follow up ongoing	Demand letters issued and follow up being made
2021	IFAD	Ruguti Water Resource Users Association	30,000	Follow up ongoing	Demand letters issued and follow up being made
2021	IFAD	Luguso WRUA	200,000	Follow up ongoing	Demand letters issued and follow up being made
2021	IFAD	Kiera Hills CFA	308,400	Follow up ongoing	Demand letters issued and follow up being made
2021	IFAD	WRA- Tana	333,940	Follow up ongoing	Demand letters issued and follow up being made
2021	J6P	Sirimon WRUA	20,000	Follow up ongoing	Demand letters issued and follow up being made
2021	UPC	Mauche Raia Household Sanitation Project- Bomet WSP	95,000	Sufficient supporting documents provided	Recommended for closure
2021	UPC	Yatta Household Sanitation Project- Yatta WSP	4,052	Sufficient supporting documents provided	Recommended for closure
2021	UPC	Mwatate Household Sanitation Project- Tavevo WSP	2,161,025	Follow up ongoing	The Water Company is following up to get NEMA licence to continue with the construction
2021	UPC	Ijara Household Sanitation Project in Ijara- Garissa WSP	262,600	Sufficient supporting documents	Recommended for closure

FY	Prog	Implementing Partner (IP)	Amount	Status as at August 2024	Remarks
				provided	
2021	UPC	Kathuku Milimani Kyuso Town Water Project- Kiambere Mwingi WSP	395,230	Follow up ongoing	Demand letters issued and follow up is ongoing
			5,263,294		

51. He noted that following the release of IPs had been accounted for through provision of supporting documents, refunds and technical audits of the projects funded. For the amount which had not been resolved, negotiations are ongoing with the implementing partners and Development Partners. Further demand letters have been made to IPs.

Observations by the Committee

52. The Committee observed that—

- i) **An amount of Kshs. 985,324 had been accounted for through provision of supporting documents and refunds while Kshs. 4,277,970 had not been supported**
- ii) **The matter is unresolved.**

Recommendations of the Committee

53. The Committee recommended that—

- i. **Within six months upon the adoption of this report the Accounting Officer provides a progress report and supporting documentation on the recovery of the pending amount of Kshs. 4,277,970 which had not been supported to the Office of the Auditor General for audit verification.**
- ii. **The Accounting Officer should ensure that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of the financial statements in compliance with Public Finance Management Act, 2012 and in accordance with the standards prescribed by the Public Sector Accounting Standards Board as per Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.**

5. Long Outstanding Receivables from Non-Exchange Transactions

54. The statement of financial position reflects receivables from non-exchange transactions of Kshs. 1,150,454,800 as disclosed in Note 16 to the financial statements. However, this balance includes an amount of Kshs.29,765,280 in respect to project receivables which have been outstanding for more than three hundred and sixty- five (365) days.

55. However, the Funds' policy is to make full provision for outstanding debts more than three hundred and sixty- five (365) days old, and although Management gave evidence of measures made as a follow up to recover the debts from the water companies,' adequate controls and safeguards to signed agreements to repay the debts were not provided. In the

circumstances, the recoverability of the receivables from non-exchange transactions balance of Kshs.29,765,280 could not be confirmed.

Submissions by the Accounting Officer

56. The Accounting Officer submitted that—

The management acknowledge the finding that some projects receivables approximately 2.5% of total receivables are long outstanding. The management assisted by the Board has initiated recovery strategies from the affected WSPs with support from respective County Governments. It's also expected that there will be change of strategy pertaining to disbursements to projects and specific strategies to WSPs in the list of provisions/questioned costs. The Board of Trustees and management have engaged governors of the Counties of Garissa, Taita Taveta, Samburu, Vihiga, Nakuru, Kakamega and Kajiado with the aim of resolving the long outstanding receivables.

57. In these engagements, we have had the counties of Taita Taveta, Kajiado and Garissa committing to refund the amounts in question by the end of the financial year 2023/24. Water Fund has further, engaged the services of Quality Assurance Monitors (QAMs), who are assigned specific counties with WSTF projects. The QAMs have been tasked with ensuring that the implementing partners in their areas of jurisdiction provide satisfactory reports in a timely manner. WSTF has also introduced a platform on which all reports and other relevant documents are uploaded at the end of every month. The program teams review the reported documents and reports based on the quality and timeliness.

The table below shows the current status of long outstanding receivables.

Table VIII- Long outstanding receivables

No.	Receivable	Receivable (KShs)	Accounted (KShs)	Outstanding (KShs)
1	Kimangao Water and Sanitation Project	1,075,603	1,075,603	-
2	Mchelelo Primary School	26,525	26,525	
3	Kone Community	6,142,945	-	6,142,945
4	Manda Maweni Watsan Project	383,034	-	383,034
5	Nairobi WRUA	3,628,450	-	3,628,450
6	Kochodin WRUA	5,536,954	-	5,536,954
7	Mrima Sanitation Project	4,788	-	4,788
8	Mwangani Sanitation Project	5,121	-	5,121
9	Ongata Rongai Sanitation (Safisan Pilot) Project	302,689	302,689	

No.	Receivable	Receivable (KShs)	Accounted (KShs)	Outstanding (KShs)
10	Baba Dogo Water Extension	698,677	698,677	
11	Mathare Sustainability Water Project	3,493,298	2,290,027	1,064,271
12	Machakos Household Sanitation project	118,546	118,546	-
13	Nolturesh Nzau Household Sanitation project	5,467,479	-	5,467,479
14	Kimende Pipeline Call 7	43,200	43,200	
15	Garissa Primary Playground PSF	77,774	74,893	2,881
16	Kibwezi Household Sanitation project	2,760,197	2,760,197	-
	Total	29,765,280	4,401,653	22,235,923

Observations by the Committee

58. The Committee observed that—

- i. An amount of Kshs. 22,235,923 in respect to project receivables had been outstanding
- ii. The matter is unresolved.

Recommendations of the Committee

59. The Committee recommended that—

That within six months upon the adoption of this report the Accounting Officer provides a progress report and supporting documentation on the recovery of Kshs. 22,235,923 in respect to project receivables to the Office of the Auditor General for audit verification.

2.4. Examination of the Auditor General reports for Water Sector Trust Fund for the Financial Year 2021/2022

1. Budgetary Control and Performance

60. The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.6,627,309,000 and Kshs.5,193,614,542 respectively resulting to an under-funding of Kshs.1,433,694,458 or 22% of the budget. Similarly, the Fund spent Kshs.5,382,295,802 against an approved budget of Kshs.6,627,309,000 resulting to an under-expenditure of Kshs.1,245,013,198. The under-funding and under-performance affected the planned activities of the Fund and may have impacted negatively on service delivery to the public.

Submissions by the Accounting Officer

61. The Accounting Officer submitted that—

Management acknowledges the finding noting that there was delay in remitting budgeted funds by both the Development Partners and Government of Kenya. Continuous follow up is being undertaken to ensure timely receipt of funds. Water Fund has instituted measures in capacity building and support to projects aimed at efficient and timely accountability of funds disbursed which improve project expenditure and absorption of funds.

No	Funding source	Budgeted amount (KShs)	Amount received (Kshs)	Actual expenditure (KShs)	Budget Variance (KShs)	Expenditure Variance (KShs)
1	GOK	513,800,000	399,000,000	495,282,484	114,800,000	18,517,516
2	Finance income	2,000,000	5,508,202	-	-3,508,202	2,000,000
3	Other income		20,865,404	31,763,384	-20,865,404	31,763,384
4	Government of Germany – KfW/BMGF	625,313,000	70,833,740	70,833,740	554,479,260	554,479,260
5	European Union - Rural	587,556,000	277,688,940	364,048,940	309,867,060	223,507,060
6	Government of Denmark	463,640,000	343,734,619	343,734,620	119,905,381	119,905,380
7	IFAD	170,920,000	40,710,195	40,710,195	130,209,805	130,209,805
8	World Bank	3,796,080,000	4,025,467,861	4,026,116,858	-	-
9	Sweden/Finland - J6P	268,000,000	9,805,581	9,805,581	258,194,419	258,194,419
10	Saudi Fund for Development	200,000,000	-	-	200,000,000	200,000,000

	Total	6,627,309,000	5,193,614,542	5,382,295,802	1,433,694,458	1,245,013,198
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Observations by the Committee

62. The Committee observed that—

- i. **The Fund had a budget deficit amounting to Kshs.1,433,694,458 and an under absorption of Kshs.1,245,013,198.**
- ii. **The outstanding disbursements were occasioned by the delay in remitting budgeted funds by both the Development Partners and Government of Kenya.**
- iii. **The matter is resolved.**

2. Failure to Remit Withholding Tax on Interest Income

63. The statement of financial position reflects trade and other payables of Kshs. 150,356,547 as disclosed under Note 22 to the financial statements which includes withholding tax payable of Kshs.6,970,665. However, the balance includes Kshs.915,581 relating to withholding taxes on interest income earned from project accounts that was not remitted to KRA. Failure to remit withholding taxes on interest income deducted by the payee at 15% and remit to KRA by 20th of the following months contravenes the Income Tax Act and could result in penalties and interest being levied by KRA. In the circumstances, Management was in breach of the law.

Submissions by the Accounting Officer

64. The Accounting Officer submitted that—

The management acknowledges the finding. The management has since paid to KRA the withholding taxes pertaining to interest's income earned by project bank accounts.

Observations by the Committee

65. The Committee observed that—

- i) **Management has since paid to KRA the withholding taxes pertaining to interest's income earned by project bank accounts.**
- ii) **The matter is resolved.**

3. Abandoned Project

66. As previously reported, the Fund entered into a financing support and implementation agreement with Athi Water Works Development Agency (AVWWDA) for Gatundu priority project on 28 April, 2020. The Agency contracted a drilling company for LOT 3 and 4 of works relating to ground water exploitation project, drilling and equipping of Gatundu boreholes for Kshs.54,632,385 and Kshs.61,238,383 respectively.

67. The drilling company was paid an initial sum of Kshs.7,388,808. However, the company did not complete the works. Following abandonment of the construction works in March, 2021 without prior consultation or approval by the Project Manager, the Agency held meetings with the contractor for resumption of works without success and subsequently, the Agency issued a notification to terminate the contract on 30 November, 2021. In the circumstances,

the abandoned project affected the planned objectives of the Fund and may have impacted negatively on service delivery to the public.

Submissions by the Accounting Officer

68. The Accounting Officer submitted that—

The project was jointly funded by Water Fund and Athi Water Works Development Agency (AWWDA). Water Fund was to contribute Kshs. 250M and AWWDA was to contribute Kshs. 425M to support the programme activities. Under the contract AWWDA was to be implementing and accounting agency. WSTF has since received accounting documents for the disbursement made under this project. AWWDA should provide the current status and for WaterFund all the funds (Kshs. 250,000,000) transferred to AWWDA was fully accounted as per the General Ledger

Submissions by Athi Water Accounting Officer

69. The Accounting Officer Submitted that—

Athi Water Works Development Agency (AWWDA), entered into a contract for construction works for Gatundu Water and Sanitation Project: Gatundu Ground Water Exploitation Project; Contract No. AWWDA/GOK/GWSP/W-29/LOT 3/2020 and further, a Contract for construction works for Gatundu Water and Sanitation Project: Drilling and Equipping of Gatundu Boreholes: Contract No. AWWDA/GOK/GWSP/W-29/LOT 4/2020 with M/s Drill Rite Africa Limited in July 2020.

70. Both contracts were funded by the Government of Kenya through the Ministry of Water, Sanitation and Irrigation. The construction works for the two projects commenced simultaneously on 28th July, 2020 with an original completion date of 28th July, 2021 and the Defect Liability Period supposed to end on 28th May, 2022. However, by December 2023, the contract term for both project works had lapsed but the project works remained incomplete.

71. The contractor requested for review of rates via a letter dated 25 February, 2021 which was declined pursuant to Special Condition of Contract (SCC) clause 50 which states that a contract is not subject to price adjustment. The contractor abandoned the site after the decline of price variation and the Agency issued a notice on intention to terminate the contract on 30 November, 2021 and demanded to cash the performance guarantee.

72. AWWDA subsequently made a demand to the bank seeking to recall the performance bonds of Kshs. 6,123,839 on account EKI/SM/20-GI6689 and Kshs. 5,463,239 on account EKI/SM/20-GI6690 as deposited by the Plaintiff on account of performance guarantee. Following AWWDA's intention to terminate the above-mentioned contracts and the demands to the bank to recall the performance bonds as above-referenced, AWWDA was served with an Application Milimani Civil Suit No. E971 of 2021 Drill Rite Africa Limited- VS- Athi Water Works Development Agency and Bank of Africa Kenya Limited under a certificate of Urgency dated 17th December, 2021.

73. The Plaintiffs (Drill Rite ltd), sought for Orders inter alia, that the Court restrains by the 2nd Defendant (Bank of Africa) from releasing Kshs. 6,123,839 on account EKI/SM/20-GI6689 and Kshs. 5,463,239 on account EKI/SM/20-GI6690 as deposited by the Plaintiff on account of performance guarantee and further that the issues in dispute on variation of prices be referred to adjudication by an Arbitrator to be appointed by the Kenya Chapter of the Chartered Institute of Arbitrators as per the Contract. The plaintiffs also sought for orders on payment for works completed as at 22nd September 2021. The court directed that the case be settled through arbitration.

74. AWWDA and M/s Drill Rite Limited entered into a Final Settlement Agreement on the 11th day of January, 2024 for the purposes of amicably settling all matters in dispute leading to the filing of the above-mentioned suit and the copy of settlement agreement has been annexed in the Management responses. For the Construction works for Gatundu Water and Sanitation Project: Gatundu Ground Water Exploitation Project; Contract No. AWWDA/GOK/GWSP/W-29/LOT 3/2020, it was agreed in the Final Settlement Agreement that upon withdrawal of the suit against AWWDA and Bank of Africa, AWWDA to settle the final payment of kshs. 4,561,261.43 (Inclusive of VAT) to the contractor for works done and certified.

75. For Gatundu Water and Sanitation Project: Drilling and Equipping of Gatundu Boreholes project; Contract No. AWWDA/GOK/GWSP/W-29/LOT 4/2020 it was agreed in the Final Settlement Agreement Upon withdrawal of the suit against AWWDA and Bank of Africa, AWWDA to settle the final payment of Kshs. 5,932,866.99 (Inclusive of VAT) to the contractor for works done and certified. Subsequently, as per the terms of the final settlement agreement between the parties, the plaintiffs (Drill Rite Limited) filed a notice of withdrawal dated 24th January, 2024 seeking to withdraw the suit in its entirety. The Court marked the matter as withdrawn with no orders as to costs vide Order dated 5th March, 2024 and copy of the order is annexed in the Management Responses

Observations by the Committee

76. The Committee observed that—

- i. Management entered into a financing support and implementation agreement with Athi Water Works Development Agency (AWWDA) for Gatundu priority project for lot 3 and 4**
- ii. The construction works for the two projects commenced simultaneously on 28th July, 2020 however, by December 2023, the contract term for both project works had lapsed but the project works remained incomplete.**
- iii. The contractor's request for a rate review was declined pursuant to SCC clause 50, leading to site abandonment, issuance of termination notice, recall of performance bonds by AWWDA, a legal suit and arbitration request by Drill Rite Africa Limited, and eventual amicable resolution through a Final Settlement Agreement signed on 11th January 2024.**

- iv. As part of the settlement, AWWDA agreed to make final payments totalling Kshs. 10,494,128.42 for certified works, leading to the withdrawal of the suit by the plaintiff on 24th January 2024 and the court marking the case as formally withdrawn on 5th March 2024.
- v. The matter is resolved.

4. Anomalies in Projects Implementation

77. The statement of financial performance Includes project expenses of Kshs.4,887,013,318 as disclosed under Note 12 to the financial statements out of which Kshs.46,621,785 relates to costs that had anomalies in the procurement, payment of VAT from donor funds and non-compliance with development partners guidelines among other factors. The costs relate to project costs arising from the project expenditure incurred by implementing partners as detailed below:

<i>Donor</i>	<i>Costs Kshs.</i>
CLSG	30,104,506
Danida Covid 19	1,040,899
EU CPIRA	4,362,791
GGEP	1,918,766
GOK	5,100,000
IFAD	444,109
KFW/BMGF	3,650,714
Total	46,621,785

Submissions by the Accounting Officer

78. The Accounting Officer submitted that—

The table below shows the current status.

Table IX- Anomalies in Projects Implementation for FY 2021-2022

FY	Prog	Implementing Partner	Amount	Status as at August 2024	Remarks
2022	GGEP	Lokichar Watsan Project- Lokichar WSP	996,062	Follow up ongoing	Technical audits will be undertaken
2022	GGEP	Kangirisae water and sanitation extension project	240,000	Sufficient supporting documents provided	Recommended for closure
2022	GGEP	Lorugum WRUA	24,717	Unresolved	Demand letters submitted to IP
2022	GGEP	Libahlow Water and	243,000	Unresolved	Demand letters

FY	Prog	Implementing Partner	Amount	Status as at August 2024	Remarks
		Sanitation Project-Garissa WSP			submitted to IP
2022	GGEP	Libahlow Water and Sanitation Project-Garissa WSP	101,525	Sufficient supporting documents provided	Recommended for closure
2022	GGEP	SHEBTA-AAD WATER AND SANITATION PROJECT - Garissa WSP	404,475	Sufficient supporting documents provided	Recommended for closure
2022	GGEP	SHEBTA-AAD WATER AND SANITATION PROJECT- Garissa WSP	3,476,372	Refunds received	Refunded funds as per <i>ANNEX III (b)</i>
2022	GGEP	Awarsitu Pipeline Extension water project- Isiolo WSP	10,512	Follow up ongoing	Demand letters submitted to IP
2022	GGEP	WSTF- GGEP Fixed assets	389,567	Sufficient supporting documents provided	Recommended for closure
2022	IFAD	Tungu Water Resources Management Project	371,609	Unresolved	Demand letters submitted to IP
2022	IFAD	Lower Maragua Water Resources Management Project	15,000	Unresolved	Demand letters submitted to IP
2022	IFAD	Rwamuthambi Water Resources Management Project	5,500	Sufficient supporting documents provided	Recommended for closure
2022	IFAD	Upper Gura Water Resources Management Project	51,000	Follow up ongoing	Demand letters submitted to IP
2022	J6P	Water Bill Public participation- Laikipia County Government	309,500	Sufficient supporting documents provided	Recommended for closure
2022	UPC	Mumias Household Sanitation Project-Kakamega WSP	256,500	Sufficient supporting documents provided	Recommended for closure

FY	Prog	Implementing Partner	Amount	Status as at August 2024	Remarks
2022	UPC	Busia Port Victoria Household Sanitation Project- Busia WSP	50,000	Follow up ongoing	Demand letters submitted to IP
2022	UPC	Mbale Household Sanitation Project- Amatsi WSP	483,206	Sufficient supporting documents provided	Recommended for closure
2022	WLP	Support to Water and Sanitation Projects in Turkana West, Kenya - AMREF	1,360,463	Sufficient supporting documents provided	Recommended for closure
2022	WLP	Enhancing Livelihoods through supply and sanitation improvement and addendum to the ELIWAS grant – AAHI	7,397,740	Sufficient supporting documents provided	Recommended for closure
2022	EDE-CIPRA	Samburu Water and Sewerage company	4,308,942	Sufficient supporting documents provided	Recommended for closure
2022	EDE-CIPRA	Olkejuado Water and Sanitation Company	37,250	Follow up ongoing	Demand letter submitted to IP
2022	EDE-CIPRA	Kirandich Water and Sanitation Company	16,599	Follow up ongoing	Demand letter submitted to IP
2022	CLSG	Nakuru Water and Service Sanitation Company	241,500	Sufficient supporting documents provided	Recommended for closure
2022	CLSG	Malindi Water and Sanitation Company	4,555,149	Sufficient supporting documents provided	Recommended for closure
2022	CLSG	Garissa Water and Sewerage Company Limited	10,348,702	Sufficient supporting documents provided	Recommended for closure
2022	CLSG	Garissa Water and Sewerage Company Limited	1,120,700	Sufficient supporting documents provided	Recommended for closure
2022	CLSG	Tavevo Water and Sanitation Company	1,000,000	Sufficient supporting	Recommended for closure

FY	Prog	Implementing Partner	Amount	Status as at August 2024	Remarks
				documents provided	
2022	CLSG	Nairobi City Water and Sewerage Company	166,811	Sufficient supporting documents provided	Recommended for closure
2022	CLSG	Nairobi City Water and Sewerage Company	18,692	Sufficient supporting documents provided	Recommended for closure
2022	CLSG	Amatsi Water Services Company	187,293	Sufficient supporting documents provided	Recommended for closure
2022	CLSG	Amatsi Water Services Company	3,025,533	Sufficient supporting documents provided	Recommended for closure
2022	CLSG	Amatsi Water Services Company	1,550,886	Sufficient supporting documents provided	Recommended for closure
2022	CLSG	Amatsi Water Services Company	12,644,762	Follow up ongoing	Water Fund has engaged the Governor and we expect to be resolved in the next 3 months.
			50,646,855		

79. Following the release of the audit report, a total of Kshs. 45,129,056 has been accounted for. In the course of follow ups, Water Fund arranged for physical meetings with various stakeholders including the county governments in an effort to have the findings addressed. Demand letters have been made to partners who have been responding to the WSTF's requests though at a slow pace. Water Fund has further, engaged the services of Quality Assurance Monitors (QAMs), who are assigned specific counties with WSTF projects. The QAMs have been tasked with ensuring that all audit queries in the projects that they are monitoring are adequately addressed.

Observations by the Committee

80. The Committee observed that—

- i) **45,129,056 had been accounted for through provision of supporting documents and refunds while Kshs. 5,517,799 had not been supported**

- ii) The matter is unresolved.

Recommendations of the Committee

81. The Committee recommended that—

- i. Within six months upon the adoption of this report the Accounting Officer must provide a report and supporting documentation on the recovery of the pending amount of Kshs. 5,517,799 which had not been supported to the Office of the Auditor General for audit verification.
- ii. The Accounting Officer should ensure that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of the financial statements in compliance with Public Finance Management Act, 2012 and in accordance with the standards prescribed by the Public Sector Accounting Standards Board as per Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.

5. Information, Communication and Technology (ICT) Governance

(a) ICT Policy Deficiencies

82. As previously reported, review of the IT Policy in place revealed that the Fund does not have clearly defined controls, processes and procedures with regards to network administration, backup management and user creation in the application systems. Inadequate user access creation guidelines may result to inconsistent processes of user access creation across the various systems within the organization. Lack of policy guidelines on network administration and backup management may lead to inadequate backup and network procedures being implemented in the IT systems. In the circumstances, the adequacy of ICT backup and controls in the network procedures implemented in the IT systems, could not be confirmed.

Submissions by the Accounting Officer

83. The Accounting Officer submitted that—

The management acknowledged the finding and undertook review of ICT policy to address control deficiencies that were identified. Subsequently a second review of ICT policy commenced in FY2023/2024 as part of continuous improvement and to keep abreast with developments in the ICT. The review was finalised and purposed to eliminate all the gaps and deficiencies identified as above.

Observations by the Committee

84. The Committee observed that—

- i. Management undertook review of ICT policy and have since addressed the control deficiencies that were identified.
- ii. The matter is resolved.

(c) Password Deficiencies in the Aren Register Application

85. As previously reported, the Aren Register application does not have a password configuration in place that would allow the administrators of the system to implement password policy as per industry standards or the organization's IT policy. Failure to implement a password policy may allow attackers to gain unauthorized access to the system therefore exposing the Fund to possible loss or manipulation of its data. In the circumstances, the controls in place to prevent unauthorized access to the system could not be confirmed.

Submissions by the Accounting Officer

86. The Accounting Officer submitted that—

The management acknowledged the deficiencies in the Aren system's password security implementation. Management engaged the Aren system vendor for refinement of the password module to cater for password complexity requirements.

Observations by the Committee

87. The Committee observed that—

- i) Management had since engaged the Aren system vendor for refinement of the password module to cater for password complexity requirements and resolved the matter .
- ii) The matter is resolved.

6. Long Outstanding Receivables

88. The statement of financial position reflects receivables from non-exchange transactions balance of Kshs.596,033,165 as disclosed under Note 16 to the financial statements which includes Kshs.26,172,547 (28,091,171 2020-21) that has been long outstanding with movement of only Kshs.1 during the year under review. Further, adequate control measures and safeguards to the signed agreements to repay the debts were not provided for audit. In the circumstances, the adequate control measures and recoverability of the receivables from non-exchange transactions balance of Kshs.26, 172,547 could not be confirmed.

Submissions by the Accounting Officer

89. The Accounting Officer submitted that—

The Management assisted by the Board has initiated recovery strategies from the affected WSPs with support from respective County Governments. It's also expected that there will be change of strategy pertaining to disbursements to projects and specific strategies to WSPs in the list of provisions/questioned costs. The Board of Trustees and management have engaged governors of the Counties of Garissa, Taita Taveta, Samburu, Vihiga, Nakuru, Kakamega and Kajiado with the aim of resolving the long outstanding receivables. In these engagements, we have had the counties of Taita Taveta, Kajiado and Garissa committing to refund the amounts in question by the end of the financial year 2023/24.

90. Water Fund has further, engaged the services of Quality Assurance Monitors (QAMs), who are assigned specific counties with WSTF projects. The QAMs have been tasked with ensuring that the implementing partners in their areas of jurisdiction provide satisfactory reports in a timely manner. WSTF has also introduced a platform on which all reports and other relevant documents are uploaded at the end of every month. The program teams review the reported documents and reports based on the quality and timeliness.

Table X -Receivables for FY 2021-2022

KFW/BMGF	Baba Dogo water extension	698,676.90	698,677	
KFW/BMGF	Bulla Arabia and Bulla Garal call 7	2,302,552.00	0	2,302,552.00
KFW/BMGF	Busia port Victoria Houshold sanitation	933,514.00	933,514.00	0
KFW/BMGF	Garissa primary playground PSF	77,773.75	74,893	2,881
KFW/BMGF	Kibwezi household SAN	25,048.75	25,048.75	0
KFW/BMGF	Kimende pipeline call 7	43,200.00	43,200.00	0
KFW/BMGF	Kirinyaga household sanitation project	140,605.00	0	140,605.00
KFW/BMGF	Mathare sustainability water project	3,493,298.45	2,290,027	1,064,271
KFW/BMGF	Mbale household sanitation project Amatsi	1,837,102.00	0	1,837,102.00
KFW/BMGF	Mitunguu town household sanitation project	836,042.00	0	836,042.00
KFW/BMGF	Naromoru household sanitation project	130,924.00	0	130,924.00
KFW/BMGF	Nolturesh Nzaui household sanitation project	5,467,478.78	0	5,467,479
KFW/BMGF	Ongata Rongai sanitation (safisan pilot) project	302,689.00	302,689.00	0
KFW/BMGF	Ukunda household sanitation project	1,053,108.00	1,013,242.50	39,865.50
CPC-SIDA	Kimangao water and sanitation project	1,075,603.00	1,075,603	0
MTAP SCHOOL WASH	Mchelelo primary school	26,525.00	26,525	0
EU SHARE	Kone community	6,142,945.00	0	6,142,945
EU SHARE	Manda Maweni WATSAN project	383,034.00	0	383,034
GGEP	Kochodin WRUA	5,536,954.00	0	5,536,954

J6P	Mrima sanitation project	4,788.00	0	4,788
J6P	Mwangani Sanitation project	5,121.00	0	5,121
IFAD	Nairobi WRUA	3,628,450.00	0	3,628,450
IFAD	Irangi CFA	1,963,000.00	0	1,963,000.00
KFW/BMGF	Bar Kowino Nyawita water project	1,844,969.45	1,042,187.35	802,782.10
KFW/BMGF	Homabay town household sanitation project	506,143.80	506,143.80	0
KFW/BMGF	Ijara household sanitation-KFW	1,963,805.00	1,491,910.10	471,894.90
KFW/BMGF	Kiambu water extension,	6,882,498.28	6,882,498.28	
KFW/BMGF	Mitunguu town household sanitation project	1,229,192.47	393,150.47	836,042.00
KFW/BMGF	Rumuruti town household sanitation Nyahururu	1,134.00	1,134.00	0
KFW/BMGF	Sabasaba Maragua household sanitation Muranga south	13,097.00	13,097.00	0
EU SHARE	Quachacha	1,025,487.00	0	1,025,487.00
GGEP	Harajab WATSAN	144,253.00		144,253.00
GGEP	Libahlow WATSAN	101,525.00	81,405.00	20,120.00
GGEP	Shebta CAAD WATSAN	3,476,372.00	3,476,372.00	0
J6P	Mrima CLTS project	3,141.00	0	3,141.00
J6P	Bungoma primary san. Project	32,475.00	0	32,475.00
J6P	Kwale WASCO	2,067.00	0	2,067.00
J6P	Mbuguni WRUA	1,598.00	0	1,598.00
J6P	Mwangani CLTS		0	7,135.50

	project	7,135.50		
IFAD	Kimakia CFA	1,647,638.00	0	1,647,638.00
GGEP	Other receivables	23,545.00	23,545.00	0
COVID 19	Project receivables - NWSC	1,347,045.44	1,037,999.91	309,045.53
	GRAND TOTAL	52,848,499	11,073,992	34,752,009

Observations by the Committee

91. The Committee observed that—

- i. An amount of Kshs. 34,752,009 in respect to project receivables had been outstanding
- ii. The matter is unresolved.

Recommendations of the Committee

92. The Committee recommended that—

That within six months upon the adoption of this report the Accounting Officer provides a progress report and supporting documentation the recovery of Kshs. 34,752,009 in respect to project receivables to the Office of the Auditor General for audit verification.

2.5. Examination of the Auditor General reports for Water Sector Trust Fund for the financial Year 2022/23

Emphasis of Matter by the Auditor General

1. Budgetary Control and Performance

93. The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,584,000,000 and Kshs.1,761,117,516 respectively resulting to an under-funding of Kshs.822,882,484 or 32% of the budget. Similarly, the Fund spent Kshs.1,901,559,672 against an approved budget of Kshs.2,584,000,000, resulting to an under-expenditure of Kshs.682,440,308 or 26% of the budget. The under-funding and under-performance affected the planned activities of the Fund and may have impacted negatively on service delivery to the public.

Submissions by the Accounting Officer

94. The Accounting Officer submitted that—

The management took note of the finding on the performance which was attributed to funds budgeted for not being received or expended in books of accounts for income recognition from various Development Partners namely; KfW Phase-IV, Bill & Melinda Gates (BMGF), EU Climate-Proofed Infrastructure Programme and Danida SWASAP. As an action, they budgeted for the funds not received in the subsequent financial year where a significant amount of Development Partner funds had been realised and are currently being implemented by various programmes for which funding had been received.

The Water Fund budget summary for FY 2022/2023 is as presented in table 1 below.

Table 1: Water Fund Budget Summary for FY 2022/2023

No.	Funding source	Budgeted amount (KShs)	Amount received (KShs)	Actual expenditure (KShs)	Variance (KShs)
1	GOK	369,500,000	369,500,000	369,500,000	0
2	Finance income	2,000,000		11,346,431	-9,346,431
3	DANIDA SWASAP	430,300,000	300,000,000	104,292,347	326,007,653
4	IFAD	174,400,000	116,756,740	182,144,967	-7,744,967
5	EU - Climate proofing	503,400,000	500,000,000	298,535,979	204,864,021
6	KfW III	70,000,000		31,595,914	38,404,086
7	KfW Phase IV	591,000,000	38,194,163	344,981,212	246,018,788
8	BMGF	110,000,000	7,717,971	20,742,406	89,257,594
9	GGEP	104,400,000		3,755,125	100,644,875
10	DANIDA - WLP	17,300,000		127,981	17,172,019

11	Government of Finland & Sweden (J6P)	9,700,000		2,276,455	7,423,545
12	World Bank - CLSG	175,100,000	141,959,261	389,799,858	- 214,699,858
13	DANIDA - Covid 19 Response Programme	26,900,000		2,018,841	24,881,159
	Total	2,584,000,000	1,474,128,135	1,761,117,516	822,882,484

95. Consequently, the management took note of the audit finding under expenditure due to unrealised revenues. The Fund was keen to implement projects from the funds realised in the subsequent period. The Bank Statements for KfW, BMGF, EDE-CPIRA and SWASAP Programmes have been annexed in the Management Responses

Observations by the Committee

96. The Committee observed that—

- i. The Fund had a budget deficit amounting to Kshs.822,882,484 and an under absorption of Kshs.682,440,308.
- ii. The outstanding disbursements were occasioned by the delay in remitting budgeted funds by both the Development Partners and Government of Kenya.
- iii. The matter is resolved.

Other Matters

Unresolved Prior Years Matters

1. Failure to Remit Withholding Tax on Interest Income

97. The statement of financial position reflects trade and other payables balance of Kshs.171,542,037 as disclosed under Note 22 to the financial statements which includes withholding tax payables totaling to Kshs.193,523 relating to withholding taxes on interest income earned from project accounts that was not remitted to KRA. Failure to remit withholding taxes on interest income deducted by the payee at 15% and remit to KRA by 20th of the following months contravenes the Income Tax Act and could result in penalties and interest being levied by KRA. In the circumstances, Management was in breach of the law.

Submissions by the Accounting Officer

98. The Accounting Officer submitted that—

The management took note of the finding and had since ensured that all withholding taxes have been remitted to KRA. Remittance of Withholding Taxes on Interest Income to KRA has been annexed in the Management Responses

Observations by the Committee

99. The Committee observed that—

- i. The Fund had since ensured that all withholding taxes have been remitted to KRA.**
- ii. The matter is resolved.**

2. Abandoned Project

100. As previously reported, the Fund entered into a financing support and implementation agreement with Athi Water Works Development Agency (AWWDA) for Gatundu priority project on 28 April, 2020. The Agency contracted a drilling company for LOT 3 and 4 of works relating to ground water exploitation project, drilling and equipping of Gatundu boreholes for Kshs.54,632,385 and Kshs.61,238,383 respectively.

101. The drilling company was paid an initial sum of Kshs.7,388,808. However, the company did not complete the works. Following abandonment of the construction works in March, 2021 without prior consultation or approval by the Project Manager, the Agency held meetings with the contractor for resumption of works without success and subsequently, the Agency issued a notification to terminate the contract on 30 November, 2021. However, no evidence has been provided to confirm whether the project has been completed. In the circumstances, the abandoned project affected the planned objectives of the Fund and may have impacted negatively on service delivery to the public. Further, the value for money paid has not been realised.

Submissions by the Accounting Officer

102. The Accounting Officer Submitted that—

The management takes note of the finding. The project was jointly funded by Water Fund and Athi Water Works Development Agency (AWWDA) with Water Fund handling Lots 1&2 with AWWDA handling Lots 3&4 respectively. Water Fund was to contribute Kshs. 250M and AWWDA was to contribute Kshs. 425M to support the programme activities. Under the contract AWWDA was to be implementing and accounting agency. WSTF has since received accounting documents for the disbursement made under Lots 1&2 for this project. All the funds (Kshs. 250,000,000) transferred to AWWDA was fully accounted as per General Ledger. Athi Water Works Development Agency (AWWDA) is currently undertaking an out-of-court settlement with the contractor and agreeing on modalities for completing the pending works. The matter has been referred to and is being handled by AWWDA who are to present the current status and follow up to closure. The Water Fund and AWWDA Project Implementation Contract and Gatundu Water Project Accounting Documentation

Submissions by Athi Water Accounting Officer

103. The Accounting Officer Submitted that—

Athi Water Works Development Agency (AWWDA), entered into a contract for construction works for Gatundu Water and Sanitation Project: Gatundu Ground Water Exploitation Project; Contract No. AWWDA/GOK/GWSP/W-29/LOT 3/2020 and further, a Contract for construction works for Gatundu Water and Sanitation Project: Drilling and Equipping of Gatundu Boreholes: Contract No. AWWDA/GOK/GWSP/W-29/LOT 4/2020 with M/s Drill Rite Africa Limited in July 2020.

104. Both contracts were funded by the Government of Kenya through the Ministry of Water, Sanitation and Irrigation. The construction works for the two projects commenced simultaneously on 28th July, 2020 with an original completion date of 28th July, 2021 and the Defect Liability Period supposed to end on 28th May, 2022. However, by December 2023, the contract term for both project works had lapsed but the project works remained incomplete.
105. The contractor requested for review of rates via a letter dated 25 February, 2021 which was declined pursuant to Special Condition of Contract (SCC) clause 50 which states that a contract is not subject to price adjustment. The contractor abandoned the site after the decline of price variation and the Agency issued a notice on intention to terminate the contract on 30 November, 2021 and demanded to cash the performance guarantee.
106. AWWDA subsequently made a demand to the bank seeking to recall the performance bonds of Kshs. 6,123,839 on account EKI/SM/20-GI6689 and Kshs. 5,463,239 on account EKI/SM/20-GI6690 as deposited by the Plaintiff on account of performance guarantee. Following AWWDA's intention to terminate the above-mentioned contracts and the demands to the bank to recall the performance bonds as above-referenced, AWWDA was served with an Application Milimani Civil Suit No. E971 of 2021 Drill Rite Africa Limited- VS- Athi Water Works Development Agency and Bank of Africa Kenya Limited under a certificate of Urgency dated 17th December, 2021.
107. The Plaintiffs (Drill Rite ltd), sought for Orders inter alia, that the Court restrains by the 2nd Defendant (Bank of Africa) from releasing Kshs. 6,123,839 on account EKI/SM/20-GI6689 and Kshs. 5,463,239 on account EKI/SM/20-GI6690 as deposited by the Plaintiff on account of performance guarantee and further that the issues in dispute on variation of prices be referred to adjudication by an Arbitrator to be appointed by the Kenya Chapter of the Chartered Institute of Arbitrators as per the Contract. The plaintiffs also sought for orders on payment for works completed as at 22nd September 2021. The court directed that the case be settled through arbitration.
108. AWWDA and M/s Drill Rite Limited entered into a Final Settlement Agreement on the 11th day of January, 2024 for the purposes of amicably settling all matters in dispute leading to the filing of the above-mentioned suit and the copy of settlement agreement has been annexed in the Management responses. For the Construction works for Gatundu Water and

Sanitation Project: Gatundu Ground Water Exploitation Project; Contract No. AWWDA/GOK/GWSP/W-29/LOT 3/2020, it was agreed in the Final Settlement Agreement that upon withdrawal of the suit against AWWDA and Bank of Africa, AWWDA to settle the final payment of Kshs. 4,561,261.43 (Inclusive of VAT) to the contractor for works done and certified.

109. For Gatundu Water and Sanitation Project: Drilling and Equipping of Gatundu Boreholes project; Contract No. AWWDA/GOK/GWSP/W-29/LOT 4/2020 it was agreed in the Final Settlement Agreement Upon withdrawal of the suit against AWWDA and Bank of Africa, AWWDA to settle the final payment of Kshs. 5,932,866.99 (Inclusive of VAT) to the contractor for works done and certified. Subsequently, as per the terms of the final settlement agreement between the parties, the plaintiffs (Drill Rite Limited) filed a notice of withdrawal dated 24th January, 2024 seeking to withdraw the suit in its entirety. The Court marked the matter as withdrawn with no orders as to costs vide Order dated 5th March, 2024 and copy of the order is annexed in the Management Responses

Observations by the Committee

110. The Committee observed that—

- i. Management entered into a financing support and implementation agreement with Athi Water Works Development Agency (AWWDA) for Gatundu priority project for lot 3 and 4
- ii. The construction works for the two projects commenced simultaneously on 28th July, 2020 however, by December 2023, the contract term for both project works had lapsed but the project works remained incomplete.
- iii. The contractor's request for a rate review was declined pursuant to SCC clause 50, leading to site abandonment, issuance of termination notice, recall of performance bonds by AWWDA, a legal suit and arbitration request by Drill Rite Africa Limited, and eventual amicable resolution through a Final Settlement Agreement signed on 11th January 2024.
- iv. As part of the settlement, AWWDA agreed to make final payments totalling Kshs. 10,494,128.42 for certified works, leading to the withdrawal of the suit by the plaintiff on 24th January 2024 and the court marking the case as formally withdrawn on 5th March 2024.
- v. The matter is resolved.

3. Anomalies in Projects Implementation

111. The statement of financial performance Includes project expenses of Kshs.1,385,104,642 as disclosed under Note 12 to the financial statements out of which Kshs.20,021,454 relates to costs arising from project expenditure incurred by implementing partners comprising of CLSG Kshs.16,635,514, EU-CPIRA Kshs.1,188,511 and KFW/BMGF Kshs.2,197,429. The costs had anomalies in the procurement procedures such as the identification of contractors, payment of VAT from donor funds and non-compliance with development partners' guidelines among other factors. In the circumstances, the regularity and value for money on the project expenses of Kshs.20,021,454 could not be confirmed.

Submissions by the Accounting Officer

112. The Accounting Officer submitted the following ;

The management took note of the finding and in its submission noted that since the release of the report, there had been substantial efforts that were made to address the questioned costs raised during the audit of the implementing partners. The Water Fund arranged for physical meetings with various stakeholders including the county governments in an effort to have the findings addressed. Demand letters had been issued to implementing partners who had been slow in responding to the WSTF's requests to have the matters resolved.

Water Fund had further, engaged the services of Quality Assurance Monitors (QAMs), who are assigned specific counties with WSTF projects. The QAMs have been tasked with ensuring that all audit queries in the projects that they are monitoring are adequately addressed. The detailed schedule of the amount which the auditor had categorised as unsupported expenditure and status of resolution was as summarized in table 2 below and the Demand Letters to Implementing Partners and QAMs Terms of Reference have been annexed in the Management Responses

Table 2: Anomalies in Projects Implementation for FY 2022-2023

FY	Donor	Project Name/ Implementing partner	Project Issues	Amount- KES	Remarks to the Special Funds Committee of NA	Status as at March 2025
2023	BMGF	Kilifi-Mariakani Household Sanitation Project- Kilifi Mariakani WSP	Inadequately supported expenditure	263,915	Recommended for closure by the Committee	Funds refunded on 24.04.2024
2023	BMGF	Ijara Household Sanitation Project in Ijara- Garissa Water	Inadequately supported expenditure	143,820	Recommended for closure by the committee	Documents received. Recommend for closure by the Committee
2023	KfW	Kapsoit - Sosit Water project- Kericho Water	Inadequately supported expenditure	16,000	Demand letters submitted to IP	Resolved and recommend for closure by the Committee
2023	KfW	Kapsoit - Sosit Water project- Kericho Water	Inadequately supported expenditure	9,000	Demand letters submitted to IP	Resolved and recommend for closure by the Committee
2023	KfW	Kapkwon Water Project- Bomet Water	Inadequately supported expenditure	44,000	Recommended for closure by the committee	Documents received. Recommend for closure by

						the Committee
2023	KfW	Kanjeru water supply project – Kikuyu Water	Unsupported expenditure	96,697	Demand letters submitted to IP	Resolved and recommend for closure by the Committee
2023	KfW	Kanjeru water supply project – Kikuyu Water	Inadequately supported expenditure	45,307	Recommended for closure by the committee	Documents received. Recommend for closure by the Committee
2023	BMGF	Murang'a south household sanitation project – Muranga South WSP	Bank charges due to un-refunded amounts after project closure	2,160	Demand letters submitted to IP	Resolved and recommend for closure by the Committee
2023	BMGF	Murang'a south household sanitation project – Muranga South WSP	Unsupported expenditure	10,500	Demand letters submitted to IP	Resolved and recommend for closure by the Committee
2023	KfW	Ol-Jabet Town And Site Project KFW IV- Nyahururu Water	Inadequately supported expenditure	103,700	Demand letters submitted to IP	Resolved and recommend for closure by the Committee
2023	BMGF	Mitunguu Town Household Sanitation Project – Imetha WSP	Double payment of expenditure	8,309	Demand letters submitted to IP	Resolved and recommend for closure by the Committee
2023	BMGF	Mitunguu Town Household Sanitation Project – Imetha WSP	Unsupported expenditure	20,810	Demand letters submitted to IP	Resolved and recommend for closure by the Committee
2023	BMGF	Mbale Household Sanitation Project- Amatsi Water	Expenditure incurred after project implementation period	100,000	Recommended for closure by the committee	Resolved and recommend for closure by the Committee
2023	KfW	Lower Aguthi Gaaki Water Supply Project- Tetu Aberdaes WSP	Inconsistencies in support documentation	12,070	Recommended for closure by the committee	Resolved and recommend for closure by the Committee
2023	BMGF	Ongata Rongai Sanitation (Safisan Pilot)	Unsupported expenditure	302,734	Demand letters submitted to IP	Resolved and recommend for closure by the

		Project-Oloulaiser Water and Sewerage Company				Committee
2023	BMGF	Mitunguu Town Household Sanitation Project – Imetha WSP	VAT	66,471	Recommended for closure by the committee	Waiver granted by Donor. Recommend for closure by the Committee
2023	BMGF	Mwatate Household Sanitation Project- Tavevo Water and Sewerage Company Ltd	VAT	26,820	Recommended for closure by the committee	Waiver granted by Donor. Recommend for closure by the Committee
2023	BMGF	Ijara Household Sanitation Project in Ijara- Garissa Water	VAT	925,116	Recommended for closure by the committee	Waiver granted by Donor. Recommend for closure by the Committee
2023	World Bank	Kakamega water Company	Expenditure incurred out of the project period	75,000	Demand letters submitted to IP	Resolved and recommend for closure by the Committee
2023	World Bank	Tavevo Water	Double reporting of expenditure	14,758,808	Demand letters submitted to IP	Resolved and recommend for closure by the Committee
2023	World Bank	Nyahururu Water	Ineligible expenditure	1,527,828	Demand letters submitted to IP	Resolved and recommend for closure by the Committee
2023	World Bank	Nyahururu Water	Idle project assets	113,317	Demand letters submitted to IP	Resolved and recommend for closure by the Committee
2023	World Bank	Nyahururu Water		64,000	Demand letters submitted to IP	Resolved and recommend for closure by the Committee
2023	EDE CIPRA	Garma-Mugur water supply project- Samburu Water and Sewerage	Unsupported Expenditure	778,000	Recommended for closure by the committee	Resolved and recommend for closure by the Committee

		Company				
2023	EDE CIPRA	Garma-Mugur water supply project- Samburu Water and Sewerage Company	Incomplete works	100,000	Recommended for closure by the committee	Resolved and recommend for closure by the Committee
2023	EDE CIPRA	Muruny-Chepareria water project- Kapenguria Water and Sewerage Company	Unsupported expenditure	82,711	Recommended for closure by the committee	Resolved and recommend for closure by the Committee
2023	EDE CIPRA	Muruny-Chepareria water project- Kapenguria Water and Sewerage Company	Inadequately supported expenditure	209,000 (Less 149,000 accounted) 60,000 Outstanding	Demand letters submitted to IP	Resolved and recommend for closure by the Committee
2023	EDE CIPRA	Al Arabal Water Project- Kirandich Water and Sanitation Company	Inadequately supported expenditure	18,800	Recommended for closure by the committee	Resolved and recommend for closure by the Committee
		Total		19,924,893		

The Management Letter to Water Fund by the Appointed External Auditors (PWC) indicating resolution of the issues had been attached in the Management responses.

Observations by the Committee

113. The Committee observed the following

- i) 2,842,727 had been accounted for through provision of supporting documents, refunds while Kshs. 17,082,166 had not been supported.
- ii) The matter is unresolved.

Recommendations of the Committee

114. The Committee recommended that—

- i. Within six months upon the adoption of this report the Accounting Officer must provide report and supporting documentation on the recovery of the pending amount of Kshs. 17,082,166 which had not been supported to the Office of the Auditor General for audit verification.
- ii. The Accounting Officer should ensure that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of the financial statements in compliance with Public Finance

Management Act, 2012 and in accordance with the standards prescribed by the Public Sector Accounting Standards Board as per Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.

4. Irregular Project Expenditure

115. The statement of receipts and payments reflects project expenses of Kshs.1,385,104,642 as disclosed in Note 12 to the financial statements. Included in this amount is Kshs.389,799,858 expensed under Conditional Liquidity Support Grant (CLSG) funded by World Bank out of which Kshs.30,400,000 was incurred by Kakamega Water and Sanitation Company (KACWASCO) for the supply, installation, configuration, customization, migration, testing, training, commissioning, and maintenance of an Enterprise Resource Planning System.
116. Further, KACWASCO also incurred costs amounting to Kshs.12,954,400 charged under the fixed grant for construction of two (2) storm water drainage and rehabilitation of filter at Tindiyo water treatment plant. These costs were incurred before the approval for the fixed grant through an addendum approved on 12 January 2022 by the Fund and before signing of the CLSG grant agreement on 15 December 2021. Costs under the fixed grant are to be incurred after signing of the grant agreement. In addition, there was no evidence that Water Services Regulatory Board (WASREB) approved the amendment of the grant agreement and the re-allocation of the funds from variable to fixed grants. In the circumstance, the regularity of these expenditures could not be confirmed.

Submissions by the Accounting Officer

117. The Accounting Officer Submitted that—
- The appointed auditor questioned the entire amount of Kshs. Kshs.30,400,000 due to the fact that it was above the threshold of US\$ 100,000. Field verification, had been undertaken and the project is in existence and operational. The management is engaging WASREB and the World Bank towards resolution of the issue. The Correspondence with WASREB and World Bank had been annexed in the Management responses

Observations by the Committee

118. The Committee observed that—
- i. **KACWASCO incurred costs amounting to Kshs.12,954,400 charged under the fixed grant for construction of two (2) storm water drainage and rehabilitation of filter at Tindiyo water treatment plant without approval by WASREB.**
 - ii. **The management is engaging WASREB and the World Bank towards resolution of the issue as per the correspondences submitted.**
 - iii. **there was no evidence that WASREB approved the amendment of the grant agreement to allow the reallocation of the funds from variable to fixed grants.**
 - iv. **The matter is unresolved.**

Recommendation of the Committee

119. **The Committee recommended that—**

- i. **within six months upon the adoption of this report, the Management should provide a report on regularization of the expenditure of Kshs.12,954,400 to the auditor general for audit verification; and**
- ii. **the Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of the financial statements in compliance with Public Finance Management Act, 2012 and in accordance with the standards prescribed by the Public Sector Accounting Standards Board as per Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.**

4. Ineligible Project Expenditure

120. The Statement of Financial Performance reflects project expenses amount of Ksh. 1,385,104,642 as disclosed in Note 12 to the Financial Statements. Included in the amount, is expenditure amounting to Kshs.14,185,538 incurred under the CLSG grant for the supply, installation, configuration, customization, migration, testing, training, commissioning, and maintenance of an Enterprise Resource Planning System. This was based on an addendum approved by WSTF on 10 March, 2021. The ERP system was to be used to manage the water service providers (WSPs) operational systems including procurement, inventory management, billing, and human resource management. However, there was no evidence that WASREB approved the amendment of the grant agreement and the re-allocation of the funds from variable to fixed grants. In the circumstance, the regularity of these expenditures could not be confirmed.

Submissions by the Accounting Officer

121. The Accounting Officer submitted the following;

The appointed auditor questioned the entire amount of Kshs. 14,185,538 due to the fact that it was above the threshold of US\$ 100,000. Field verification, was undertaken and the project is in existence and operational. The management is engaging WASREB and the World Bank towards resolution of the issue. The Correspondence with WASREB and World Bank had been annexed in the Management responses

Observations by the Committee

122. **The Committee observed that—**

- i. **Water Sector Trust Fund (WSTF) incurred costs amounting to Kshs. 14,185,538 charged under the fixed grant for the supply, installation, configuration, customization, migration, testing, training, commissioning, and maintenance of an Enterprise Resource Planning System.**
- ii. **The management is engaging WASREB and the World Bank towards resolution of the issue as per the correspondences submitted.**
- iii. **there was no evidence that WASREB approved the amendment of the grant agreement to allow the reallocation of the funds from variable to fixed grants.**
- iv. **The matter is unresolved.**

Recommendation of the Committee

123. The Committee recommended that—

- i. within six months upon the adoption of this report, the Management should provide a report on regularization of the expenditure of Kshs. 14,185,538 to the auditor general for audit verification; and
- ii. the Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of the financial statements in compliance with Public Finance Management Act, 2012 and in accordance with the standards prescribed by the Public Sector Accounting Standards Board as per Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.

Noncompliance with Laws and Regulations

124. The Statement of Financial Performance reflects project expenses amount of Ksh. 1,385,104,642 as disclosed in Note 12 to the Financial Statements. During the year under review, Kapenguria Water and Sewerage Services Company Ltd engaged the services of several contractors to implement the following interventions in Kapenguria and Makutano at a cost of Ksh 42,836,800 or USD 399,910. However the amounts were above the USD 100,000 threshold as provided for in the CSLG operations manual as detailed below.

<i>Intervention</i>	<i>Amount (Kshs.)</i>	<i>Amount USD</i>
<i>Supply and Installation of eight (8) centrifugal and one (1) submersible Pumps at the Kapenguria, Makutano</i>	<i>20,315,000</i>	<i>189,654</i>
<i>14500m Pipeline extension and repairs Makutano and Kapenguria Water Supplies</i>	<i>22,521,800</i>	<i>210,256</i>

125. Further, there was no evidence that Kapenguria Water and Sanitation Company had registered and obtained a WASREB license as at 30 June 2023. In addition, there were budgets reallocations approved by the Fund on 30 November 2021 between interventions within the fixed grant amounting to Kshs.4,800,000 as detailed below:

<i>Intervention</i>	<i>Original budget amount (Kshs.)</i>	<i>Original budget amount (USD)</i>	<i>Reallocated amount (Kshs.)</i>	<i>Reallocated amount (USD)</i>
<i>Construction of 2 no. Water kiosks at Makutano</i>	<i>800,000</i>	<i>7,169</i>	<i>-</i>	<i>-</i>
<i>Comprehensive Water Billing software at Kapenguria Water Supply offices</i>	<i>4,000,000</i>	<i>35,847</i>	<i>-</i>	<i>-</i>
<i>Sunflower – Mathare Pipeline</i>	<i>-</i>	<i>-</i>	<i>1,775,700</i>	<i>15,913</i>

Karas Water Supply	-	-	2,643,086	23,686
Ortum Water Supply	-	-	381,214	3,417
Total	4,800,000	43,016	4,800,000	43,016

126. However, there was no evidence that WASREB approved the amendment of the grant agreement and the reallocation of the funds from variable to fixed grants. This is contrary to Section 85(2) of the Water Act of 2016, which states that a WASREB license is a mandatory prerequisite to enable one to provide water services. In the circumstances, Management was in breach of the law.

Submissions by the Accounting Officer

127. The Accounting Officer submitted the following;

The appointed auditor questioned the entire amount of Kshs. 42,836,800 due to the fact that it was above the threshold of US\$ 100,000. Field verification, was undertaken and the project is in existence and operational. The management is engaging WASREB and the World Bank towards resolution of the issue. The Correspondence with WASREB and World Bank had been annexed in the Management responses.

Observations by the Committee

128. The Committee observed that the following;

- i. Kapenguria Water and Sewerage Services Company Ltd engaged the services of several contractors to implement various projects amounting to Ksh 42,836,800 or USD 399,910. However the amounts was above the USD 100,000 threshold which provided in the Conditional Support Liquidity Grant (CSLG) operational manual.
- ii. no evidence that Kapenguria Water and Sanitation Company was registered and had obtained a WASREB license as at 30 June 2023 contrary to Section 85(1) of the Water Act of 2016, which states that a WASREB license is a mandatory prerequisite to enable one to provide water services.
- iii. there was no evidence that WASREB approved the amendment of the grant agreement to allow the reallocation of the funds from variable to fixed grants.
- iv. The matter is unresolved.

Recommendation of the Committee

129. The Committee recommended that –

- i. within the six months upon the adoption of this report the Kapenguria Water and Sanitation Company;
 - a) must provide a report on the regularization of the amount incurred above the threshold as provided by Conditional Support Liquidity Grant (CLSG) operational manual to the auditor general for audit verification.
 - b) Must provide evidence of WASREB license by Kapenguria Water and Sanitation Company to the Auditor general for audit verification as at 30 June 2023.

- c) Must provide the approval of amendments by WASREB to allow the expenditure incurred under fixed grants and not variables as stipulated in CLSG operational manual to the auditor general for audit verification.
- ii. The Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of the financial statements in compliance with Public Finance Management Act, 2012 and in accordance with the standards prescribed by the Public Sector Accounting Standards Board as per Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.

4. Lack of Evidence of Competitive Procurement

130. The Statement of Financial Performance reflects project expenses amount of Ksh. 1,385,104,642 as disclosed in Note 12 to the Financial Statements. A review of procurement documents revealed that Coast Water Development Works Agency (CWWDA) floated a tender for the purchase and delivery of various fittings and servicing of transformers at Baricho Water.
131. Treatment Plant for Kshs 15,570,000 and Kshs 25,800,000 al totalling to Kshs 36,675,000. However no evidence of competitive procurement was provided for audit. Lack of evidence of competitive procurement is contrary to the preconditions for funds use; Section C of the CLSG grant agreement signed between the Water Services Provider (WSP) and WSTF and the Public Procurement and Asset Disposal Act, 2015. In the circumstances, Management was in breach of the law.

Submissions by the Accounting Officer

132. The Accounting Officer submitted the following;
The procurement documents are available and were provided for Audit verification. The CWWDA CLSG I Project Procurement Documentation had been annexed in the Management responses

Observations by the Committee

133. The Committee observed the following
- i. The Competitive procurement documents were provided for audit verification.
 - ii. The matter is resolved.

5. Lack of a Cost Allocation Policy for Overhead Costs

134. The statement of financial performance reflects project expenses of Kshs.1,385,104,642 as disclosed in Note 12 to the financial statements. Included in this amount is an amount of Kshs.2,131,416 charged as fuel and rent costs to project expense. For fuel, the payment was made to replenish a fuel card but there was no evidence that the expenditure was directly related to the project against which it was charged. For the rent expense, the Fund charged this to the EU project to the extent of the budget and there was no clear and consistent basis as to why the Fund allocated this amount to the various projects. This was against the

financing agreement, which states that, the overhead costs should be apportioned to the running projects in a verifiable and consistent manner to ensure accurate reporting to donors. In the circumstances, Management was in breach of the law.

Submissions by the Accounting Officer

135. The Accounting Officer submitted the following;

The management developed a cost allocation policy which was part of the Finance Policy and Procedures Manual Section 12.4 as Approved by the Board on 26th September, 2024. The Approved Finance Policy and Procedures Manual had been annexed in the Management responses

Observations by the Committee

136. The Committee observed the following ;

- i. **The Approved Finance Policy and Procedures Manual was provided for audit verification.**
- ii. **The matter is resolved.**

6. Lack of Documented Project Close Out Procedures

137. The financing agreement between the Fund and International Fund for Agriculture Development (IFAD) for the implementation of Upper Tana Natural Resources Management Project (UTaNRMP) ended on 30 June 2023. There was no evidence provided that the Fund has documented guidelines on close out procedures to be followed when closing a grant.

138. There were instances where disbursements were made to partners in the last quarter of 2023. There were also instances where WRUA's received funds in November 2022 while their agreements with the Fund were ending on 31 December 2022. As a result, there was inadequate time for project implementation, monitoring and identification of any construction defects. The late disbursement of funds resulted in WRUA's failing to observe the financing contract conditions such as seeking a no objection prior to use of funds and ineligible expenditure arising from poor workmanship as follows:-

- i. Middle Kathita Water Resource Users Association (WRUA) funds of Kshs.3,438,250 were disbursed on 23 march 2023 and the agreement end date was 19 May 2023 thus, the WRUA did not obtain a no objection on procurement from the Fund prior to engaging the contractor.
- ii. Lower Thingithu WRUA funds of Kshs.1,536,000 were disbursed on 1 November 2022 and the agreement end date was 30 June 2023 it was observed that, the WRUA incurred Kshs.2,063,790 for the construction of a sand dam along Ndii River. Field inspection on 18 October 2023 revealed that, the sand dam was no longer operational, as the water would seep through the bottom. Due to poor workmanship. The defects were not identified in good time due to the project timelines with the grant ending on 30 June 2023. As a result, the project did not serve the purpose of holding back water for the community's use during the dry season.

In the circumstances, the objective for the funds and value for money may not have been achieved.

Submissions by the Accounting Officer

139. The Accounting Officer Submitted the following;

The Water Fund was in the process of reviewing it's Investment Policy that would be approved by the Board for implementation and this had included Project close out Procedures. In addition, Water Fund engaged with the Middle Kathita and Lower Thingithu WRUAs on regularizing of their No Objection through correspondences. The Draft Water Fund Investment Policy had been annexed in the Management responses

Observations by the Committee

140. **The Committee observed following;**

- i. **Management has since approved the Water Fund Investment Policy approved by the board on 6th of May, 2025.**
- ii. **The matter is resolved.**

4. Information, Communication and Technology (ICT) Governance

10.1 ICT Policy Deficiencies

141. As previously reported, review of the IT Policy in place revealed that the Fund does not have clearly defined controls, processes and procedures with regards to network administration, backup management and user creation in the application systems. Inadequate user access creation guidelines may result to inconsistent processes of user access creation across the various systems within the organization.

142. Lack of policy guidelines on network administration and backup management may lead to inadequate backup and network procedures being implemented in the IT systems. In the circumstances, the adequacy of ICT backup and controls in the network procedures implemented in the IT systems, could not be confirmed.

Submissions by the Accounting Officer

143. The Accounting Officer submitted the following;

The management acknowledged the finding and undertook review of it's ICT policy to address control deficiencies that were identified. Subsequently a second review of ICT policy commenced in FY2023/2024 as part of continuous improvement and to keep abreast with developments in the ICT. The review was finalised and all the gaps and deficiencies identified had been addressed as above. The Water Fund Approved ICT Policy had been annexed in the Management responses.

Observations by the Committee

144. **The Committee observed the following;**

- i. **The fund has since amended and now has an Approved ICT policy in place .**
- ii. **The matter is resolved.**

10.2 Password Deficiencies in the Aren Register Application

146. As previously reported, the Aren Register application does not have a password configuration in place that would allow the administrators of the system to implement password policy as per industry standards or the organization's IT policy. Failure to implement a password policy may allow attackers to gain unauthorized access to the system therefore exposing the Fund to possible loss or manipulation of its data. In the circumstances, the controls in place to prevent unauthorized access to the system could not be confirmed.

Submissions by the Accounting Officer

145. The Accounting Officer submitted that—

As a follow up, the Management engaged the Aren system vendor for refinement of the password module to cater for password complexity requirements. The deficiencies have been addressed through the Approved ICT Policy under Section 2.8.1.5 Password Management General guidelines on password management: The continued availability, integrity, and confidentiality of the services and information provided by Water Fund ICT facilities are essential for the successful operation of Water Fund's business. The potential threat to the security of these facilities requires Water Fund to ensure it has appropriate password management guidelines. Recommendations from the ICT department and current industry standards were used as a basis for best practice within these policies. The Aren System Vendor Engagement had been annexed in the Management responses.

Observations by the Committee

146. The Committee observed that—

- i. The deficiencies have been addressed through the Approved ICT Policy under Section 2.8.1.5 Password Management General guidelines on password management**
- ii. The matter is resolved.**

5. Long Outstanding Receivables

147. The statement of financial position reflects receivables from non-exchange transactions balance of Kshs.364,003,433 as disclosed under Note 16 to the financial statements which includes Kshs.172,054,967 that has been long outstanding with no movement during the year under review. Though these advances were assessed as doubtful and provided for in the financial statements, adequate control measures and safeguards to the signed agreements to repay the debts were not provided for audit. In the circumstances, adequate control measures and recoverability of the receivables from non-exchange transactions balance of Kshs.172,054,967 could not be confirmed.

Submissions by the Accounting Officer

148. The Accounting Officer Submitted that—

The Water Fund initiated recovery strategies from the affected WSPs with support from respective County Governments. It's also expected that there will be change of strategy pertaining to disbursements to projects and specific strategies to WSPs in the list of

provisions/questioned costs. The Board of Trustees and management have engaged governors of the Counties of Garissa, Taita Taveta, Samburu, Vihiga, Nakuru, Kakamega and Kajiado with the aim of resolving the long outstanding receivables. In these engagements, the counties of Taita Taveta, Kajiado and Garissa committed to refund the amounts in question by the end of the financial year 2023/24.

149. Water Fund has further, engaged the services of Quality Assurance Monitors (QAMs), who are assigned specific counties with WSTF projects. The QAMs have been tasked with ensuring that the implementing partners in their areas of jurisdiction provide satisfactory reports in a timely manner. WSTF has also introduced a platform on which all reports and other relevant documents are uploaded at the end of every month. The program teams review the reported documents and reports based on the quality and timeliness. The receivables are as summarized in table 3 below.

Table 3: Summary of Receivables for FY 2022-2023

Donor	Partner	Project Issue	Opening balance	Status as at March 2025
KFW/BMGF	Baba Dogo Water Extension- Nairobi County	The amount has been a long outstanding receivable due to lack of monthly reports. When the reports were availed they were deemed to be supporting an expenditure for a call that had been closed and could not be accepted.	698,677	The Development Partner recommended for write off of the outstanding funds
KFW/BMGF	Bulla Arabia And Bulla Garal Call 7-	The amount was questioned by auditors as monies spent on VAT and thus WSTF reversed the expenditure, therefore having it as a receivable	2,302,552	Technical Audit undertaken and Issue recommended for closure
KFW/BMGF	Bar Kowino Nyawita Water Project- Siaya County	The amount has not been accounted for, it rests in the WSP's bank account, as they await for approval to spend it on activities that were not in the original Financing agreement.	802,782	Technical Audit undertaken and Issue recommended for closure
KFW/BMGF	Garissa Primary Playground PSF	The amount had not been accounted for in the reports to WSTF, thus treated as a long outstanding receivable	2,881	Technical Audit undertaken and Issue recommended for closure

Donor	Partner	Project Issue	Opening balance	Status as at March 2025
KFW/BMGF	Kiambu Water Extension Nairobi County	The amount has been a long outstanding receivable due to lack of monthly reports. When the reports were availed they were deemed to be supporting an expenditure for a call that had already been closed and could not be accepted.	6,882,498	Technical Audit undertaken and Issue recommended for closure
KFW/BMGF	Mathare Sustainability Water Project- Nairobi County	The amount has been a long outstanding receivable due to lack of monthly reports. When the reports were availed they were deemed to be supporting an expenditure for a call that had already been closed and could not be accepted.	3,493,298	Technical Audit undertaken and Issue recommended for closure
KFW/BMGF	Mbale Household Sanitation Project Amatsi-Vihiga County		1,844,502	Technical Audit undertaken and Issue recommended for closure
KFW/BMGF	Mitunguu Town Household Sanitation Project- Meru County	The amount was questioned by auditors as monies spent on VAT and thus WSTF reversed the expenditure, therefore having it as a receivable	836,042	Technical Audit undertaken and Issue recommended for closure
KFW/BMGF	Naromoru Household Sanitation Project- Laikipia County	The amount was questioned by auditors as monies spent on VAT and thus WSTF reversed the expenditure, therefore having it as a receivable	130,924	Technical Audit undertaken and Issue recommended for closure
KFW/BMGF	Nolturesh Nzau Household Sanitation Project- Makueni County	The amount had not been accounted for in the reports to WSTF, thus treated as a long outstanding receivable. Follow-up of the matter led to revelation that the amounts had been spent on non project activities.	5,467,479	Demand letter issued to the IP with expectation of refund

Donor	Partner	Project Issue	Opening balance	Status as at March 2025
KFW/BMGF	Oyugis Water Project KfW IV-Construction of Water Tanks and laying of water pipelines to households within Oyugis Town	Inadequate support to Project Expenditures of Ksh. 12,530,543	12,530,543	Supporting document for Ksh. 12,000,000 was provided and a demand letter issued to refund 530,543
KFW/BMGF	Muranga South Household Sanitation Project	The amount has not been accounted for, it rests in the WSP's bank account. This is due to project related issues (land issues) that have led to non-utilization of the funds.	4,160,927	The project funds have been verified and is withheld in the IPs bank account. The issue is recommended for closure.
KFW/BMGF	Kapenguria Household Sanitation- West Pokot	The amount has not been accounted for, it rests in the WSP's bank account, as they await for approval to spend it on activities that were not in the original Financing agreement.	1,287,466	Technical Audit undertaken and Issue recommended for closure
KFW/BMGF	Kapsoit Siosiot Water Project -KfW IV- Kericho County	Questioned costs led to reversal of expended funds	7,105,184	Technical Audit undertaken and Issue recommended for closure
KFW/BMGF	Kapkwon Pipeline Ext - KfW IV- Bomet County	Questioned costs led to reversal of expended funds	2,684,904	Technical Audit undertaken and Issue recommended for closure
COVID 19	Nairobi Water COVID-19	Lack of supporting documents	309,045	Project Issues have been addressed therefore recommended for closure
CLSG	Gusii Water & Sanitation Co Ltd CLSG	Lack of supporting documents	2,585,000	Demand letters were issued by Management to the Implementing Partner
CLSG	Kirandich Water & Sanitation Co Ltd CLSG	Lack of supporting documents	78,490	Demand letters were issued by Management to the

Donor	Partner	Project Issue	Opening balance	Status as at March 2025
				Implementing Partner
CLSG	Lamu Water & Sanitation Co Ltd CLSG	Lack of supporting documents	42,725	Demand letters were issued by Management to the Implementing Partner
CLSG	Wajir Water & Sanitation Co CLSG	Lack of supporting documents	10,866	Demand letters were issued by Management to the Implementing Partner
CLSG	Kakamega County Water And Sanitation Co. CLSG	Questioned costs led to reversal of expended funds	50,095,350	Project Issues have been addressed therefore recommended for closure
CLSG	Nakuru Rural Water & Sanitation Co Ltd CLSG	Questioned costs led to reversal of expended funds	14,185,538	Project Issues have been addressed therefore recommended for closure
CLSG	Nyahururu Water & Sanitation Co Ltd CLSG	Questioned costs led to reversal of expended funds	1,704,846	Project Issues have been addressed therefore recommended for closure
CLSG	Limuru Water & Sanitation Co Ltd CLSG	Questioned costs led to reversal of expended funds	96,860	Project Issues have been addressed therefore recommended for closure
CLSG	Nolturesh Water & Sanitation Co Ltd CLSG	Questioned costs led to reversal of expended funds	580,150	Demand letter issued to the IP with expectation of refund
IFAD	Gachiege WRUA	Court case	7,653,000	The project funds have been verified and is withheld in the IPs bank account. The issue is recommended for closure.

Donor	Partner	Project Issue	Opening balance	Status as at March 2025
IFAD	Gatare CFA	Questioned costs led to reversal of expended funds	301,671	Project completed
IFAD	Irangi CFA	Questioned costs led to reversal of expended funds	1,963,000	Project completed and issue closed
IFAD	Kabage CFA	Questioned costs led to reversal of expended funds	1,061	Project completed
IFAD	Kabaru CFA	Questioned costs led to reversal of expended funds	67,700	Project completed
IFAD	Kimakia CFA	Questioned costs led to reversal of expended funds	1,647,638	Project completed
IFAD	Lower Maragua WRUA	Questioned costs led to reversal of expended funds	565,484	Project completed
IFAD	Lower Thangatha WRUA	Questioned costs led to reversal of expended funds	272,900	Project completed
IFAD	MEFECAP CFA	Questioned costs led to reversal of expended funds	1,986,952	Project completed
IFAD	Middle Mutonga WRUA- Nithi Tharaka	Questioned costs led to reversal of expended funds	817,113	Project completed
IFAD	Nairobi WRUA	Structural issues on the Dam led to discomfort in accepting financial documents submitted by the WRUA and thus the amounts availed are still long outstanding.	3,628,450	Project completed
IFAD	Saba WRUA	Questioned costs led to reversal of expended funds	2,939	Project completed
IFAD	Thika Mid WRUA- Kiambu County	Questioned costs led to reversal of expended funds	5,282	Project completed
IFAD	Upper Gura WRUA	Questioned costs led to reversal of expended funds	322,091	Project completed
IFAD	Karua Hills CFA	Questioned costs led to reversal of expended funds	400,000	Project completed
IFAD	Lower Mathioya WRUA	Questioned costs led to reversal of expended funds	4,480	Project completed
IFAD	Lower Thanantua WRUA	Questioned costs led to reversal of expended funds	100,000	Project completed
IFAD	Lower Thingithu WRUA	Questioned costs led to reversal of expended funds	1,536,000	Project completed

Donor	Partner	Project Issue	Opening balance	Status as at March 2025
IFAD	Lower Thuci WRUA	Questioned costs led to reversal of expended funds	1,810,350	Project completed
IFAD	South Mathioya WRUA- Muranga County	Questioned costs led to reversal of expended funds	56,700	Project completed
IFAD	Upper Thingithu WRUA	Questioned costs led to reversal of expended funds	25,358	Project completed
IFAD	Thika Upper WRUA- Kiambu County	Questioned costs led to reversal of expended funds	49,880	Project completed
EDE CPIRA	Garma-Mugur Water Project- Samburu County	Lack of reports and supporting documents	6,842,619	Project completed
EDE CPIRA	Ilimnkush WRUA- Kajiado County	Lack of reports and supporting documents	798	Cleared
EDE CPIRA	Maktau Bus Park PSF- Taita Taveta County	Lack of reports and supporting documents	2,909	Cleared
GGEP	Kochodin WRUA- Turkana County	Court case	5,536,954	An ongoing court case
GGEP	Harajab WATSAN	Lack of reports and supporting documents	144,253	Money refunded
GGEP	Libahlow WATSAN	Lack of reports and supporting documents	101,525	Money refunded
GGEP	Shebta Caad Watsan	Lack of reports and supporting documents	3,476,372	Money refunded
J6P	Mrima CLTS Project- Kwale County	Lack of reports and supporting documents	3,141	Project completed
J6P	Mrima Sanitation Project- Kwale County	Lack of reports and supporting documents	4,788	Project completed
J6P	Mwangani Sanitation Project- Kwale County	Lack of reports and supporting documents	5,121	Project completed
J6P	Bungoma Primary San. Project- Laikipia County	Lack of reports and supporting documents	32,475	Project completed
J6P	Kwale Wasco	Lack of reports and supporting documents	2,067	Project completed
J6P	Mbuguni WRUA-	Lack of reports and	1,598	Project completed

Donor	Partner	Project Issue	Opening balance	Status as at March 2025
	Kwale County	supporting documents		
J6P	Mwangani CLTS Project-County	Lack of reports and supporting documents	7,136	Project completed
J6P	Laikipia County Water Bill	Lack of reports and supporting documents	309,500	Project completed
GOK	Nyandarua Sanitation Project-GoK	Lack of reports and supporting documents	2,657,760	Project completed
GOK	Hulugho Reverse Osmosis Project-County	The project was vandalized	973,690	Project completed
GOK	Ministry Of Water and Sanitation	Lack of reports and supporting documents	161,090	Project completed
CPC-SIDA	Kimangao Water and Sanitation Project	Lack of reports and supporting documents	1,075,603	Project completed
MTAP	Mchelelo Primary School	Lack of reports and supporting documents	26,525	Project completed
EU SHARE	Kone Community-Tana River County	Matter reported to EACC	6,142,945	Project Issues under consideration by EACC
EU SHARE	Manda Maweni Watsan Project-Lamu County	Matter reported to EACC	383,034	Project Issues under consideration by EACC
EU SHARE	Quachacha-Marsabit County	Lack of reports and supporting documents	1,025,487	Project completed
	Total		172,054,968	

Observations by the Committee

150. The Committee observed that—

- i) Kshs. 33,172,113 had been accounted for through provision of supporting documents refunds while Kshs. 138,882,855 had not been supported.
- ii) The matter is unresolved.

Recommendations of the Committee

151. The Committee recommended that—

- i. Within six months upon the adoption of this report the Accounting Officer must provide a report and supporting documentation on the recovery of the pending amount of Kshs. Kshs. 138,882,855 which had not been supported to the Office of the Auditor General for audit verification.

ii The Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of the financial statements in compliance with Public Finance Management Act, 2012 and in accordance with the standards prescribed by the Public Sector Accounting Standards Board as per Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015


Signature

Fatuma

Date:

29/07/25

HON. FATUMA ZAINAB MOHAMMED, M.P.
CHAIRPERSON, SPECIAL FUNDS ACCOUNTS COMMITTEE

	
THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 29 JUL 2025	DAY: Tuesday
TABLED BY:	Hon. Fatuma Zainab MP Chairperson
CLERK-AT THE-TABLE:	A. Shibusko

